



Feedback to the  
Productivity Commission  
Register of Foreign-owned Water Entitlements Inquiry  
Issues Paper

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Foreign Water Entitlements inquiry  
Productivity Commission  
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To Commissioner Coppel,

The Murray Darling Association (MDA) would like to thank Commissioner Jonathan Coppel for his interest in feedback from our members and organisation.

In this submission we have taken the opportunity to highlight the resolutions, position statements and advocacy work published over recent years by the MDA relevant to this inquiry. We have done this to demonstrate the consistency of local government's attention and commitment to the matters and options considered by the Productivity Commission in this investigation.

#### **About us**

The Murray Darling Association is the peak body for local government in the Murray-Darling Basin, informing policy and contributing local knowledge and regional solutions since 1944. There are 167 councils that sit within the Basin and whose communities rely upon water from within the catchment.

The management of water is a matter that is of significant interest to local government. Local government has a direct and immediate relationship to the communities we serve; responsible for delivering core services, maintaining economic growth, resilience and community health and wellbeing.

The allocation, sustainability, availability, and affordability of water resources is recognised as a critical factor in the environmental, social, cultural, and economic health and stability of our nation as whole. This is never more applicable than across the rural and regional communities of the Murray Darling Basin.

The MDA agrees that improvements must be made to tracking trade information to enhance access to and quality of core market data if confidence in the market is to be restored, or indeed established.

We agree that harmonisation of data capture, systems and reporting will be a key requirement to achieving greatest efficiency and transparency, with improvements to be made in a uniform manner across all basin states.

The MDA would be concerned that if such improvements were to be made at different stages and to different degrees across different Basin states then this would further contribute to the failure for market participants in “gaining a full, timely and accurate picture of water trade, including price, supply and demand”, serving in turn to further erode confidence in the water market.

The MDA has consistently called for the continual move toward transparency of all water trading and water trading mechanisms in the Murray-Darling Basin including the access to water trading information.<sup>1</sup>

#### **MDA National Conference 2018 – Minutes 2018 – Leeton - Motion 9 Region 4**

**Motion:** That the Murray Darling Association lobby the Federal and Shadow Minister to instigate a National Water Registry, to monitor and report on all rainfall, surface and groundwater storage, evaporation and capacity or movement, including flow rate and interstate or intervalley trade, extraction, unaccounted activity, licenses and allocation in real time, and inform the public in relation to foreign ownership of water assets and infrastructure.

**Objective:** To have a comprehensive database of all water related information for the entire country, easy to use and capable of compiling reports regarding water movement and use across the nation, including foreign ownership information tracking and reporting, in the interests of security of future water supply for communities and industry and being able to plan for future events such as extended dry periods. Downstream impacts of illegal take and government policy need to be addressed. A better understanding of water availability and demand across Australia as our population continues to grow and more rapid identification of illegal take or impacts on long term sustainable future can inform planning and policy.

**Key Arguments:** While previous versions and elements of Water Registry have come and gone, the technology now exists which enables live data tracking and GPS monitoring of water flow and movement across land. There also is greater capability to combine multiple state databases into a one stop shop, which is easy to use and can adhere to standards, privacy and ensure secure data. Perhaps the biggest single issue facing water management in this country is lack of transparency and public perception of mismanagement. Sourcing multiple websites from the Department of Agriculture and Water Resources, Commonwealth Environmental Water Office, Bureau of Meteorology, various state water authorities and agencies and Regulatory offices can be a tiresome exercise. Indeed, various macro data is available across NSW which is patently incorrect or the “missing” data referred to in NSW Land and Water Commissioner dataset. Ken Matthews’ report called for verifiable accurate data, the recently signed Compliance Compact highlights metering and a raft of goals and targets, prioritising risk areas, which suggests there is an appetite across the board for access to trustworthy data. For companies wishing to maximise their investments, the best way to determine whether the price they want to pay for land and water meets their needs is to have access to all the variables and some historical data to inform possible investment or growth. Indeed, how much water is available is perhaps the biggest determination of investment decisions at the present time. As well as a commercial function, foreign investors and the Australian public and regulators need to ensure that investment is in line with current legislation pertaining to percentage of foreign ownership. By providing accurate, current information and transparency, there can be greater certainty in the international and domestic market and in the wider public arena, that investment is supportive of Australian industry as a priority.

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<sup>1</sup> 2019 MDA AGM Motion 5.16

[https://www.mda.asn.au/source/ckfinder/files/National%20Conference%20AGM%20Minutes%202019v2%20\(confirmed\).pdf](https://www.mda.asn.au/source/ckfinder/files/National%20Conference%20AGM%20Minutes%202019v2%20(confirmed).pdf)

More recently the Murray Darling Association has called on the Basin Officials Committee and the Ministerial Council to establish and maintain consistent and equitable metering and measuring extraction across all states and regions, including flood plain harvesting, ground water extraction and river extraction.<sup>2</sup>

This indicates a strong and consistent level of unanimity across local government and communities to improve the quality and timeliness of core market data.

#### **MDA National Conference 2019 – Minutes 2019 – Toowoomba - Motion 16 Region 9**

**Motion:** That the Murray Darling Association calls on Federal and State governments to

- i. Develop a transparent National Water Trading Platform which will serve as a single source of information on water, from recovery targets to allocations, through to sales (whether permanent or temporary)
- ii. Require routine disclosure statements by larger water holders (such as any person or entity that owns upwards of 2% of available entitlements in an area or any water trading companies), and
- iii. Require routine disclosure by banks of any debts recovered through forced water sales in irrigation farming areas

**Objective:** Provide Australians with easy access to information about water holdings and water trading to ensure an agricultural future that is fair, informed and not prone to manipulation or speculation.

**Key Arguments:**

- Finding information of water recovery targets, water holdings, and water sales is frustratingly difficult. It should be simple to find and located in one place.
- Sometimes information is released too late - it should be available in real time.
- Until we understand the full picture, we are less able to respond to the unintended consequences of water trading policies / rules / regulations
- There is increasing concern that people with inside knowledge or large water holdings can manipulate markets or hold farmers to ransom
- There is some evidence of banks choosing to recover farm debt by forcing farmers to sell their water entitlements, which serves only to make the farmer less productive. Banks view water entitlements as 'easy money'.
- recognise and properly evaluate the compounding effects of an unregulated water trading environment and the implementation of the Murray Darling Basin Plan on the viability and sustainability of established nation building irrigation schemes that would be unaffordable to replicate today and consider how these should be optimised to ensure the most responsible use of available water for agricultural endeavour. In particular, the advantages of a diversified agricultural sector within established irrigation systems to GDP, and its associated local economic and community resilience, should be weighed up against the risk of shifting water to monoculture-based 'high value' crops on greenfield (cheaper) lands downstream of the established irrigation schemes.

This motion touches on how shortfalls in the provision of various types of information and inconsistency between information sharing of different states and departments contribute to inefficient trade services and market information.

The MDA acknowledges the experience reflected by the ACCC interim report<sup>3</sup> *“Our efforts to gather and analyse trading data and other information to assess the impacts of market conduct make it*

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<sup>2</sup> 2020 AGM Motion 5.7

[https://www.mda.asn.au/source/ckfinder/files/MDA%20National%20Conference%20AGM%20Minutes%202020\(1\).pdf](https://www.mda.asn.au/source/ckfinder/files/MDA%20National%20Conference%20AGM%20Minutes%202020(1).pdf)

<sup>3</sup> ACCC Interim Report

<https://www.accc.gov.au/system/files/Murray-Darling%20Basin%20inquiry%20-%20interim%20report.pdf>

*clear that the current information and data collection arrangements across the Basin make analysis of market participants' trading behaviour challenging. There is no institution responsible for, or capable of, gathering the necessary data to effectively monitor trading behaviour in the Basin. Better data collection and coordination across the Basin would be central to better market oversight."*

The MDA would like to re-iterate what the interim report noted and add that if the Commission is finding such activities challenging then how are market participants supposed to trust water markets and therefore participate in the most efficient way possible.

## **NATURE OF COMMUNITY CONCERNS ABOUT FOREIGN OWNERSHIP OF WATER**

- 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?
- To what extent do the concerns derive from views on foreign ownership generally?
- How much do concerns relate to who owns water rights, or to how water is used and/or managed? For example:
  - 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?
- 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?

The MDA has observed concerns regarding foreign ownership from its membership. It is the experience of the MDA that many of its members are currently unaware of the existence of the Register of Foreign-owned Water Entitlements in its current form, or how to access meaningful information in relation to foreign ownership.

As evidenced in the motions provided above, the MDA membership has called for greater provision of information regarding water markets in the Murray-Darling Basin. Foreign ownership is raised as an explicit concern in one MDA motion listed above. However, on more than one occasion the MDA has seen foreign participation in Murray-Darling Basin raised as an implied concern.

When addressing why MDA membership has raised concerns regarding foreign participation in Basin water markets the MDA views genuine lack of trust in the way the water market is operating as the core reason. It is the experience of the MDA that many members who raise concern with foreign ownership in basin water markets also hold deep seated concerns with other aspects of basin water markets or the market. Therefore, the MDA would like to note that perhaps much of the negative rhetoric regarding foreign ownership of basin water entitlement stems from greater concerns in the

The MDA would further welcome the development of communications and educational content targeted to support the development of higher levels of water literacy and increase understanding and awareness of the role and operation of water market for interested stakeholders.

It is a common complaint of local government, irrigators and other stakeholders across the breadth of the water resource management sector that the number and diversity of agencies tasked with delivering upon the objectives of the Basin Plan has resulted in a sector that is overly complex and unwieldy.

This has contributed to an environment in which outcomes are uncertain, messaging from authorities is inconsistent if not outright contradictory, community engagement is repetitive and insular, and confidence in reporting and data presented is undermined.

Multiple agencies each report to different authorities, state, and federal governments, each having priorities, obligations and accountability requirements that are not always consistent and are often misaligned. This results in duplication and overlap, and lays open the risk of gaps in accountabilities and deliverables. Again, these issues emphasise the need for harmonisation of accounting and reporting systems and agencies across the jurisdictions.

The level of complexity in the sector has resulted in difficulty for both agencies and authorities to deliver effective marketing, messaging and communications leading to unnecessary cost and frustration across rural communities and other stakeholders.

Navigating the sector to engage with the right agency to access timely, relevant and accurate information to make effective decisions or to achieve a particular outcome can be a challenge, even for the most experienced.

In a 2014 submission to the Review of the Water Act 2007, the MDA recommended that a body of work be undertaken to facilitate better alignment between the Commonwealth and the States, and state to state and to provide a level of uniformity or consistency across the water management sector. A key priority of the work should be to minimise.<sup>4</sup>

## **ROLE OF THE REGISTER IN ADDRESSING COMMUNITY CONCERNS**

- What role does information on foreign ownership levels play in relation to community concerns about the foreign ownership of water resources?
- How effective has the Register been as a response to community concerns?
  - Can you provide specific examples or indicators of where the Register has shaped public confidence?
  - If the Register has not been effective, why is this so?
  - How have communities used or responded to the information provided?
- Are there policies supporting promulgation or interpretation of the reports on foreign ownership of water assets? Or initiatives aimed at addressing underlying concerns about foreign investment in the water market?

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<sup>4</sup> MDA Submission to the Select Committee on the Murray-Darling Basin Plan to the Committee Secretariat - 29 September 2015

- What other measures can governments take to respond to concerns?

It is the experience of the MDA that most members and stakeholders are unaware about the existence of the Register of Foreign-owned Water Entitlements. This may be due to the register being on the ATO website, not somewhere many members and stakeholders would normally look for any basin related information.

It is also the experience of the MDA that many members and stakeholders that long reports are often ineffective in conveying key information. When producing content for basin communities Government departments should be cognisant of the fact that many community leaders such as councillors are passionate and effective community members that are often time poor. Members of the community may not have the skills or time to read through a 22 page report and relay that information effectively to the communities of which they serve.

A greater focus on presentation of information that can be engaging for community members and use of avenues that is more targeted to basin communities may serve as better vehicles for presenting information on the Register of Foreign-owned Water Entitlements.

#### **COSTS AND BENEFITS OF THE REGISTER – GENERAL**

- Who are the main users of the Register?
- What are the main costs and benefits of the Register for users and other stakeholders? Please quantify or describe these costs and benefits.
- Has the Register had any unintended effects?
- How can the existing Register be managed or the new register of foreign ownership of assets be implemented so as to reduce costs or increase benefits in the future?

To re-iterate on a point previously made. The MDA has called on the Federal Government to create a National Water Ombudsman with Federal jurisdiction to inquire, arbitrate, enforce, impose punitive measures and oversee amendments to state water legislation, all sought with the objective of improving market regulation.

The MDA has consistently called for the continual move toward transparency of all water trading and water trading mechanisms in the Murray-Darling Basin including the access to water trading information.<sup>5</sup>

Through incorporating the Register of Foreign-owned Water Entitlements in such a platform mentioned in 2019 MDA AGM motion 5.16 intended outcomes such as cost saving, greater use of the information and ultimately greater benefit to the community would be achieved.

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<sup>5</sup> 2019 MDA AGM Motion 5.16

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The MDA would again like to thank the Commission for the opportunity to provide feedback we hope the information provided in this submission is of use. The MDA would like to commend the commission on its ongoing work and notes that its previous reports on basin related issues have been well regarded.

We are hopeful that the Productivity Commissions findings will result in more positive outcomes for basin communities.

Kind regards

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