

INQUIRY INTO STATUS OF WATER TRADING IN NEW SOUTH WALES

Organisation: NSW Minerals Council

Date Received: 7 July 2022



Inquiry into the Status of Water Trading in NSW

NSW Minerals Council Submission – July 2022

The NSW Minerals Council (NSWMC) welcomes the opportunity to provide a submission to the *Inquiry into the Status of Water Trading in NSW* (Inquiry).

NSWMC is the peak industry organisation representing the State's \$26 billion minerals industry. NSWMC provides a united voice on behalf of around 80 members, ranging from junior exploration companies to international mining companies, as well as associated service providers.

While mining is a small user of water, using around 1.3% of the total water consumed in NSW, it makes a significant economic contribution, particularly in regional NSW.

The latest results from NSWMC's annual economic survey¹ show that during 2020-21, the 28 companies surveyed directly spent \$14.6 billion on wages and payments to more than 30,000 full-time equivalent workers and 7,300 supplier business across the state. The industry supports highly paid, highly skilled jobs, with an average salary of approximately \$140,000.

This direct expenditure generates a large proportion of overall regional economic activity in NSW, with selected regions highlighted in the table below.

Mining's contribution to Gross Regional Product

Region	Mining's contribution to Gross Regional Product (GRP)
Hunter	28.9%
Central West	19.2%
Far West	42.9%
Illawarra	7.3%
North Western	12.5%

Water is a crucial input into mining operations for purposes including ore and coal processing, dust suppression, irrigation of mine rehabilitation and staff amenities. Mines can often use lower quality water, such as saline groundwater, which reduces competition for higher quality water. They also reuse a high proportion of water onsite, and several have, or are planning to, construct pipelines for the supply of waste water to site, further reducing their demand on fresh water resources.

Mines are responsible and transparent users of water. They maintain accurate water account balances to understand where water is entering and leaving a site. They are active participants in

¹ Lawrence Consulting, [NSW Mining Industry Expenditure Impact Survey 2020-21](#), March 2022

water markets across the state to obtain the necessary water entitlements to account for their water take from surface water and ground water resources.

NSWMC's members have encountered several difficulties during their participation in water markets, which have inhibited the efficient operation of the market, led to unintended non-compliance, uncertainty around future investments, and have inhibited the ability of operations to develop alternative water supply strategies to address critical water shortages during the drought.

These difficulties stem from both administrative and policy issues and are summarised below:

- **Poor market information** – NSWMC's members have encountered significant issues with the accuracy and consistency of information on the various water platforms and licence instruments. Incorrect water register information has wasted significant time and resources of member companies. For example, one member undertook extensive searches of the water register to identify a willing seller and negotiated a trade only to be told when the two parties applied to have the transfer registered that there had been a conversion error and the actual entitlement was zero. As well as ensuring the accuracy of water market information, other potential improvements in this area include:
 - Improving ease of access to existing information – improvements should focus on developing a single point of truth for existing published information and improving the ease of access and search functionality.
 - Facilitating the connection of buyers and sellers – creating some type of expression of interest page or providing the option of including contact details on the WAL Register would allow for easier identification of holders looking to trade.
- **Poor administration of the water licensing process** – the water agencies have suffered from virtually continual structural change over the last decade, with the most recent changes occurring on 1 April 2022 when water licensing and approvals for state significant development were transferred from the Natural Resource Access Regulator (NRAR) to the Department of Planning and Environment – Water (DPE Water). From NSWMC's perspective, this constant change has prevented any ability to deliver substantive improvements to water licensing processes as the agencies are always coming to terms with new structures. It has also contributed to ongoing difficulties and delays in having water policy issues resolved. Issues our members have experienced include:
 - Confusion over the roles and responsibilities of DPE Water, NRAR and WaterNSW in the end-to-end process of water licence applications and dealings
 - A lack of accountability for the efficient administration of water licensing
 - An inability to accurately track the progress or status of applications
 - An inability to obtain meaningful feedback on progress or likely timeframes for decisions.

NSWMC acknowledges that DPE Water recognises these issues and has been scoping up a project to "*integrate and modernise water licensing and approval processes*". This project has now received \$14.8 million in funding over two years in the NSW Budget handed down on 21 June 2022. It is essential that this project is delivered effectively and creates a stable, transparent and efficient framework for the administration of water licensing and approvals.

- **Protracted delays resolving issues** – NSWMC's members have experienced significant delays in having water licence applications processed, or having departmental errors resolved. One company had to report non-compliances due to delays of around five years approving a valid water licence application. Some of our member companies still have outstanding *Water Act 1912* licence conversion issues from 2016 when the *Water Sharing Plan for the North Coast Fractured and Porous Rock Groundwater Sources* came into effect.

- **Inefficient policy settings** – There are some NSW Government policy settings that have the effect of withdrawing water from the market unnecessarily:
 - Lack of a return flow policy – a return flow policy would allow for net accounting of water returned to the environment, subject to appropriate conditions such as water quality. While the *Water Management Act 2000* provides for such a policy, it has never been implemented despite some attempts. NSWMC has member companies that discharge high quality water back to the environment, but it goes unrecognised and therefore unavailable for other water users, impacting on the efficiency of the market. The lack of a policy also leaves no incentive for water users to look at ways to return high quality water back to the environment.
 - Requirements to hold entitlements equal to maximum predicted take – requirements for mining operations to hold water entitlements at the start of the project that are equal to their maximum predicted extraction of water are unnecessary. This maximum take may not occur until 10 years after a project has commenced. Having to hold the maximum predicted take from the start of the project withdraws entitlements from the market that are not being used.
 - Overly-conservative settings in water sharing plans – overly conservative settings in water sharing plans unnecessarily withhold water from the market, restricting supply and driving up competition. An example of this is the Sydney Basin North Coast Groundwater Source; a highly saline, unproductive fractured groundwater source that covers several mining areas including the Hunter Valley. Despite its limited value, a range of conservative assumptions used in the development of the water sharing plan for this water source have resulted in an overly restrictive Long Term Average Annual Extraction Level being set. Furthermore, remaining unallocated water cannot be released through controlled allocations because of restrictive settings in the Government’s *Strategy for the Controlled Allocation of Groundwater*² that “*is intended to keep total water requirements below 80% of the appropriate extraction limit in any water source*”. This arbitrary limit is largely irrelevant in the Sydney Basin North Coast Groundwater Source, which in fact provides for supplementary water entitlements to be issued over and above the full 100% extraction limit.

NSWMC welcomes the opportunity to highlight these issues to the Inquiry.

NSW Minerals Council
July 2022

² https://www.dpie.nsw.gov.au/data/assets/pdf_file/0005/159170/Strategy-for-the-controlled-allocation-of-groundwater.pdf