
Approach to Market – Reference Number: E01548

RGA Feedback on the 10 GL Murray Buy-Back

NON-STRATEGIC BUY-BACK HURTS REGIONAL COMMUNITIES:

Extrapolating on recent research conducted for the Victorian Government¹ the current purchase round is expected to create a loss in production of \$40 million per year, and will likely lead to more volatile annual allocations within the remaining consumptive pool. This research also suggests that while the buy-back in the Murray may be 10 GL, consumptive water-use could reduce by as much as 20 GL.

The current Approach to Market does not align with the Government's pre-existing test for 'strategic' and has effectively changed the definition without consulting impacted communities. Formerly, Government was required to *get a high level of strategic value and ... very little change in terms of productivity*.²

We note that despite the Portfolio's definition of 'strategic' changing markedly, the Department of Finance still requires the 'broader domestic economic benefits' of procurement to be considered in all related planning activities.³

RGA's Request: Are you able to explain how the benefits to the Australian economy were considered in the development of this Approach to Market? Given the significant body of research showing that water purchase actually, significantly damages regional economies, how was a Commonwealth decision made in favour of reinstating buy-backs?

THIS APPROACH TO MARKET FAILS TO MEET 'NON-DISCRIMINATORY' REQUIREMENTS:

We note that under section 5 (*Encouraging Competition*) of the Commonwealth's Procurement Rules, the following is strongly emphasised⁴: (i) all potential suppliers must be treated equitably, based on their abilities; (ii) barriers to competition, based on entity size and resources, must be considered; and (iii) the commitment of smaller entities to their local or regional markets should also be a factor in developing procurement arrangements.

The current Approach to Market doesn't do these things. It creates a direct conflict between well-resourced and single-focused market intermediaries, and, individual licence-holders who are typically regionally-based, and who don't work in markets full-time. The time and financial cost to individuals of preparing a tender is unreasonably onerous, to the point that some less-scrupulous water market intermediaries are now attempting to capitalise on this fact.

¹ [Social-and-Economic-impacts-of-Basin-Plan-water-recovery-in-Victoria.pdf](#)

² [ParlInfo - MATTERS OF PUBLIC IMPORTANCE : Murray-Darling Basin \(aph.gov.au\)](#)

³ [consideration-of-broader-economic-benefits-in-procurement.pdf \(finance.gov.au\)](#)

⁴ [Encouraging Competition | Department of Finance](#)

The decision to ignore a tenderer's commitment to a local/regional market also significantly compromises the definition of 'willing seller' within this particular exercise. When water is sold to the Commonwealth, its productive-value is permanently lost to the local/regional market. Individual tenderers have no ability to advocate for community-benefits as part of the sale. Compounding this, the fact that tenderers will be publicly 'named and shamed' also has the potential to create its own issues within small, close-knit communities; however this additional 'unfair discrimination' appears to have been wholly ignored.

RGAs Request: Are you able to explain how the 'Encouraging Competition' matters that we've raised above were considered in the development of this Approach to Market? Given the discriminatory nature of this Approach to Market is clearly evident, how was a Commonwealth decision made in favour of reinstating buy-backs in this particular form?

THIS TENDER UNDERMINES THE PURPOSE OF BASIN WATER MARKETS:

The purpose of Basin water markets is to: *increase productivity, allow choice and flexibility in business decision-making and reduce risk.*⁵ The current Approach to Market prevents all of these things from happening.

Essentially, as we understand it, once a tenderer has made an offer to the Commonwealth, that offer remains live for at least 12 months, and it can't be withdrawn unless the Commonwealth approves. However, the market may change substantially during this timeframe, and tenderers will remain stuck with their initial volume and its related price.

As we've mentioned, water market prices are becoming increasingly volatile as a result of Commonwealth interference in markets. We expect this to be exacerbated, and the market to change dramatically between May 2023 and May 2024 if an El Niño event occurs.

To illustrate, ABARES predictions for average allocation prices for the 2021-2022 water year ranged from \$74 per ML under wet conditions to as high as \$303 per ML under an extreme dry scenario.⁶ Given water licences offer more security than being solely reliant on the annual allocation market, under a return to El Niño it's expected that the relative value of an individual licence will closely reflect the availability of water resources as a whole.⁷

RGAs Request: Tenderers, at any time, should be able to withdraw their tender without requiring the approval of the Commonwealth Government. If market prices change substantially before a tender is accepted by the Commonwealth, tenderers should be able to renegotiate their offer to ensure it's commensurate with prevailing market conditions.

⁵ [Water markets and trade | Murray-Darling Basin Authority \(mdba.gov.au\)](https://www.mdba.gov.au/water-markets-and-trade)

⁶ [Water Market Outlook – August 2021 - DAFF \(agriculture.gov.au\)](https://www.agriculture.gov.au/water-market-outlook-august-2021)

⁷ [Australia's water trading and entitlements market explained \(afr.com\)](https://www.afr.com/australias-water-trading-and-entitlements-market-explained)