



**Submission on the Productivity
Commission's draft report: Market
Mechanisms for Recovering Water in the
Murray-Darling Basin**

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Introduction

The town of Coleambally was developed in the 1960s for the sole purpose of supporting farmers who were encouraged by the NSW Government to move to the area and to commence irrigated farming. The town remains solely dependent on irrigated farming to this day. Coleambally Irrigation Cooperative Limited (CICL) is wholly owned by 354 farmers and operates one of the largest privately owned open-channel irrigation systems in Australia and the most modern. The system is gravity fed; solar powered; and incorporates precision water metering, state of the art flow regulation technologies and automated water ordering and water accounting facilities. In addition, the Cooperative's members have spent \$104m over the last decade improving their land and water management practices and enhancing local biodiversity. The Cooperative also manages 1700 ha of Crown land that has been set aside for biodiversity purposes. The comments that follow therefore need to be seen in context; CICL is a progressive company and its farmer members and the community of Coleambally do not fear change and do not resile from their wider social and environmental responsibilities.

Overview

CICL considers that quite apart from addressing the terms of reference, the Productivity Commission has made an important contribution to the ongoing debate on water reform in synthesising a range of very complex matters. While CICL does not support everything that has been said in the report, there is much with which we agree. We also wish to commend the Productivity Commission for its willingness to spend time in our area of operations and for its openness during discussion; other Government agencies and statutory entities have much to learn from the Commission in this regard.¹

CICL considers that the major observations in the report to be that:

- there is a lack of rigour in some of the Government's water strategy and a lack of transparency in relation to its activity in the water market²
- it is difficult to look at market mechanisms for recovering water without also looking at how much water will be required, and where and when
- it is difficult to disentangle the issues that impact on the recovery of water without consideration, and CICL would contend resolution, of broader institutional issues
- the CSIRO's sustainable yields project and the MDBC's Sustainable Rivers Audit are an imperfect basis for accurately setting SDLs and therefore the Commonwealth's water purchasing priorities, and that without consideration of more than just scientific issues there is a risk that the Basin Plan will result in an overcorrection
- the risk assignment provisions under which irrigators might be compensated when their entitlements, or water allocations are reduced, have yet to be properly determined

The observations with which we strongly disagree are that:

¹ CICL has cause to engage with numerous Government departments and statutory entities thus far during the course of water reform; much of the engagement has occurred out of our area and has been at our expense. Much of it has also been in highly -structured circumstances where a considerable amount of the limited time available has been devoted to reiteration of departmental or entity positions, rather than a genuine exploration of the issues.

² Throughout this paper, the term "Government" is used to refer to the Commonwealth Government, whereas the term "governments" is used to refer to the Federal and State governments collectively.

- modelling shows that a reduction in the amount of water available for irrigation will have a modest impact at the “broad regional” level³
- Government should pay market rates, and no more, for water it secures by investing in the modernisation of irrigation infrastructure and that investing in such modernisation is inefficient

Specific Issues

Allocating Environmental Water

Draft Finding 4.2. CACL agrees that the allocation of water between competing uses in the Basin cannot be based on good science alone and that community preferences should be required where trade-offs are required. While we do not contest that the climate is changing, we do not believe that the point at which the extent of the change can be accurately predicted has been reached and note that the report on which the Government is heavily relying (the CSIRO’s sustainable yields project) indicates that there is a very significant number of potential scenarios. This is not to suggest that action be delayed until the point where the science can be considered to be “good” has been reached, but rather that a range of factors has to be taken into account before Governments acts.

CACL agrees it important that community preferences be taken into account, but questions which communities are being listened to: those in the areas where the environment is most affected; those in the areas that stand to be most affected by the new SDLs; or those in the largest electorates? We would observe that community views are not necessary a ‘constant’; they can be influenced by media pronouncements that seek to promote one side of a debate, but not the other, and proximity to particular issues at a particular point in time. CACL questions, for example, what the community preference might be around environmental issues if food security was to become an issue in Australia, as it is in much of the world. Our point is that getting the balance right requires the consideration of a range of factors, including good science and community preferences, but ultimately it requires rational and deliberate decision-making.

Assessment Framework

CACL agrees that water recovery will create winners and losers and that the distributional effects are “complex, difficult to disentangle from external factors, and are often ambiguous”.⁴ However, we would contend that nonetheless, such analysis has to be undertaken. Further, it’s our grave concern that because the Basin Plan is being produced in haste, to meet an imposed and politically -driven deadline, it is exactly this type of analysis that is likely to be sacrificed.

Recovering Water through Non-Market Means

Draft Recommendation 6.1. CACL supports the need for all Basin jurisdictions to clarify, as soon as possible, how the risk assignment provisions set out in the National Water Initiative will apply because Government inaction in this regard sees irrigators being encouraged to sell water back to the Government, under the auspices of buyback or modernisation incentives, without knowing what the new SDLs might be and without them knowing whether they will be compensated for any reduction in their property right – this is akin to be required to negotiate with a gun at one’s head and it renders the Government’s assertion that it dealing with “willing sellers” hollow in the extreme.

³ Productivity Commission draft report “Market Mechanisms for Recovering Water in the Murray-Darling Basin (MMRW draft report), page xxxi

⁴ Ibid, page 87

CICL notes that the Commission is not persuaded by those who argue that the buyback needs to be accelerated and that it does not favour compulsory acquisition. Quite apart from the damage that an accelerated buyback would do, CICL questions the imperative for such a course of action in the absence of an agreed environmental watering plan. We note that Government has consistently said that it does not intend to compulsorily acquire water and we would consider any attempt by it to do so as a breach of promise.

Draft Recommendation 6.2. CICL agrees that rigorous approval processes should apply to all projects under the Sustainable Rural Water Use and Infrastructure program. However, we consider that the Commission has sought to reinforce its views on the appropriateness of Government investment in the modernisation of irrigation infrastructure by citing the most extreme example available i.e. the Northern Victoria Irrigation Project Stage 2. The amount the Commonwealth is prepared to pay for water recovered under the NVIRP project goes beyond what might be considered a premium just for modernisation, which suggests that other considerations might have been at play. It is also atypical of what the Commonwealth has paid under other modernisation circumstances. We also note that the Commission's calculation that the Commonwealth was paying a premium, on average, of 55% more for water that it recovered through investment, as compared to the buyback, is based on a one-off comparison i.e. it makes no allowance for the fact that investment in infrastructure provides an enduring return. It also needs to be remembered that most irrigation systems throughout Australia were government-owned at some point and the reason they require significant upgrading is because governments allowed them to deteriorate to the point where, in many instances, they sought to divest themselves of the infrastructure.

CICL accepts that in investing in modernisation ahead of the Basin Plan being resolved, the Government might be contributing to the modernisation of some farms that subsequently become unsustainable, but surely this says more about the order in which Government has approached water issues, and the need for due diligence, than it does about the appropriateness of investment in modernisation per se? CICL considers that it is unrealistic in the extreme for the Commission to contend that amidst one of the longest droughts on record, and in the face of a host of politically-induced uncertainties, that irrigators are in a position, or would be allowed by their lenders, to embark on modernisation in the absence of any financial incentive.

CICL notes the reference on page 125 to its modernisation being largely self-funded. While, CICL would clearly have preferred that that was not the case, we do not consider our decision to modernise at our own expense should be used as an argument against Government incentives. We are more concerned about being penalised for our efficiency than we are about the prospect of being competitively disadvantaged because others have been assisted with their modernisation e.g. by having our water savings targeted by government, or by being denied access to the new incentives were we to want to further modernise. We take this view because it is in the national interest that all irrigation operations in Australia be modernised.

CICL is especially disappointed with the suggestion on page 125 that Government might direct the money that might be spent on assisting modernisation of a critically important industry towards "training and job search services, the social security network and the redistributive aspects of the tax system". Does the Commission really believe that such investment will provide an off-set equivalent to that which would be provided by the modernisation of irrigation across an area such as the Riverina for example?

Defining a Portfolio of Water Products

Draft Recommendation 7.1. CACL agrees that the Government should seek a wider mix of water products but it has reservations about allocation, or temporary, water being amongst the product mix. Farmers rely on the temporary market to hedge the many ‘bets’ they must make e.g. betting on what water allocation they will receive and when; betting on what crop they should grow and what price it might fetch and betting on what weather conditions might prevail. Were the Government to enter this market, CACL considers it a very strong likelihood that it would totally dominate the market and that would mean that the prospect of a farmer being able to hedge their risk would be lost. The Government’s presence would also provide a powerful disincentive for farmers to put their water allocation to a productive use and this would be to the detriment of food production. Were farmers to simply sell their water allocation year in year out, we would expect that any community goodwill, or “preference”, towards them would soon be lost.

Mechanics of the Buyback

Draft Finding 8.1. CACL agrees that there are problems associated with the Government’s tender process and that it would be more appropriate for the Government to post specific offers and to respond to specific offers that are made to it. For the reason described in the preceding paragraph, CACL has reservations about the Government having an unrestrained presence in the temporary market.⁵

Draft Finding 8.2. CACL supports the idea that irrigators be allowed to bid several combinations of entitlements as part of a single bid.

Draft Finding 8.3. CACL does not support the notion that the Government should be the only party with prerogative within a tender process. While we acknowledge that there are costs to the Commonwealth when it spends time assessing a bid only to find that the irrigator has withdrawn their offer, the same applies in reverse; irrigators bear cost when the Commonwealth takes what we consider to be an inordinate amount of time to respond to their offer and subsequently declines it.

As previously indicated, CACL would consider any move towards compulsory acquisition to be a fundamental breach of promise. There is no merit, in our view, in the suggested compulsory group tender mechanism. Indeed we struggle to see how it would have a place in the open and free market that the Government seeks to promote.

Draft Finding 8.4. CACL agrees that the conveyancing process would be enhanced by the suggested improvements.

Draft Finding 8.5. CACL agrees that if the buyback is to be continued, it should not be used for purposes other than to recover water for the buyback and to assist in the transition to lower SDLs. We contend that decisions to rationalise delivery systems i.e. to reduce their size, should come from the bottom-up and that while Government can play a role in this regard, it should be confined to supporting industry or irrigator-led proposals.

We note the related discussion around the case for acceleration of the buyback; again, CACL considers such a course of action would have a serious impact on regional communities and

⁵ CACL’s reservations would be lessened were, for instance, the Government to agree to a specific limit to be acquired in this market.

questions the logic for it given that there is no environmental watering plan to inform how such water should be used, let alone to justify the need for water to be recovered at a faster pace.

Institutional and Governance Issues

Draft Finding 9.1. CICL agrees that the Commonwealth should be obliged to provide more information to the public about the relationship between its water purchasing program and the Restoring the Basin and the Sustainable Rural Water Use and Infrastructure programs. We have reservations though about the suggestion that the Government's purchasing strategy should be devolved to a newly-created independent body. CICL contends that such devolution would allow the Government to become less accountable for its actions, when it needs to be held more accountable. CICL also questions the wisdom of further fragmenting the limited pool of experienced bureaucrats with detailed knowledge of the water industry and its markets. Finally, we do not relish bearing the additional cost that would inevitably be transferred, in one or form or another, to irrigators were such a body created.

Overcoming Impediments

Draft Recommendation 10.1. CICL supports the recommendation but notes that it is Victoria that stands in the way of the 4% cap being lifted. CICL would strongly object to NSW being prevailed upon in this regard until such time as Victoria agrees to a level playing field.

Draft Finding 10.2. CICL does not support this recommendation and is disappointed that the Commission has used its review to, in essence, re-percharge the question of termination payments. We note that there is no attempt to explain the widely varying termination fees indicated in Table 10.1, with the inference clearly being that some companies are taking advantage of their customers. We also note however that there might be other, more rational, explanations. Irrespective, the Commission's views on the matter of termination fees are well known, as are those of irrigation companies, but the ACCC chose not to accept them and the Government has accepted its recommendations. While irrigation companies were unimpressed with that outcome, we have had to live with it – and we respectfully suggest that the Productivity Commission ought to do the same.

CICL is also disappointed with discussion related to 'postage stamp' pricing. In economic terms, it is a very 'dry' consideration of pricing and one which takes no account of equity issues; nor does it acknowledge that there are a host of public and private industries that are compelled, or feel obliged, to amortise their costs across widely dispersed customer bases.

Draft Recommendation 10.2. CICL does not know how the National Water Commission arrived at its conclusion that carryover arrangements might be overly conservative. It seems that like other Government bodies, the NWC is content to promote the view that irrigators will have to contend with reduced water availability on the one hand, while criticising arrangements that allow the industry at least some form of insurance against that contingency. The fact that carryover limits vary from one state to another, and in some cases from one catchment area to another, is a consequence of their differing storage capacities.

CICL notes that the Commission's recommendation allows for the possibility that environmental water might benefit from different carryover provisions. The Commonwealth has consistently indicated that the CEWH will operate in the market in exactly the same way as others are required to do and this would clearly not be case were it not subject to the same carryover rules. In sum, CICL strongly disagrees with this recommendation

End of Submission