

Garry Smith:

Welcome everyone, and thank you for joining us today. My name is Garry Smith and I'll be facilitating today's session and which is covering 'Developing the Roadmap for Water Market Reform'. Thanks for everyone who's taken the time to join us today.

Garry Smith:

Today, it's an opportunity to hear from and speak with our principal advisor for water market reform, Mr. Daryl Quinlivan, who was recently appointed by Minister Pitt. We're also going to hear from Joe Ong Principal Director of the secretariat, and Joe will join us as needed during the question and answer session to help respond to all your questions and answers.

Garry Smith:

So let's continue and begin today's proceedings by acknowledging the traditional custodians of the land on which we meet today. I'd like to pay my respects to elders past, present, and emerging, and extend that respect to Aboriginal and Torres Strait Islander people that are here today.

Garry Smith:

I'm joining you from Yorta Yorta Country in Northern Victoria today. Please feel free to share in the chat, the lands that you are logging in on from today. So just by way of what we're going to cover off on today, the agenda for today is some scene-setting. Daryl will take us through some scene-setting and really talk about the process of getting to the water market reform roadmap and what that will involve. He'll also talk about some potential areas of reform obviously being particularly important for market participants.

Garry Smith:

And then after we've gone through that, the potential areas for reform, we'll move to a Q&A session. And we'll hopefully have quite a significant amount of time, more than half an hour, for general Q&A and we'll finish today's webinar with a summary of some of the next steps for developing water market reform roadmap.

Garry Smith:

With that form of introduction and scene setting, let's get to the important part of the meeting and I'll hand over to Daryl Quinlivan to really take us through those setting the scene and giving us insights into some of the reform directions that might emerge from this roadmap process. So over to you Daryl.

Daryl Quinlivan:

Thanks Garry. So I'm Daryl Quinlivan. I've been recently appointed by Minister Pitt to provide advice to him on implementing the ACCC report in the form of a roadmap on being supported by staff from the Department of Agriculture, Water and the Environment. We've involved in quite a number of discussions with state officials on elements of the ACCC report, and in due course, their ministers will be involved as well.

Daryl Quinlivan:

I'm also supported by an advisory group. Many of the members of that group are online today. We've had our first meeting but we've only just commenced the process. And this is this, as you know is the

first public consultation on the process but there will be a number of them over the course of the project. And we will be meeting with groups who have distinct and separate interests in elements of the roadmap.

Daryl Quinlivan:

And we have had some discussions with the water broken community and with the infrastructure operators, irrigation operators already, but there will be more those over the course of the project. So in some ways, our task is quite narrow. We're looking at how to implement the ACCC report, how to take the recommendations in their report and turn them into an implementation program.

Daryl Quinlivan:

And that involves, looking at the practicality of those recommendations, we have to take into account resourcing them, which the ACCC did to some extent, but we have to do that in a more real way because there will be budget constraints on this, and there will be questions of who pays which the commission didn't have to address.

Daryl Quinlivan:

So we'll be looking at how to implement the report. For the most part, we'll be taking the ACCC's recommendations as the starting point and looking at those practical implementation issues. In other of cases, we will be looking at potential alternative pathways to essentially the same outcomes, and we'll be particularly doing that with the states because there are already a lot of infrastructure for delivering water operations and water reforms so we need wherever we can to build on those.

Daryl Quinlivan:

So in some ways, the task is quite narrow, just focused on the ACCC recommendations. But equally, there's a lot of work to be done and we are just starting so we've got a lot of questions. And you might find during this presentation that some of the questions you have won't be answered, and some of the questions you have will be answered with questions of their own that we are just starting on. But anyway, that's where we are now having just had this process underway for a few weeks.

Daryl Quinlivan:

Yeah, that's probably enough on how. The advisory group has skills from across a wide range of areas that are relevant to the ACCC recommendations, and we're having our second meeting next week. And the main task will be to work on the initial advice to the government. We'll go to the timetable now, if we can. The timetable, when the project was originally scoped, there was a requirement for advice in December. That timetable remains in place.

Daryl Quinlivan:

So we're adapting the process to provide some initial advice to governments. We are focusing on couple of specific areas where we think it's pretty uncontentious. Governments really need to act on the recommendations from the ACCC, although there's a lot of work to do to scope out just how to do that. We'll also be providing for governments in December, Minister Pitt in particular, our program of work over the remainder of the project.

Daryl Quinlivan:

And as you can see from this timeline here, our project runs through to next year, 2022. We'll be preparing a final roadmap for his consideration and for state water ministers in the middle of next year. There will be some ad hoc advices provided along the way because the Commonwealth and state governments both have budget processes that will be operating through that time, but we haven't got them fixed in our schedule yet because it'll depend on demands from those governments.

Daryl Quinlivan:

So there will be some advices provided in that period from February to June, but the final roadmap and our advice on how to implement the ACCC report will be provided in 2022. The bulk of the work will commence next year and we're not trying to answer every question. I think there's an important point to make. We're not trying to answer every question and solve every problem. We are trying to provide advice on priorities, scheduling, practicality, and in some cases, options for implementation going beyond 2022.

Daryl Quinlivan:

And importantly, governments have already responded to the ACCC reporting quite a substantial way will be including detail on this in our December advice. State governments in particular, who are responsible for many of the functions that are relevant to the operations of our water market, have been quite busy since the ACCC project commenced 18 months ago or two years ago now.

Daryl Quinlivan:

And this is substantial number of actions that have been taken already to improve the functioning of the water market. And we'll be providing a detailed list of all those in the December advice.

Daryl Quinlivan:

I'm not yet sure whether the minister's preference is to release that December advice quickly. I think it would be a good idea to do so, but that'll be a matter for him. And that will give people a clearer idea on what our program is going to look like through 2022.

Daryl Quinlivan:

So this is the first public exposure of the process really, in this form. There'll be plenty more. We're going to need a lot of help. As I said, we've already been working with a couple of the groups that we think are most affected, but there are a lot of interested parties in the efficient functioning of a water market. And we'll be aiming to engage thoroughly with you over the course of the process.

Daryl Quinlivan:

So you might go on to the next slide. Yeah. So I've mentioned some of this. We will be providing a pretty detailed account of the work that's been undertaken since the ACCC started this project. There's quite a lot of things that state governments have been treating as no regrets measures and things that they're able to do under their own steam.

Daryl Quinlivan:

What we are looking at is a more comprehensive and coordinated program across all of the Murray-Darling Basin. There is a lot of evidence collected by the ACCC in the course of their work. They consulted widely, of course, and received submissions from a wide range of interested parties.

Daryl Quinlivan:

And we are using those as a resource as well. But separately, we have asked Frontier Economics to conduct a cost benefit analysis of the ACCC recommendations, as they have been published by the ACCC, so that we can use that as a baseline for comparing alternative propositions in different ways of approaching the objectives underlying those recommendations. And Frontier Economics is making good progress there. But that'll be an ongoing project throughout the course of our development of the roadmap, so that we've got a practical resource we can use to compare and contrast different approaches.

Daryl Quinlivan:

The second thing we've done is asked the CSIRO to begin talking to participants in the market about the infrastructure for conducting trade, and the systems, the information requirements, and so on that are currently available in the Water Trading Market, and the needs of those participants for higher quality systems and better access to information. Data standards and so on.

Daryl Quinlivan:

Some of the things that are set out in the ACCC report, I think. One of the early lessons for us has been that this is probably going to be the area of greatest return for effort in reform because one of the biggest underlying problems here is the lack of availability of uniformly prepared and understood information for all participants in a reasonably neutral way.

Daryl Quinlivan:

So this will be a big focus for the project. But again, as I mentioned earlier at the moment, we mostly have questions but we know they're really important questions. I mentioned that we're looking at a couple of specific early reforms that we think governments should be able to agree to in principle.

Daryl Quinlivan:

And these are in the areas of water market education, the regulation of intermediary services, and conduct regulation. So we will be making early recommendations and hoping that governments will commit to those changes in principle. And then, we'll be doing some more work on those on how to take those further towards implementation over the course of the next six months.

Daryl Quinlivan:

Institutional arrangements obviously is also a really big issue, and one that requires great care because there is already a lot of agencies, a lot of governments, a lot of different players involved in this market. And although the Murray-Darling water market in some ways is quite a small market, it's also a very busy one and a very congested one in an institutional sense.

Daryl Quinlivan:

So the commission has recommended the creation of a new agency, and we are approaching that with an open mind. But a lot of questions have been raised with us already about the wisdom of adding new institutions to an already busy and congested space. So we're going to think our way through that pretty carefully.

Daryl Quinlivan:

Move on to the next slide. Yeah. So everybody is telling us that information and better education on the part of, particularly new participants, prospective participants, and the community which has an interest in this water market is really important. So we will be asking governments early on to commit to doing more in this space.

Daryl Quinlivan:

And we've already we've got quite a positive reaction. I think already from the jurisdictions that we've spoken to about this as a priority activity, although I think that we will be wanting to get some advice from people like you during the consultation processes on who are the most important target audiences for that education, and information provision, and what form should that take.

Daryl Quinlivan:

So that'll be something we'll be interested in your advice on. The next two, mandatory intermediary code and conduct regulation. These are two areas where the current regulatory framework operating in the water sector is a bit different to those in other sectors of the economy, in other functioning trading markets. And there were good reasons for those because of the way the water market has grown quickly over time, and the fact that it remains a smaller market than some of these other very large economy wide markets. So the ACCC has tested the principle that the economy wide form of regulation should be applied to the water market. Where this is feasible and where there aren't good reasons to adopt different arrangements that are specific to the water market.

Daryl Quinlivan:

So we agree with that principle, and we're just testing at the moment how these things might be done. But I think it seems uncontentious to us that, in principle at least, governments should commit to the kind of conduct regulation, the prohibitions on market manipulation, and so on that apply more generally should also apply in the water market, and that there should be a mandatory code of conduct for those providing intermediary services. And we've begun scoping out what some of the contents of that might be.

Daryl Quinlivan:

Interestingly, in our early conversations with the breaking community, they seem pretty relaxed about this and think that it will serve a good function in improving the professionalism of the breaking community over time.

Daryl Quinlivan:

And I mentioned already, the last one that we are seeing the infrastructure for managing trades and for managing the provision water data to participants in those markets as being a really crucial issue. And

CSIRO might well be contacting some of people online today to get their views and test with them some of their early thinking about things that might be done in this space.

Daryl Quinlivan:

So it might go on to the next slide. Yeah. So I've mentioned that the key thing here really is to just test whether the general law relating to conduct in trading markets of the kind that applies in the finance market and throughout the economy generally should be applied here. We won't be drafting a law to that effect. We will be trying to identify just what regulation should apply here that will work for the water sector.

Daryl Quinlivan:

And we'll be making a recommendation to government along those lines in our early December advice, and potentially doing a bit more work on what formal law might take, what might be the legal vehicle for it, most likely Commonwealth law in this case, and the extent of its application, whether it be for the Murray-Darling Basin or for Australia wide.

Daryl Quinlivan:

So we'll be preparing advice on those issues after the December advice, which will just be recommending in principle agreement to this. Next slide. And essentially the same story with the mandatory intermediary code. I mentioned that the broken community who have a voluntary code present. Compliance with that voluntary code is good for the most part but not universal.

Daryl Quinlivan:

And it would be better if it was universal and the best way to do that is a mandatory code. And our early sounding suggest the broken community will welcome that with quite a lot of work to be done to see whether the kind of things that apply to people providing financial advice, for instance. An obligation to act in the best interest of the client, the use of trust funds to manage funds and assets in transit and so on. Whether all of those should be included in the code, that's the work we need to undertake over the coming months.

Daryl Quinlivan:

But the general principle of a mandatory intermediary code, again, seems to be widely supported, and so we'll be seeking an early decision from governments to agree to that in principle. I mentioned a couple of the potential inclusions in the intermediary code. There's a couple more there, and there are of course, many others that we'll need to look at.

Daryl Quinlivan:

I mentioned that water's a relatively small market. So some of the things that are accepted practice in very large markets like the financial services market. Some of those services and obligations may not be relevant for the code here, but we are starting with the hypothesis that we're going to end up with something pretty close to that, unless there's a very good reason not to.

Daryl Quinlivan:

Next slide. Yeah. So we won't be seeking to, as the ACCC recommended, we won't be seeking to regulate a particular class of persons so much as the services that they provide, whoever it may be that

provides those services. And these seem to be the services that should be covered by the code, but again, we are consulting on that.

Daryl Quinlivan:

And if you've got views about other services that should be included, we'd be interested to hear those. Next slide. I mentioned the issue of applications, so you might say that if it's important to regulate conduct in this area for the Murray-Darling Basin, why not apply it nationally? Given that essentially the same considerations would apply.

Daryl Quinlivan:

We've only been asked to do this project in relation to the Murray-Darling Basin, but we will be asking that question of governments, whether they want to consider application of these things on broader basis. There are some questions we need to explore thoroughly with who is responsible for the code? In what legal form is the code made under what law? Who's responsible for maintaining the contemporary policy basis of the code? Who's responsible for enforcing the code and monitoring compliance?

Daryl Quinlivan:

There's a lot of questions there that we need to look at. There are a lot of codes of conduct in operation in other sectors across the economy, so this is not a new model at all. But we do have to test whether those models that are in force in other parts of the economy are relevant for water, and the best model for water in the circumstances.

Daryl Quinlivan:

So they're questions that we have and we will need to explore over the coming months. We also need to test whether there are any appropriate exclusions from the code. And some of these might be because the scale of the activity is so small that it doesn't warrant regulation at this stage. But anyway, are they're questions that we have that we'll need to explore.

Daryl Quinlivan:

Next slide. I mentioned that this looks likely to us to be the area of public investment, the area of most likely new public investment or additional public investment, although we don't have a budget for this process. But the returns from investments in this area of the infrastructure for conducting the water market and the public disclosures of public information that is available about what's happening in the water market.

Daryl Quinlivan:

We think this is probably going to be the area of highest return, but it's also an area of high risk because we will have a limited budget and the investments that are made here need to be very carefully scoped and implemented to make sure they do deliver on their promise. So that's why we've engaged CSIRO to do this work, and there'll likely be quite a lot more work done by the Basin governments before they settle on a precise outcome here. But this is a very high priority for us and one where I know we will get plenty of advice from participants in the market, and we'll welcome that over the coming months.

Daryl Quinlivan:

Next slide. Yeah. So institutional arrangements. Well, quite a number of the things that I've mentioned this morning, you end up with a question, well, who's going to do this? How's it going to be done? How's it going to be funded? What is going to be the legal basis for doing this? And those questions will arise across not just the issues I've raised this morning, but the many others the commissioners made recommendations on that we haven't looked at yet. We're just starting to scope.

Daryl Quinlivan:

So that brings us quickly to this question of institutional arrangements. Now, the commission was in a position to think about all this from a first best point of view. And I know they consulted widely and tested a wide range of alternatives. But in the end, they recommended a new water market agency to centralise all of these functions and provide a sort of centre of excellence in water market operations.

Daryl Quinlivan:

So we have that as a starting point, having it being the ACCC's recommendations. But we're having to test that against other options based on incremental changes to the functions of existing agencies and institutions in the Murray-Darling's space. So we'll be doing that in quite a significant way.

Daryl Quinlivan:

I think everyone, I haven't heard anybody yet tell me that there are functions that the ACCC has recommended for this agency which don't need to be done or don't need to be done in an improved way in some form or other. So I think we, again, our starting hypothesis is that these things need to happen. There needs to be increased activity in these areas and our question's going to be well, how given the existing structures within the Murray-Darling Basin, how best to do that?

Daryl Quinlivan:

And that's a series of questions that I think we'll be having about. Most of the ACCC's recommendations, as we work our way through them over the coming months. And as I said, we've got open mind at the present time about the answer to those questions.

Daryl Quinlivan:

I'll turn to Gary in a moment to conduct a question and answer session. But I just go back to my starting couple of points before we do that, just to sort of reiterate that we're not really being asked to make new policy here. We're not being asked to duplicate or repeat the ACCC's analysis. And our sphere of influence, or our terms of reference is really starting with the ACCC's recommendations and looking towards their implementation. We're not looking to solve every implementation problem, or every auxiliary, or secondary policy issue that arises from them.

Daryl Quinlivan:

But we will be looking to set out a possible timetable for governments to follow in implementing the commission's recommendations in some form or other. Starting with, as I've said, with [in-principle - Department to review] decisions in our proposed, in our December advice, on a couple of things that we think are uncontentious and governments can get on with quite quickly. Others are far more complicated, as I've mentioned, and will take years in some cases, probably many years to be fully implemented.

Daryl Quinlivan:

And I think we all recognise that the Murray-Darling water market, on by no means an expert in this or not yet anyway, but the market has grown quickly over a relatively short period of time. In some ways it's developed its own rules and structures for doing that. And so the commission has conducted a bit of an audit of its fitness for purpose, particularly with the increasing importance of water, and that water market for the Murray-Darling Basin economy.

Daryl Quinlivan:

So the ACCC's report wasn't the last word on this issue and our roadmap recommendations to government will also not be the last word on this. A number of these things are going to continue to be evolving regulatory issues over time. And you can witness the focus on the performance of the financial services market over the last two or three years. A market that's been in place for centuries and has been relatively, had a lot of scrutiny from governments, and reserve banks, and so on. And yet those arrangements leading to continually evolve to keep pace with developments in the market and developments in the economy.

Daryl Quinlivan:

And the same will be true of water market regulation. But we have an opportunity based on the ACCC report to make big strides over the next six months with our roadmap and then in the subsequent years with implementation. So we need to make the most of that opportunity, and are looking forward to that work, and to talking with many of you over the course of that period to get your advice on how to make the most of the opportunity. So thank you. Over to you, Gary, for questions and answers.

Garry Smith:

Thanks very much Daryl, and thanks very much for the presentation. That's fantastic. Let's kick off Daryl. Why is there not already a transparent water trading system in place given the value and importance of water to environment and agriculture?

Daryl Quinlivan:

Oh, actually before I start, I probably should just say that if we're going to have more questions than we can answer in the next hour. We'll keep those questions and we'll use them when we might post responses on our website or use them in some other form to inform our process. So if we don't get your questions today, don't think that we are not using them in some purposeful way, we certainly will.

Daryl Quinlivan:

Well, I think probably, I might have preempted that question, Gary. By talking about the rapid evolution of our water market and the opportunities that this review and reset processes has got markets constantly changing, and the water market has evolved very rapidly, and will continue to do so. So the regulatory framework for that market will need to adapt to that, and guide it, and respond to it over time.

Daryl Quinlivan:

So yeah, this process won't finish. I think it's important to make the point that the ACCC looked at a lot of the claims and comments that people had made about deficiencies in the water market. In particular, in the area of conduct. And they did a pretty forensic audit of a large number of transactions to see

whether those perceptions about what was happening in the market were factually correct or not. And they didn't find evidence to support those claims.

Daryl Quinlivan:

What they did find was that there was a potential for that kind of conduct to occur because of the regulatory system. And so where there's a potential, eventually it'll be realised and so they recommended measures to close off those potential risks. And so they're the things that we've identified as early decisions for governments, and we'll be including those in the December advice.

Daryl Quinlivan:

But as to the general structure, the regulation of the market, the provision of high quality information to all participants in quick time and so on, there's a lot of things need to be done. They're catching up to the market but it'll be an ongoing process. This won't end with this project.

Daryl Quinlivan:

Certainly it's an important market. But I think if you reflect on the developments in water management, and the regulation, and understanding of the water market over the last 20 years, the improvements in all those areas have been pretty dramatic.

Daryl Quinlivan:

So I think you should give credit to the people who have been responsible for getting us to this stage even though there's a lot more to be done on and there always will be more to be done. But I think we can underestimate the progress that's been made with water management and the development of water markets over the last 20 years. It's been pretty dramatic really, when you look back and think about what's happened over relatively short period of time.

Garry Smith:

Thanks Daryl. Next question is really about composition makeup of the advisory panel that's assisting you. And the question asks, why is there no New South Wales Murray General Security representative on that panel?

Daryl Quinlivan:

Well, I wasn't involved in the appointment of the panel, and I don't know about the logic for the particular inclusions and perceived omissions. And there's a lot of different relevant interests that you might say are not represented on the panel. The appointments were made by the Commonwealth minister in talking to his state colleagues. For my part, I'm glad that there's a good blend of skills there on the panel, so there'll be a valuable resource for me in testing ideas and working up our recommendations to government.

Daryl Quinlivan:

But I'm not just for relying on the panel for advice. We'll be talking in a relatively intensive way I think with quite a few groups of affected parties. We're certainly willing to do that and have already got plans in place to do that in areas we feel we need more direct advice from market participants, in particular, areas of specialist expertise that are not necessarily on our panel. So, yeah.

Daryl Quinlivan:

So I'm not thinking that I'm going to be lacking in any particular area or advice because I've got the capacity to go outside the panel to get advice wherever I need to. There's no restrictions on me getting whatever advice from wherever I need it.

Garry Smith:

Thanks Daryl. I'm sure everyone was very pleased to hear that you'll be looking for advice from all corners around that. Next question is, it just asks a question about, I guess, some of the functions of water markets. But they're asking if they see lands previously irrigated but it's no longer viable to continue to do that, can I retain my licence irrespective of where I reside?

Daryl Quinlivan:

I think that question is about the capacity to use their water assets separate from the land and to trade those and use those as an asset separate from the property that they have. And the answer's, yes, that water was unbundled from land quite some time ago, and that's what's led to the development of a water market. It was changes made during the millennium drought, and it was responsible for a lot of farming businesses getting through the millennium drought. So yes is the answer.

Garry Smith:

That's great. Okay. Next question we have, Daryl, is really about provision of information through the process. You've already talked about some of the things you're going to be doing, but this question asks, will you use a web portal to inform and engage with stakeholders on your journey to a roadmap?

Daryl Quinlivan:

Yeah. Our website already, and perhaps if you, people don't have not found access to it, we might be able to communicate to everybody on this call later on of the details. But yeah, website will be the main place for us to post information as we go along.

Daryl Quinlivan:

And I mentioned earlier that things like questions we don't get to today we can answer and leave them on that website, but over the course of the project, there'll be a lot of information and material collected there that anybody who's interested in the project can access.

Garry Smith:

Thanks Daryl, and we'll certainly remind people of those web addresses, and also an email address if they want to email in information or ask a question. And I guess we've also got a related question. I've got a question who's asked, can I have a copy of the presentations? And perhaps I can answer that one.

Garry Smith:

It is the intention that the Department will post the presentation from today, and a copy of the recording on their website following the completion of this webinar. And we'll also send an email to participants to let you know when those articles are available up on the door website.

Garry Smith:

So we'll cover off on that one. Daryl, this one's, I'm not sure about the linkage of. This one is a little different sort of slant on questions. This question is asking what should be done to stop irrigation infrastructure operator, Murrumbidgee irrigation, stealing water from their shareholder accounts and trading it on.

Daryl Quinlivan:

Well, I'm not familiar with internal issues with that particular organisation, but nor is it part of the terms of reference for this project. It sounds like an internal issue to that organisation between the management and customers in that organisation. I'm not sure what would be the appropriate authority to look at questions along those lines. There's some emotive language used there if the person asking the question has evidence of that.

Daryl Quinlivan:

And that language is appropriate. There are law enforcement authorities who might be interested in it, and it's not part of our project. We're not looking into the operations of specific commercial entities in the Basin.

Garry Smith:

Thanks, Daryl. The next question has raised a really important issue. They're asking how will First Nations' historical and ongoing dispossession of water be factored into the roadmap for water market reform?

Daryl Quinlivan:

Yeah. An important question for governments in the Murray-Darling Basin. We are not, our project is really not looking at questions of ownership or use of water. So we are looking at systems, and mechanisms, and information flows that improve the performance of the trading system so that anybody operating in the system, regardless of the nature of their ownership or their intentions for the use of that water can do that more efficiently.

Daryl Quinlivan:

I know that the federal government made a decision not so long ago to give the Indigenous Land Corporation, give it responsibility for managing the program it's funding to provide ownership of some water entitlements within the Murray-Darling Basin system to indigenous communities.

Daryl Quinlivan:

And I guess in that sense, the Indigenous Land Corporation is going to become a participant in the water market soon, and therefore, has an interest in all the things that we are talking about, and they'll have that interest as a participant on behalf of indigenous communities.

Daryl Quinlivan:

So look, if the people who've raised that question and the Indigenous Land Corporation wanted to have a chat with us about the particular needs of the ILC in becoming a new entrant to the water markets, and any particular perspectives they had as a user of the water markets and the system that support it, we'd be interested in that conversation.

Garry Smith:

Thanks, Daryl. Got a couple of questions just about process. And you've touched on the roadmap earlier, and I think you might have already dealt with this one. But just for clarity, this question asks, will there be a public review or submission step for your first round of written ministerial advice due at the end of December? And we've also got a related question, I think more generally. Another question has asked, will the advice and works in progress be published, and if so, where?

Daryl Quinlivan:

Yeah. Well, I mentioned earlier that when the project was originally conceived, substantive December advice would've looked like a realistic prospect. But given the project's only been underway for a few weeks, that's not possible. But we have been able to provide, or we will be able to provide a sort of down payment on what's to come for governments in that December advice.

Daryl Quinlivan:

We won't have time for any public processes specific to that December advice. So time hasn't permitted that. But I have given everybody a pretty clear idea about what's going to be in that December advice and what we're going to do with it. So. And we have discussed it. The contents with a few of the most affected parties.

Daryl Quinlivan:

So I feel like we've got a reasonable substitute for public process. I think we probably also won't have time for a normal structured public submissions and certainly not a hearings process even in the first six months of next year because this project is going to move more quickly than... We're not doing a... I've done lots of public inquiries into big public policy questions of the kind the ACCC has just done.

Daryl Quinlivan:

And in those, it's really important to expose your thinking and have it tested, and have opportunities to collect alternative advice and evidence. That's not what we are doing here, we're in part doing a negotiation with state governments and an implementation process. Costing things along the way and so on.

Daryl Quinlivan:

So this is a different kind of project. A more fast-moving project, and one that's got lots of smaller parts rather than one big overarching theme which the commission has broken down into lots of individual elements. So we'll be relying on more targeted quicktime consultations and engagement over the project with those interested parties rather than the sort of normal formal structured open public inquiry processes.

Daryl Quinlivan:

So yeah, we're adapting our thinking to our timetable and the task that we've been given. Oh, and sorry on the last point. Our advice will certainly be to the minister that, that our December advice in some form or other of his choosing should be made public. But that will be a matter for him, whether he does that and when he does it.

Garry Smith:

Thanks, Daryl. Next question is about a bit of, I guess, a fundamental water policy. And the question is asking why were water rights unlinked from land? Was this good for farmers?

Daryl Quinlivan:

Well, that's a question about history and I'm not a water historian so I won't provide an authoritative question on that. I guess the key point for us is that, that is something that was done quite some time ago.

Daryl Quinlivan:

I think overall, it has been very beneficial for the production sector in the Murray-Darling Basin. It was very important to a lot of farming businesses during the millennium drought, when there was an enormous pressure on, and again. Through the recent drought, it provided a lot of new value to irrigated businesses in the Murray-Darling Basin, and people use that value in different ways. Ways of their own choosing.

Daryl Quinlivan:

And it provides flexibility for new entrants and people who want to expand their businesses now. They don't have to acquire land and water, they can just acquire the water and they can do that in whatever form they like. So I think... I mean, Australia has a very large productivity problem as a whole, and so this is a reform that did enhance the productivity of the agriculture and water sectors, and so it's something. It's been a good thing.

Daryl Quinlivan:

Although most productivity enhancing reforms, it has its downsides and there are disadvantaged people as time and history moves on and that's certainly happened here. There's no question about that. But overall, it's been a beneficial thing and now the tasks for us here, it really is not to reflect too much on the past and why these things were done there. They're a given now. Our job is just to work out how to, using the ACCC report as the starting point, how to work out, how to make that water market function even more efficiently, and for the benefit of more people in more ways. And in particular, through systems that provide better quality information to all the participants in the market, and a high degree of confidence, and reliability, and people providing services in the market to put more of the players in the market on an equal footing participating in the market.

Daryl Quinlivan:

Markets are never equal for everyone. There's always scale issues. There's always capability and judgement. Those things are always going to be. They're never going to be uniform. But there are things we can do to improve the prospects of more people in the market, and so that's our objective. That's the purpose of this project.

Garry Smith:

Thanks Daryl. We've got another question about the makeup of your advisory panel. And the question is around why are there no advisors to give environmental water holders perspectives?

Daryl Quinlivan:

Well, I answered the general question about the composition of the panel. So I've got nothing really more to say on that. On the second point, that is a good question, and there is actually a specific ACCC recommendation on the management of environmental water holdings within the water trading and water management system.

Daryl Quinlivan:

So we will be looking at that and the environmental water holders are now very large water holders, a very large influence in the water market. So they're an important, very important stakeholder, just like all the others.

Daryl Quinlivan:

And we'll be spending as much time as we need to with those environmental water holders and others who are interested in the ongoing balancing of consumptive and environmental water management objectives within the Basin over the course of the project. And of course, in the Commonwealth, we've got ready access to the largest of those water holders. So I don't see any problems really in getting access to advice from that particular sector.

Garry Smith:

Got a question about, does this particular reform program address the issue that overseas owners of water shares don't have to pay capital gains when they sell water entitlements?

Daryl Quinlivan:

Well, we're not doing a tax reform project here. Much as I might like to, we're not going to be dealing with the tax system we're just dealing with the water market system. And as I mentioned earlier, one of the key principles in the ACCC report is operations of the market in a way that is neutral as to ownership and the nature of the ownership and the intended use of the water. And I think that's a good principle. A very good principle in fact. And so that's one that we will be looking to reinforce through this process.

Garry Smith:

Thanks Daryl.

Daryl Quinlivan:

Sorry. I should... Of course with foreign ownership, there are a range of other mechanisms in place to both monitor foreign ownership. But also for any large acquisitions there is the existing mechanisms for scrutiny of those transactions to ensure that they make national interest, so there's already quite a lot of... a big structure in place for managing foreign investment in Australia. And it applies in the water sector just as it does in every other sector.

Garry Smith:

Thanks Daryl. The next question is, again, returns to that theme of the makeup of your panellist. This question asks that, are you aware of the political commitment of members of the advisory panel to the effective rebundling of land and water?

Daryl Quinlivan:

No. I'm not aware of the political affiliations of any member of the advisory panel and I'm not especially interested either. I'm interested in the quality of their advice to me and their capacity to help me think my way through the problems we've got to deal with.

Daryl Quinlivan:

So that's the general point. On the specific one, I think I've already made the point that we won't be looking at winding back history in this area. We certainly won't be looking at rebundling. Water and land governments made those decisions quite some time ago. I mean, even if we thought it was a good idea to do that, it would not really be a feasible policy. And I don't think, generally speaking, it would be a good thing to do anyway.

Garry Smith:

I've got a question about whether... What reforms you might envision, if any, that might help rebalance the water market so that small irrigators compete to equitably with full time traders?

Daryl Quinlivan:

Yeah. Well, I think I've probably given my main insights into that question already. One of the key themes in the commission's report is better quality information and more timely information available into the market for all participants to have access to, with a framework for regulating the conduct of those providing trading and intermediary services that give people more confidence about the conduct of those services, and the responsibilities of those providing those services to other market participants. So I won't make any extravagant claims for what can be achieved in this area.

Daryl Quinlivan:

These markets... All markets inherently favour people who have more capability and so on, so that's not something we can change. But what we can do is improve the capacity of all participants to make informed decisions in a timely way, and have more confidence that those providing services for them are acting in a responsible way. And so that's what we'll be seeking to do through this process.

Garry Smith:

There was a... One of the key recommendations of the ACCC report was to have a single body, either interstate or Commonwealth coordinating and overseeing markets. And you've already touched on some of those issues in your presentation. What response have you had from different state governments about collaborating and perhaps surrendering some powers to a more centralised body?

Daryl Quinlivan:

Very early days, but so far, we've found a high level of interest in goodwill from all of the governments involved in this, in developing and implementing beneficial changes based on the ACCC report. So that's a really good starting point. So I'm confident we'll be able to ride that wave a fair way through this project.

Daryl Quinlivan:

We need to look carefully at the costs and benefits of different institutional models and arrangements. And I've talked a little bit already about the ACCC's recommendation to create a new water market agency, so that'll be a starting point for thinking about these questions.

Daryl Quinlivan:

Where we end up thinking that the best model is a single organisation requiring powers from different levels of government we'll, recommend that. But if we define that there are at least for the foreseeable future, other models which build on the existing arrangements, then that's what we'll recommend. So we've just got to work through what we think is the best model.

Daryl Quinlivan:

Referrals of power from states to the Commonwealth, whether in the water context or any other context, are always a very difficult issue. And they rely on not only all governments agreeing but all governments being able to get uniform legislations through all of their parliaments, and that's a really big ask nowadays.

Daryl Quinlivan:

I've worked on quite a number of them over the course of my professional history, and it's obvious that getting that kind of legislation through all state parliament and the Commonwealth is much harder to do nowadays than it once was. So it's a less viable legal avenue now than it once was, but it's not out of the question and if we feel we need to go there, we will. But the impediments to delivering that kind of a reform model shouldn't be underestimated.

Garry Smith:

Thanks. The next question, Daryl, is a little bit more of the detail, which you may not have come to. But the question asks, how do you foresee dealing with the issue of accounting for conveyance losses, carry over, and transparency as per the ACCC's Recommendation 15?

Daryl Quinlivan:

Yeah. Too early to say. The commission has the question notes, has made a recommendation on this and it's been raised with us in a number of discussions so it's definitely on our work program for the remainder of the project. But yeah, I don't have any other than that the commission has identified as an important issue.

Daryl Quinlivan:

And in the early feedback we've had, there does seem to be a pretty shared view that they were right to identify that as a priority, so we will be looking at it closely. But yeah, too soon to say. We haven't been able to look at all the big issues early on. We're having to come at this slowly and pick off a few targets early on, but we'll definitely be getting to that one in the next half of the project.

Garry Smith:

This next question is really going back to a couple issues you touched on in your presentation about those uncontroversial recommendations that you think all governments should agree to in principle, particularly those ones around intermediary behaviour and conduct rules. The question's asking, do you

mean specifically brokers by this and what other actors might be covered by this, and do foresee a uniform code coming across all jurisdictions?

Daryl Quinlivan:

Yeah, I did... I think I answered that question already by saying that we would be seeking to regulate the provision of services rather than the identity of the people who provide those services. So we'd capture, if we... if Governments follow that line of thinking, it would capture anybody delivering those services, regardless of whether they called themselves a broker or not.

Daryl Quinlivan:

I did call them uncontroversial because I think they're things that, with the ACCC, which is one of the main conduct regulators in the economy, has recommended to governments that action in this area is necessary. I think governments have to respond to that, so we are taking advantage of that.

Daryl Quinlivan:

So I don't think the decision to regulate these services and this conduct is controversial. But that doesn't mean that the way that it's done won't prove to be controversial, and that's what we are working on. That's what we are working on now. There will be disagreements inevitably about what's in and what's out, and the reach, and the preferred model for doing it, and who should be the authority responsible for compliance and so on.

Daryl Quinlivan:

So, yeah. Although I don't think the principle decision to act in this area is controversial. There will be controversy about, or disagreement at least about implementation details. But going back to the specific question, it'll be the services rather than the nature of the provider that will be regulated. That's consistent with the commission's recommendation.

Garry Smith:

Thanks Daryl. And the conduct rules. How broadly do you see those applying?

Daryl Quinlivan:

Well, same principle really. But probably since they're applying more generally than just to the provision of intermediary services. They will probably, like other elements of the legal system or the criminal legal system in particular, they'll apply to anybody who chooses to offend.

Daryl Quinlivan:

So, and we hope that crafting an effective law here we'll continue to make sure that this kind of conduct becomes potential rather than real problem in the Basin. Well, even less of a potential problem indeed.

Garry Smith:

While we're on that theme around the intermediary code, I just noticed there's another question about what is the preliminary thinking regarding including only some IIOs or Irrigation Infrastructure Operators in the mandatory in intermediary code? Is that something you've considered Daryl?

Daryl Quinlivan:

Well, I think, again, that's the same, that's really the same question. We'd be looking to regulate anyone who provide to the services in whatever form they provide the services, rather than what the nature of the entity is. So it will depend on... I know there's a great deal of variation, diversity amongst the irrigation operators in their corporate form, in the services they provide for their members. Their relationship with their members is one of the earlier questions alluded to.

Daryl Quinlivan:

So yeah. We won't be in a sense, we won't be that interested in this question. We'll be interested in who provides the... We'll, sorry, we'll be interested in the provision of the services and just anyone who provides those services. We'll be caught regardless of those other considerations. And that'll be a matter for them whether they provide those services. Whether they want to continue to provide them if they provide them now, or want to provide them in the future if they don't.

Garry Smith:

Good question about whether you can just share any thoughts about what might access to information and education look like?

Daryl Quinlivan:

Yeah. On education, I think we will need some help because there are some questions about who the education... Everybody has said that, and they told the commission this as well, that we need to have a more educated group of participants in this market, and the community that is observing the market. Not necessarily participating in it. Need to have a better understanding of what's happening here.

Daryl Quinlivan:

And on the Agriculture Commissioner in New South Wales, and I can tell you that the whole agriculture sector feels like the rest of the community needs to be more educated about what agriculture is, and how it operates, and what it means, and where their food comes from, and some of the same issues here.

Daryl Quinlivan:

So we do need to give more thought to who the particular audiences are for these education products and tailor them accordingly. Governments, I think are pretty keen to do more in this space, because they do want the community to have a better understanding of what's happening in the water sector.

Daryl Quinlivan:

And so there's a general feeling that more needs to be done in this space. But there are very different needs, if you think about from educating the community about what's happening in the water space, and water market from potential new entrance, and the kind of things that they should know, if they're contemplating entering the water market, and where they should go for information and advice, and so on. Even understanding the terminology that's used in the water market with different water products in different jurisdictions, and in some cases the same terms having in different meanings in different jurisdictions.

Daryl Quinlivan:

So all of those issues are relevant to developing effective education programs for different audiences. On information, I think I've talked about that at length too, that we think this is really important and the objective is to try and lift all boats, if I can just use that analogy. That if we can have better quality, more reliable, more accessible in information, it won't solve all the problems with information asymmetry. They're an issue in all markets everywhere, but we can... If we lift all boats, everyone will be better off even if we haven't entirely addressed some of the disparities that people observe.

Garry Smith:

Next question, you've already touched on in your presentation to some extent. But the question is interested in hearing more about the process of testing how applying economy-wide principles to water markets would work. And could you say more about what such testing might consist of?

Daryl Quinlivan:

Yeah. That's a very good question. And one that will be occupying our minds a fair bit over the next six months, I think. So logically, it's good to think about what works in the stock market, equities market, and financial markets, and in other similar markets like livestock markets and so on, and think about how those kind of the regulatory mechanisms that are in place there could work in water.

Daryl Quinlivan:

None of them are perfect, and none of them will be perfect for water. And having done a bit of work on livestock markets in the not too distant paths. I know that some of the main concerns that people have about issues in the water market also exist in livestock market, even though those markets have been in place for probably a millennia really. And the practices, and arrangements in place there have evolved over a long period of time, but they still have problems.

Daryl Quinlivan:

The other issue of course is resourcing and capacity because even though the water market has grown quite quickly, and it's still worth the two billion a year now, it's still a very small market compared to those other ones that I just mentioned. A smaller number of participants and so on.

Daryl Quinlivan:

So you've got to take scale and practicality issues into account. So that gives you a bit of an insight into some of the questions that we'll be looking at. And I guess one of the principles we'll have to think our way through is what's the most cost effective thing here that's relevant for the particular characteristics of the water market, its scale, it's geographical dispersion, the kind of people who are engaged in it, and so on.

Daryl Quinlivan:

So they're the kind of questions we'll have to ask ourselves but it is a very real question. Yeah. If it wasn't a real question, I think governments probably would've been a position to take a fair bit of the ACCC report and just say, "Well, we agree with that and implement it." But the world's not that simple. That's why we're having to give detailed thought to how it's implemented. Not so much whether it is, but how?

Garry Smith:

Thanks Daryl. Next one. Next question for you might be a little bit out of your scope, but let's test that the question asks should flood plain harvesting be regulated?

Daryl Quinlivan:

I'm probably going to take that one on notice. I think there's a general... It's a water management issue essentially. Although I suppose in its extremities, there might be some trading issues but it's essentially a water management issue.

Daryl Quinlivan:

And I think governments generally think flood plain harvesting should be regulated, and it should be measured, and managed. And it's obviously more difficult to do than in the kind of water extraction that happens elsewhere in the Basin, I'm not an expert on it, so that's probably all I'm going to say.

Daryl Quinlivan:

There are an enormous number of slightly related and could be relevant issues, but are predominantly water of management issues that we won't be addressing in this project. We've only got a few months and we've got lot to do, so and I think that issues fits into that category.

Garry Smith:

Thanks Daryl. You spoke earlier about some of the data information education services. This question notes that the previous ACCC report revealed some statistics about financial investors activities in the Murray-Darling Basin water market, but they were still quite limited. Is there any plan to make more information about financial investors publicly accessible?

Daryl Quinlivan:

I don't think so. The commission was pretty firm on a water trading system that was blind or neutral with respect to the identity of the trading entity. And as I mentioned earlier, also their intentions, their intended use of the water. And I don't see any reason really to adjust that principle.

Daryl Quinlivan:

I think it's a sound one, governments always have the capacity to make interventions in this area if they chose to, but I think they would struggle to do that in an effective way because those water participants can have an important role.

Daryl Quinlivan:

We talked earlier about the issues to do with the unbundling of land and water, and some of the same issues really apply to the roles of different owners of water entitlements in the system. So, yeah. I don't see us pursuing that issue on the same grounds as the commission took in its report.

Garry Smith:

Couple of questions just around content today. And we've got a question or a comment that someone noted that many irrigators who might have keen interest in the market are unavailable during the day involved in harvesting and other farm commitments. Any chance this session could be held again to

allow for these interested parties to attend? And I do note, we're recording and will post the recording of this session as well, Daryl.

Daryl Quinlivan:

Yeah. So, well, this session will be available to anybody who wants to review it and we'll be doing more of these over the course of the project. So, yeah. I think people have got... If they want to access the material it will be available to them.

Daryl Quinlivan:

And I do understand being a small scale farmer myself, I do understand you don't always have control of your time. But these products will be available, and it sounds like, and I think we're already aware of this, that we do need to make the existence of our website and the material that's on there more widely known. So we'll be doing that.

Garry Smith:

Couple of process questions, Daryl. We've got a question, will the December Advice explain how the panel proposes to engage with different groups, for example, environmental water holders and environmental groups?

Daryl Quinlivan:

Well, it won't be the panel that'll be doing that it'll be me with advice from the panel. And I think I've already answered that question, that they're important stakeholder and an important participant in our water system generally, and in our water trading system. And we will be spending time with them and we have good access to the public environmental water holders, of course.

Daryl Quinlivan:

And so I'm not seeing any problem getting access to advice in this area. I think some of the questions that people have in that area that they would like us to investigate will be like some others that have come up during this Q&A session, that they're important issues and they're important for water management. But they don't go to the kind of questions that we are looking at in this project, with our focus on water trading rather than water management more generally.

Garry Smith:

We've got a question about how people can get involved and offer perspectives and input. And I think you've touched on that and we will remind people at the end of the seminar about how they can contact the project and larger emails and provide inputs.

Daryl Quinlivan:

Yes, well, we'll need those contributions. But as I said earlier, we don't have scope for a large scale in public submissions process. So it will be a more targeted process, but we'll be doing more of these and we'll doing versions of these that are specific to particular sectors in particular areas of interest. And yeah, we'll be looking to involve as many people as we can in those.

Garry Smith:

And we're getting close to time but we've probably got time for one or two more questions. I think there's question here that someone's asking, has the Inspector General's office been consulted as a possible overseer for water trading platforms? And you've already touched on, that's an area you're giving thought to, so may not be a time for that but...

Daryl Quinlivan:

Well, the answer is yes. And the Inspector General and his office have been thinking about this and have given us some advice about things they could do to help with the implementation of the commission's recommendations or some version of them. And so we will be having ongoing conversations and that's definitely one of the options that we have available to us.

Garry Smith:

Perhaps as a final question, which is as, again, a little bit in that detailed sort of category. But what work, if any, will you be doing to ensure investors pay the same infrastructure or delivery fees as irrigators to ensure a more even distribution of costs? Is that something on your radar?

Daryl Quinlivan:

I think that might be one I'd have to take on notice. Sounds like an interesting question but there's a lot of interesting questions. Some interesting questions, we must look at, and others we would like to, but won't have the time to during this process. But yeah, I might take that one on notice, unless you've got something you'd like to say, Joe.

Jacyleen Ong:

No, I think it just goes to our general principle where... when we're thinking about making sure that these reforms are cost effective and who should bear the cost of various reforms. So I think, yeah, it's something that is front of mind for us. But I think it's going to require some detailed consideration as we go forward.

Jacyleen Ong:

And depending on the nature of the reforms. Obviously, the ACCC inquiry and the roadmap in general covers quite a wide range of different regulatory reforms. And we're looking at each of those in detail to consider who are the beneficiaries of those reforms, and therefore, if they're needed to be some cost sharing, where should that be? So, yeah. That's it.

Garry Smith:

Okay. Well, thanks. We've covered a lot of questions, but we are running close to the time, and I think it's important that we talk about where to next with the next steps. And we've pretty much covered all the questions. There were a number of different diversions of similar themes that Daryl answered in quite some detail.

Garry Smith:

So thank you to all our questions. I hope you got your questions covered. But I'll just share my screen and we'll just talk about some of the next steps and where to in the short term.

Daryl Quinlivan:

Yeah. I haven't been following the questions coming in on the chat line, as I've been talking and responding to questions, but I'm sure there are many of them. We will endeavour to work our way through them, and perhaps not individually, but we'll respond to the issues included in them in some way on our website.

Daryl Quinlivan:

As I said earlier, I don't know what the minister's intentions will be with release of our advice in December. We are working on that at present. We'll have to finalise it in the next week or so. And we're still scoping out the rest of the project for the first six months of next year.

Daryl Quinlivan:

There's a lot of material to cover as would've been abundantly clear from the conversation today. So we have to be pretty disciplined in giving the highest priority issues the most focus. They're not always the most interesting. Not always the ones that attract the most attention either, but we have to try and do allocate our time and effort carefully.

Daryl Quinlivan:

We will be needing quite a lot of help through that time, and we will go out and seek it from the people who we think are best place to provide that to us. I've written to quite a few people already, asking them whether they want to provide additional advice. Many of them made submissions to the ACCC.

Daryl Quinlivan:

And so... But the that's a while ago now, so we're asking whether you've got additional advice you'd like us to have access to during this project. And there are particular interest groups that we will want to talk to and who want to talk to us. So we'll be endeavouring to do that as much as we can within reason over the next six months.

Daryl Quinlivan:

So thanks for everybody's participation today. The first of what I expect will be a few of these through the course of the project. I know I wasn't able to answer quite a number of your questions today, but I hope you did come away from it feeling that there's a solid intention to deal properly with the ACCC's report and recommendations.

Daryl Quinlivan:

That's certainly the feeling we are getting. So the preconditions for making the most of this reform opportunity are pretty good, but I'll need your help to do that. And keep in touch via our website and so on. If you think you've got things to contribute, we'll use all the help we can get. Thank you.

Garry Smith:

Thanks, Daryl. And just to people as a reminder, on the screen now, there's an email address where you can... If you want to make any inputs or submit any further information you think is relevant or questions as Daryl's invited you to do, that's, water.markets@agriculture.gov.au, and you can also see how you can stay involved with the Department of Agriculture, Water and Environment's website. Just

look to, www.awe.gov.au. Follow the links through water policies, markets, and reform, and you'll come to a page dedicated to this program.

Garry Smith:

And as we said, we will post the slides. And the recording from today is on the website. So if you Google water market reform on the website, you should be able to find it easily. So stay involved, watch the website. But we will let you know when that information is posted from today's webinar.

Garry Smith:

But thank you for your participation today, your thoughtful questions and your interest in this really important topic. As Daryl said, this is not the end of the information and consultation provision. It's the start. So watch the website, keep in touch for the next steps. But thank you, everyone. And please stay safe.