

Matters 15 &16 - Report on water markets and trading rules – NSW

The NSW annual report on facilitation of efficient and effective water markets and implementation of the water trading rules (Schedule 12, Items 15 and 16)

Reporting context

A key element of the Basin Plan is the introduction of water trading rules. The rules took effect from 1 July 2014. Reporting is required from the 2014-15 water year onwards.

The purpose of this report is to allow the MDBA to monitor the implementation of the water trading rules and evaluate their contribution to the efficiency and effectiveness of the water market. This report is a requirement of Chapter 13 of the Basin Plan and relates to Item 15 and Item 16 of Schedule 12.

Item 16 addresses how Basin Plan water trading rules are being implemented. This is an annual report, commencing in 2014-15.

Where possible the MDBA collects information directly through implementation of the rules. However, where the MDBA does not have direct access to information about implementation, Basin governments are asked to provide a small amount of additional information as soon as practicable after the end of the water year.

Item 15 will allow the MDBA to evaluate how implementing the water trading rules has affected the efficiency and effectiveness of the water market.. Reporting on Item 15 is a responsibility of MDBA and will be conducted five-yearly. It will also draw on information contained in the annual reporting of Item 16.

Indicators for measuring success

Two indicators are used to evaluate implementation of water trading rules:

- Compliance with the Basin Plan water trading rules (**16.1**)
- Trade processing times (**16.2**)

16.1: Compliance with the Basin Plan water trading rules

Documentation to support compliance with Section 12.37 (notice of disclosure prior to trade approval) and Section 12.38(2) (publication of approval authority's interest in a trade)

Section 12.37 requires that an approval authority disclose certain information if they (or a related party) have a commercial or legal interest in the proposed trade, before the trade is approved.

The approval authority is required to disclose the following information to each party to the trade:

- *the nature of any legal or equitable interest it, or a related party, has in the subject of the proposed trade; and*
- *the nature of any commercial interest it, or a related party, has in the activities of a water market intermediary involved in the proposed trade.*

This section does not require this information to be published publicly. The MDBA requires documentation that demonstrates confirmation that the relevant parties were notified of the interests of the approval authority prior to the trade being approved.

As per Section 12.38(2) of the Basin Plan, the following information is required for approved trades where an approval authority had an interest in the trade:

- *the fact that the approval authority was a party to the trade*
- *the way in which the approval authority was a party to the trade (e.g. as a buyer, or a seller, lessee or lessor)*
- *the fact the approval authority has approved the trade of water access right*
- *the type of water access right*
- *the volume of the water access right*
- *the number of days between lodgement and approval of the trade*
- *the price of the trade*

The MDBA seeks confirmation that any relevant interests have been disclosed, and requires a website link to the source of this published information if applicable.

Response

NSW does not currently provide information on the disclosure of relevant interests where the approval authority is a party to the trade. NSW is aware of their obligations under section 12.38(2) of the Basin Plan and has commenced discussions with the Murray-Darling Basin Authority (MDBA) through the Trade Rules Working Group. It is anticipated that this issue will be addressed through a negotiated workplan with the MDBA. In addition, DPI Water has also commenced the development of a Market Sensitive Information Policy and associated guideline documents.

Documentation to support compliance with Section 12.39 (reasons for restricting trade)

Section 12.39 requires that an approval authority must give notice to each party involved in a trade when it decides to restrict the trade of a water access right, and the reasons for doing so. Notice of disclosure to each party should include:

- *the decision to restrict the trade of a water access right; and*
- *the reasons for the decision to restrict the trade of the water access right.*

The MDBA seeks information on the total number of trades that were refused and the dates these occurred.

Response

The administrative process adopted for receiving and determining trades in NSW results in trades being “not refused.” This is because NSW has a pre-approval assessment process whereby applications are assessed against the relevant criteria, and if non-compliant, are sent back to the applicant for reworking to ensure compliance (or the applicant may choose not to submit). The definition/interpretation of trade refusal is currently subject to discussions with the Murray-Darling Basin Authority through the Trade Rules Working Group.

Documentation to support compliance with Section 12.50 (water announcements to be made generally available)

Under Section 12.49, a water announcement includes:

- *an allocation announcement,*
- *a carryover announcement, or*
- *a public announcement by a Basin State that*
 - a) relates to the actions of the agency, or*
 - b) may have a material effect on the water market.*

The MDBA considers ‘generally available’ to mean that the relevant water announcement has been published publicly or made easily accessible to the general public.

The MDBA seeks evidence that water announcements were made generally available. Evidence may be provided via confirmation of material submitted to the Bureau of Meteorology under category 6(d) of the *Water Act Regulations*.

Response

Information about water announcements are made generally available and can be accessed via:

<http://www.water.nsw.gov.au/water-management/water-availability/water-allocations>

<http://www.water.nsw.gov.au/water-management/water-availability/available-water-determinations/water-allocations-summary>

<http://www.water.nsw.gov.au/about-us/media-releases#now>

<http://www.water.nsw.gov.au/water-licensing/registers>

16.2: Trade processing times

Report on interstate and intrastate trade processing times (as per the COAG service and reporting standards for trade processing times).

This indicator will allow the MDBA to monitor changes over time to trade processing times. This will contribute to the MDBA’s monitoring and evaluation of the efficiency and effectiveness of the water market for the purposes of reporting under Matter 15.

The MDBA seeks provision of link to published information on COAG processing times.

Response

The NSW water register provides a record of applications for approval. The details include:

1. the date the application was received
2. the water source to which it relates
3. the category of approval the applicant is seeking and type of work
4. the status of the application

Details on trade processing times can be found on this register at <http://www.water.nsw.gov.au/water-licensing/registers>