



Australian Government



TRIM Ref: D16/25859

Assistant Commissioner Richards  
Regulation of Australian Agriculture Inquiry  
Productivity Commission  
agriculture@pc.gov.au

Dear Assistant Commissioner

### **Regulation of Australian Agriculture – Productivity Commission Draft Report**

Thank you for the opportunity to respond to the Productivity Commission's draft report on the regulation of agriculture in Australia.

Chapter 4 of the draft report examines on-farm regulation of water and covers matters relating to the Murray-Darling Basin Authority's functions. The Murray-Darling Basin Authority (MDBA) welcomes the extensive scope of issues considered by this chapter and have attached further clarifying information in three broad areas:

- water markets and trade
- water management arrangements
- implementing the Murray-Darling Basin Plan

The MDBA will also be in contact in the near future to provide feedback of a more technical nature to the Productivity Commission.

We hope this information will be of assistance in updating Chapter 4 of the Productivity Commission's draft report and look forward to the final report.

If you require further information please contact myself

Yours sincerely

Tony McLeod  
General Manager, Water Policy  
Murray-Darling Basin Authority  
16 August 2016

## **Attachment- Murray-Darling Basin Authority's role and function in regulation of Australian agriculture**

This submission has been written with reference to the Productivity Commission's Regulation of Agriculture Inquiry: terms of reference, issues paper and subsequent draft report.

The Murray-Darling Basin Authority (MDBA) notes the Productivity Commission will soon conduct inquiries into both the National Water Initiative and the Murray-Darling Basin Plan and have therefore not presented material more relevant to those inquiries here.

The MDBA is responsible for monitoring and dealing with breaches of parts of the *Water Act 2007* (Cth), including the Basin Plan. The MDBA is providing information on the MDBA's regulatory role and other information we believe will be of assistance to the Productivity Commission's inquiry.

The MDBA is a portfolio agency of the Department of Agriculture and Water Resources. The MDBA's submission is complementary to the Department's submission reflecting the MDBA's unique role in the water sector of the Murray-Darling Basin (the Basin). Please refer to the Department's submission for a broader and nationwide consideration of the matters covered in the Productivity Commission's draft report.

### **Water markets and trade**

Water trading allows water holders to trade water to its most productive use to the benefit of both buyer and seller. This has proven to be an increasingly important and flexible tool for water users in the Basin. Due to the excludability of water entitlements, water users are not affected by market activity and continue to receive water under their water entitlements.

The Basin Plan water trading rules (Chapter 12 of the Basin Plan) commenced on 1 July 2014. While water markets and trading rules existed, and continue to do so, across the Basin before the introduction of the Basin Plan water trading rules, there was no direct requirement for consistency between the markets or market users. The Basin Plan water trading rules, through structural and governance changes, enhance the transparency of trade processes, improve information accessibility and ultimately seeks to build the confidence of all current and potential water market participants. This in turn provides greater opportunities for water trade underpinned by informed market participants.

The MDBA primarily regulates governments and/or their agencies under the *Water Act 2007* (Cth) and the Basin Plan. This includes the Basin Plan water trading rules. The MDBA monitors compliance with the Basin Plan water trading rules through a number of approaches including by:

- working directly with Basin states to remove existing restrictions on trade and confirm future plans are consistent with the Basin Plan water trading rules
- communicating information about water markets and trade to a wide audience including water users and the general public

- educating and assisting water market participants (such as traders and irrigation infrastructure operators) to understand their rights and obligations arising under the still relatively new Basin Plan water trading rules.

The Basin Plan water trading rules, in the vast majority, apply to Basin States, trade approval authorities and/or irrigation infrastructure operators. The only obligation placed upon individuals is for sellers in the water market to report the agreed price of the trade to the trade approval authority in the process of applying for the trade. This improves water market information and increases the ability of all water market participants to make informed business decisions, including the purchasing of additional water.

The MDBA recognises the need for continual improvement in regulation and consistently assesses itself against the Regulator Performance Framework. The MDBA is committed to consistently decreasing the aggregate regulatory burden felt by individuals and will continue to coordinate with other regulatory agencies. The MDBA is committed to increasing the transparency, efficiency and effectiveness of Basin water markets and will continue working collaboratively with Basin States to enhance these qualities of the constantly evolving Basin water market.

#### *Groundwater trade*

Groundwater markets currently operate in New South Wales, parts of Victoria and South Australia. The MDBA, in collaboration with Basin States, are currently working on finalising the Basin Plan groundwater trade guidelines which are expected to be released in late 2016. The guidelines will elaborate on Basin Plan Water Resource Plan requirements for Basin States. The Basin Plan groundwater trading rules place no obligations on proponents or individual farm businesses.

#### **Water management arrangements in the Basin**

While there are a number government agencies at all levels of government involved in water, broadly the responsibilities are well delineated and the MDBA considers this enables collaboration and increased chances for efficiency, balance and fairness across the Basin.

In 2014 the *Water Act 2007* (Cth) was reviewed by an Independent Expert Panel. Its overarching finding was that the Act is an effective legal framework for the delivery of its objectives. These objectives include: managing Basin water resources in the national interest, giving effect to relevant international agreements, optimising social, economic and environmental outcomes and improving water security for all Basin water resources. The MDBA is committed to locally appropriate and flexible regulatory settings through these existing governance frameworks and supports the Productivity Commission's Draft Finding 4.1.

Please refer to the Department of Agriculture and Water Resources' submission for further information on this review, the Australian Government's position on recommendations and subsequent reviews including in regards to water information and water charge rules.

### *Information collection and provision*

The MDBA does not collect any water use data or information from farm or agricultural businesses. All water use data the MDBA collects is provided by the relevant Basin State water agency under section 71 of the *Water Act 2007* (Cth). The MDBA supports the findings of the Interagency Working Group on Commonwealth Water Information Provision.

### **Implementing the Basin Plan**

The Australian Government has committed to recovering 2,750 GL through a combination of investment in infrastructure efficiency and water buybacks.<sup>1</sup> As at 30 June 2016 the progress of water recovery is 1,981.4 GL, which is 72% of the way toward meeting the 2,750 GL surface water recovery target outlined in the Basin Plan. The Basin Plan outlines monitoring, evaluation and periodic reviews which are designed to inform progress towards improving the environmental health of the Basin and the associated economic and social outcomes.

The Basin Plan requires all Basin states to develop water resource plans that include arrangements for managing take by run-off dams and floodplain harvesting. Further, Basin States are generally required to limit that take to the level known as the baseline diversion limit, or the level of development as at 30 June 2009.

Implementing a plan of this scale and national significance takes time. The planned time for transition and implementation of the Basin Plan in full is necessary to deliver the objectives defined by the *Water Act 2007* (Cth). The Basin Plan provides a consistent, rather than uniform, framework for implementation and the MDBA will continue to work together with the Basin states, water management authorities, Basin communities, industry and other key stakeholders to achieve a healthy, working Basin. Throughout the Basin Plan's implementation, the MDBA will continue to work collaboratively with our partners to ensure the Basin continues to support communities, the environment and industry while balancing social, economic and environmental outcomes at both local and Basin-wide levels.

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<sup>1</sup> Note that this recovery target may be revised based on the outcomes of current review activities in train.