

## The Hon Rose Jackson MLC

Minister for Water, Minister for Housing, Minister for Homelessness,  
Minister for Mental Health, Minister for Youth, Minister for the North Coast



MINS-1249718090-174

Mr David Blunt  
Clerk of the Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr ~~Blunt~~ David

Please find enclosed the NSW Government response to the Select Committee on the status of water trading in New South Wales's inquiry report, for tabling in the Legislative Council.

This is consistent with the Standing Rules and Orders of the Legislative Council rule 240, which requires the NSW Government to report what action it proposes to take in relation to each recommendation of the committee.

Yours sincerely

**Rose Jackson MLC**

Minister for Water, Minister for Housing, Minister for Homelessness,  
Minister for Mental Health, Minister for Youth, Minister for the North Coast

Date: 8.6.23

# NSW Government Response

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The status of water trading in New South Wales

## Introduction

The NSW Government thanks the Select Committee on the status of water trading in New South Wales for its inquiry and report, completed December 2022. We welcome the opportunity to respond to the recommendations of the report, many of which are already being addressed through the joint implementation of the [Water market reform: final Roadmap report](#)<sup>1</sup> (*Roadmap*) by Murray-Darling Basin governments.

The NSW Government has provided in-principle support for the recommendations in the *Roadmap*, which provides the basis for considered improvements and reforms to water market operations across the whole Murray-Darling Basin, and beyond. The *Roadmap* responds to issues that the Australian Competition and Consumer Commission's (ACCC) and the Select Committee have looked at, therefore implementing the *Roadmap* is the main way that the majority of the Select Committee's recommendations will be addressed, particularly those requiring consideration across jurisdictions.

The NSW Government is committed to transparent, trusted and accessible water markets throughout the Murray-Darling Basin and NSW. We know that accurate, timely and accessible information is critical to an effective trade market, and to give confidence in our water management systems. This is why we support, partially support or support in principle all 10 recommendations made by the Select Committee.

The [NSW Water Strategy](#)<sup>2</sup> has identified building community confidence and capacity through engagement, transparency and accountability as a priority and the NSW Government continues to implement a range of actions to support this.

NSW has public, online registers with information about every water licence in NSW, and every trade. The [NSW Water Register](#)<sup>3</sup>, administered by WaterNSW, provides free public access to information about water licences, approvals, water trading, water dealings and environmental water. There is also the NSW Land Registry Services' [Water Access Licences Register](#)<sup>4</sup> (WAL Register) that provides more detailed information about every NSW water licence including current ownership details, share and extraction components, licence conditions, encumbrances and notations.

However, these registers currently have accessibility challenges and are not always easy to use by the general public. The NSW Government recognises the need to increase transparency and improve the access and utility of these registers for all users and is currently considering WAL Register enhancements.

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The NSW Government is committed to making water information and data available through water information platforms such as the [WaterInsights Portal](#)<sup>5</sup>. The WaterInsights Portal, available on the WaterNSW website, brings together all water information in NSW, in a simple, user-friendly interface to support decision making by water users. The WaterInsights Portal's interactive map allows access to location specific information from 760 water sources across NSW.

Licence holders can drill down to their water source of interest for forecasts and historical trends and commentary on the current situation, trades (allocation, entitlement and intervalley) and operations reports. The WaterInsights Portal also has direct links to all NSW water sharing plans, the registers, the internet Water Accounting System and the Murray Darling Basin [Water Information Portal](#)<sup>6</sup> (hosted by the Bureau of Meteorology).

The NSW Government recognises that responding to the Select Committee's recommendations to increase transparency of market information and simplifying the complex arrangements is of paramount importance for robust water management and well-functioning water markets. Many initiatives are underway but even more must be done which is why we commit to a number of actions responding to each recommendation.

We acknowledge the importance of the ACCC's [Murray-Darling Basin water markets inquiry – final report](#)<sup>7</sup> (ACCC Report) which also investigated many of the concerns that the Select Committee looked into. The ACCC Report made 29 recommendations to enhance markets for tradeable water rights, including their operation, transparency, regulation, competitiveness and efficiency.

In response, the Australian Government appointed a Principal Adviser, Mr. Daryl Quinlivan AO, to develop a phased implementation plan (*Roadmap*) for water market reform that is practical, cost-effective and supported by Basin States. The Australian Government also appointed an Advisory Group of technical experts and water market stakeholder representatives from across the Basin to provide advice to the Principal Adviser. NSW worked closely with the Principal Adviser, the Advisory Group and other Basin governments to support the development of the *Roadmap*.

The Principal Adviser's *Roadmap* was released publicly in October 2022, along with the [Australian Government response](#)<sup>8</sup> supporting implementation of all 23 *Roadmap* recommendations (see Appendix A). In October 2022, Basin Ministers agreed to support in principle the full and shared implementation of the *Roadmap*'s water market reform recommendations.

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In February 2023, Basin Ministers, including NSW, secured funding to progress initial implementation of the *Roadmap*. The NSW Government is working with the Commonwealth and other Basin governments towards implementation of relevant recommendations in the *Roadmap*.

The NSW Government recognises that implementation of the *Roadmap* recommendations is fundamental to confidence in water markets across NSW, particularly actions to improve water data, information and transparency. Implementing the *Roadmap* will also deliver improvements towards the majority of the Select Committee recommendations.

The *Roadmap* also recognises some of its recommendations could be progressed together with later legislative responses to the current review of Schedule D of the Murray-Darling Basin Agreement or the future reviews of the *Water Act 2007* (Cth) and Murray-Darling Basin Plan. The NSW Government will continue to look for ongoing and broader improvement opportunities to support sustainable water markets and trading activities in NSW and promote greater consistency across Murray-Darling Basin water markets.

The NSW Government considers the regulation of water markets should be improved and modernised for all participants and to ensure that the water industry operates transparently, professionally and ethically.

The NSW Government appreciates that implementation of several *Roadmap* recommendations will necessarily have implications for industry including on Irrigation Infrastructure Operators (IIOs) and intermediaries. The NSW Government will continue to request that the Commonwealth conducts ongoing consultation including with industry, intermediaries and IIOs on the *Roadmap* reforms to ensure the regulations are practical, proportionate and consider implementation costs.

# NSW Government Response

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The status of water trading in New South Wales

## Recommendations

The following section details the NSW Government's response to individual recommendations within the inquiry report.

### Recommendation 1 – Support in part

**That the New South Wales Government establish a digital platform as a single repository for water market data and a single hub for trade approval and exchange, comprising:**

- **a secure digital repository for water market data and related information**
- **digital connections between the platform and water market participants**
- **a single portal for lodging trade applications in the Southern Connected Basin**
- **a harmonised 'trading rules engine' for assessing trade application against trading rules in the Southern Connected Basin, and**
- **a single exchange platform for water market trades.**

The NSW Government supports the *Roadmap* recommendations, which includes NSW supporting the Bureau of Meteorology to deliver a National Water Data Hub to replace the existing Australian Water Resources Information System. Recommendation 10 of the *Roadmap* states:

*The National Water Data Hub will provide regulators with the detailed data they need to conduct investigations and will provide de-identified data to third parties and the public. Machine to machine data services will be made available which will enable third parties to develop value-adding services and improve data download services to support market analysis.*

The National Water Data Hub will deliver the first two elements of this recommendation, being a secure digital repository and digital connections between the platform and water market participants. However, as the *Roadmap* does not include support for the remaining aspects of the recommendation, the NSW Government does not support the remaining aspects of this recommendation.

Further, a single portal or exchange platform for trade applications in the Southern Connected Basin would duplicate NSW infrastructure and investment in our Water Markets System, including WaterNSW's significant upgrade currently occurring through its Water Added Value Environment (WAVE) program.

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## The status of water trading in New South Wales

The WAVE program seeks to deliver a digital front door for processing trade applications and managing NSW water account balances. This upgrade is progressively launching new functionality to transform the way we work through use of updated, digitally integrated systems, that provide a platform for industry reforms. It includes an online [Customer Portal](#)<sup>9</sup> where customers can submit groundwater allocation trade applications online, lodge enquiries as well as access a self-service guided application selection and submission process for licences, approvals and other service requests.

A single portal was not supported by the *Roadmap* for the same reason, i.e. it duplicates or affects the viability of Basin states' current digital capabilities. The *Roadmap* acknowledges that alternate approaches such as continuing with WAVE are consistent with realising the ACCC recommendation to implement technical and procedural solutions to provide consistency for interzone trade. The *Roadmap* also did not support a single portal as it would overlap with the role of state trade approval authorities, i.e. WaterNSW.

Another reason NSW does not support a single portal is because it would require trade rule harmonisation or standardisation to occur. Trade rule harmonising or standardising is a process that would require significant time, resources and consultation to implement and it may not be appropriate or achievable in each and every water resource due to specific hydrological constraints or characteristics.

Because the NSW Government does not support a single portal for lodging trade applications in the Southern Connected Basin, there is no need for a trading rules engine. A trading rules engine was also not supported by the *Roadmap*.

A single exchange platform for water market trades is not supported because it would remove existing intermediary competition and create a monopoly. Neither the ACCC Report nor the *Roadmap* made recommendations for a single exchange platform.

# NSW Government Response

## The status of water trading in New South Wales

### NSW actions

A1 Support the Bureau's implementation of Roadmap recommendation 10 in particular:

- (a) Working with the Commonwealth and Bureau on data sharing arrangements and associated interim water market data standards.
- (b) Working with the Commonwealth and Bureau to ensure appropriate data sharing agreements are signed and in place.

A2 Continue to deliver improvements to IT systems including to WaterNSW's WaterInsights Portal and upgrades through the Water Added Value Environment (WAVE) program.

## Recommendation 2 - Support

**That the New South Wales Government implement consistent mandatory service standards that apply to all trade approval authorities, including irrigation infrastructure operators.**

The NSW Government supports the timely approval of compliant trade applications and improved market transparency.

The NSW Government is supporting the Australian Government to implement two relevant *Roadmap* recommendations in this regard. These are recommendation 4:

*The Commonwealth should broaden and strengthen the requirements for trade approval authorities and irrigation infrastructure operators (IIOs) who approve trades within their networks, to report price data for all tradeable water rights, including water delivery and irrigation rights. This data should be available to the water market regulators and de-identified data should be publicly available.*

and recommendation 12:

*All trade approval authorities and IIOs should regularly report trade approval processing times to the Bureau of Meteorology for publication.*

Broadening and strengthening price reporting requirements for trade approval authorities, including regular reporting of trade approval processing times, is also being progressed through the work NSW is doing with the Commonwealth on updating data sharing arrangements and data standards (recommendation 10 of the *Roadmap*). The NSW



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Government and Basin governments will be consulted on federal legislation amendments to give effect to these improved trade service and data standards of trade approval authorities.

NSW is actively working with the Bureau of Meteorology, other Basin States, trade approval authorities and IIOs to improve reporting of processing times by trade approval authorities and IIOs. Implementation of the *Roadmap* recommendations also provides opportunities to improve trade approval times through system upgrades and common trade processing techniques.

The water market conduct and integrity legislation being progressed under *Roadmap* recommendations 1, 3 and 23 will also require consistent mandatory service standards relevant to trade approval authorities and IIOs. Please also refer to response to recommendation 6.

### NSW actions

A3 Support the Commonwealth and Bureau's implementation of *Roadmap* recommendations 4 and 12, and in particular:

- (a) Engaging during consultation on federal legislation amendments for strengthened reporting requirements of trade approval authorities
- (b) Working with the Bureau to improve reporting of processing times

Also, see actions in response to recommendation 1.

## Recommendation 3 –Support in part

**That the NSW government collaborate with the Commonwealth Government and Basin States to ensure the single trading platform operates nationally, which is preferable to separate state-based platforms.**

The NSW Government will work collaboratively with the Commonwealth and Basin governments to improve trading platforms, water market data standards and to provide a single National Water Data Hub. The NSW Government does not support a single national trading platform at this time, consistent with the *Roadmap* and for the additional reasons given in response to recommendation 1.



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### NSW actions

See actions in response to recommendation 1.

### Recommendation 4 – Support in principle

#### **That the New South Wales Government advocate for the introduction of conveyance water loss factors in Murray-Darling water markets.**

Conveyance losses are the water ‘lost’ during delivery of water as a result of evaporation or seepage into the ground and are highly variable from year to year and along the length of river. Conveyance water is the volume of water used to carry water orders to customers down a river — it takes water to deliver water because of these conveyance losses.

Under the Murray–Darling Basin Agreement, the MDBA first sets aside conveyance water and then NSW and Victoria set their water allocations for irrigation or other consumptive use. South Australia sets aside water from its annual entitlement to meet conveyance losses in that state.

Currently, the cost of delivering water is not factored into the price of trading in the Murray-Darling Basin. There is no cost of doing trade to account for conveyance losses, regardless of the distance between the seller and buyer. Initially, trade was thought to be equally upstream and downstream, neutralising potential third-party impacts.

The ACCC Report found that conveyance losses appear to be increasing for various reasons. While evidence on the magnitude is not strong, a tendency for trade downstream may be contributing to increased conveyance losses. A decision by one water user to have water delivered in a manner that increases losses can result in a third-party impact, in the form of reduced water availability for all water users.

The feasibility in applying conveyance water loss factors to individual trade transactions is restricted by the high uncertainty in anticipating the volume of conveyance losses. Noting these uncertainties, NSW supports in principle the concept of introducing conveyance water loss factors to trades throughout the Murray-Darling Basin. NSW will seek to investigate the feasibility of introducing conveyance loss factors to trades with the MDBA and other Basin states through the Trade Working Group.

NSW is also committed to transparency around conveyance losses and how water allocations are determined. NSW regularly publishes [water allocation statements](#)<sup>10</sup> that

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## The status of water trading in New South Wales

provide information on conveyance losses for NSW valleys. The NSW Government also publishes water balances for each valley on the WaterInsights Portal and in the [Murrumbidgee River Operations Plan](#)<sup>11</sup> to improve understanding about conveyance losses.

The MDBA publishes [weekly reports](#)<sup>12</sup> on River Murray operations, river flows, storage inflows, gauge levels, rainfall and salinity data. The MDBA released a [comprehensive report](#)<sup>13</sup> in March 2019 into water losses in the River Murray system, between Hume Dam and the South Australian border.

Efforts to improve understanding and communications on conveyance losses in the Murray-Darling Basin are already underway at the national level. Recommendation 7 of the *Roadmap* is that:

*The MDBA and Basin states should continue to improve transparency and understanding of conveyance losses, including their volumes and drivers. The MDBA should continue to publish information on conveyance losses in the [Summary of River Operations](#)<sup>14</sup> annual reporting. Basin states should also continue to improve their communication on conveyance losses to aid understanding and access.*

In the *Roadmap*, Basin states have given in principle support to publicly release reports on the Basin Water Information Portal which will explain changes to, and drivers of, conveyance losses for rivers other than the River Murray. The MDBA and Basin states have also supported a coordinated approach for monitoring and reporting conveyance losses for the southern connected system and Border Rivers.

The NSW Government is committed to continuing to work collaboratively with the MDBA and other Basin States to identify further opportunities to improve transparency and understanding of conveyance losses to support Murray-Darling Basin water markets.

### NSW actions

A4 Support implementation of Roadmap recommendation 7, in particular:

- (a) Identify opportunities to improve transparency and understanding of conveyance losses and develop relevant communications products.

A5 Investigate the feasibility of introducing conveyance loss factors to trades with the MDBA and other Basin states through the Trade Working Group.

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## Recommendation 5 – Support in part

**That the New South Wales Government investigate reports of 'parking' of carryover water and develop solutions that restrict this from occurring except where water users genuinely require it.**

The NSW Government supports gathering data to inform analysis of the scale and potential impacts - positive and negative - of carryover 'parking'. This is being actioned through Recommendation 15 of the *Roadmap*:

*The Basin states and Murray-Darling Basin Authority should evaluate the impacts of carryover parking trade to better understand any material impacts on water rights holders, water markets and water management (including accounting for, and attribution of, evaporative losses, states shares and cross border water trade).*

NSW is currently working with the MDBA and other Basin States through the Trade Working Group to evaluate the impacts of carryover parking trade and will publish information once sufficient data is available. Given its complexity, it is anticipated that the Trade Working Group will continue to work on this issue into 2024. NSW will request the Trade Working Group provide regular public status updates on this work.

Basin States will also consider changes to policy and rules if required, as part of the review of Schedule D of the Murray-Darling Basin Agreement, due to be completed by the end of 2023.

NSW will await the findings of the Trade Working Group before considering further action.

### NSW actions

A6 Support the MDBA and Basin States to implement Roadmap recommendation 15, in particular:

- (a) Evaluate the impacts of carryover parking trade through the Trade Working Group.
- (b) Request the Trade Working Group provide regular public status updates.

A7 Contribute to Phase 2 of the review of Schedule D of the MDB Agreement.

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The status of water trading in New South Wales

## Recommendation 6 – Support in part

**That the New South Wales Government advocate for:**

- **the establishment of an independent Basin-wide Water Markets Agency to consolidate and carry out new and existing trade-related roles and functions**
- **implementing centralised, Basin-wide water market conduct and integrity legislation**
- **incorporating key obligations as part of an enforceable mandatory code for water market intermediaries**
- **removing existing price reporting obligations and insider trading prohibitions from the Basin Plan Water Trading Rules, broadening and strengthening them, and incorporating them into the new water market conduct and integrity legislation, and**
- **requiring traders to include a unique common identifier on trade forms.**

The NSW Government supports improved governance, regulation and transparency of water trading markets. We are working with the Australian Government and other Basin governments to implement the *Roadmap* recommendations, which will deliver the all aspects of this recommendation, except to establish an independent, Basin-wide water markets agency. The relevant *Roadmap* recommendations are in summary:

- Recommendations 1, 3 and 23 – That the Commonwealth should enact Murray-Darling Basin-wide water market conduct and integrity legislation to implement the recommendations set out in the *Roadmap*, including an enforceable mandatory code for water market intermediaries in the Murray-Darling Basin, and that governments consider applying the proposed code nationally.
- Recommendation 2 – That the Commonwealth enact legislation to prohibit price manipulation and insider trading for all tradeable water rights, including water delivery and irrigation rights.
- Recommendation 10 – That the Bureau of Meteorology develop water market data standards and systems reforms including unique identifiers for all parties.

The NSW Government expects that Basin governments, intermediaries and IIOs will be consulted on federal legislation amendments to implement an enforceable mandatory Code of Conduct (Code) for water market intermediaries. It is proposed that the Code obligations will extend to intermediary services for all tradeable water rights, including water delivery and irrigation rights, initially in the Murray-Darling Basin, with the ACCC

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responsible for enforcement of the Code. The NSW Government supports consistent application of the Code throughout NSW, not only in the Murray-Darling Basin.

The NSW Government does not support the first aspect of this recommendation to establish a new, additional Basin-wide water markets agency, as this would add further complexity into existing water arrangements and increase administration costs for market participants. While the ACCC Report recommended establishing a new single national water markets agency, consultation on the *Roadmap* found there was little support from both Basin states or other stakeholders for this proposal.

Instead, the *Roadmap* supports ongoing collaborative efforts across existing regulatory and policy agencies – including the ACCC, Inspector-General of Water Compliance, the Bureau of Meteorology, and the proposed new National Water Commission – to take on specific functions proposed by the *Roadmap* (recommendation 21).

The NSW Government supports requiring traders to include a unique common identifier on trade forms. The WaterNSW WaterInsights Portal will be enhanced to enable it to store and forward unique identifiers for all parties, and transaction identifiers for each trade to enable regulators to effectively trace trades across licenses.

### NSW actions

A8 Engage during Commonwealth consultation to implement Roadmap recommendations 1, 2, 3 and 23 including:

- (a) Water market conduct and integrity legislation
- (b) An enforceable mandatory code for water market intermediaries in the Murray-Darling Basin
- (c) Design and requirements for national roll out of reforms

A2 Continue to deliver improvements to IT systems including WaterNSW's WaterInsights Portal and upgrades through the Water Added Value Environment (WAVE) program.

See also actions in response to recommendation 1.

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## Recommendation 7 – Support

**That the New South Wales Government establish a public water market register which contains accurate and up-to-date information on water entitlement ownership and trades.**

The NSW Government supports transparent, accurate and publicly accessible water data and information.

We already have a publicly searchable NSW Land Registry Services Water Access Licences Register which includes all information required by the *Water Management Act 2000*, including ownership details. A fee is currently payable per licence to access all information held in the Water Access Licences Register.

Most water licence attributes can also be freely accessed in bulk from the online NSW Water Register administered by WaterNSW, however ownership details are not disclosed on this separate portal.

All water allocation and entitlement trades in NSW are listed on the free, online NSW Water Register, and we also have a free online [trade dashboard](#)<sup>15</sup> that provides up-to-date analysis on water trading information.

However, the NSW Government recognises that there is still more work to be done to promote water market transparency. We are currently considering improvements to the Water Access Licence Register.

The NSW Government will carefully consider the balance between increasing transparency while protecting privacy and other sensitive information.

The ACCC Report considered calls like those made by the Select Committee for identifying details of water users to be published. The ACCC concluded that publishing identifying details would not help solve market issues and could lead to adverse outcomes.

Instead, the ACCC encouraged balancing transparency and privacy concerns by improving the quality, timeliness and accessibility of de-identified trade data, and at the same time, establishing a market regulator to address concerns of market misconduct.

While the NSW Government supports the Bureau of Meteorology delivering water market data and systems reforms (*Roadmap* recommendation 10), it does not support lifetime

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## The status of water trading in New South Wales

traceability for water allocations because it does not deliver benefits to outweigh the administrative and implementation costs.

Please also refer to response to recommendation 1.

### NSW actions

See actions in response to recommendation 1.

## Recommendation 8 – Support in part

That the New South Wales Government work collaboratively with the Australian and other Basin State governments to:

- improve existing information portal initiatives to improve information availability and prepare to transition towards new digital infrastructure for water markets
- establish mandatory Water Market Data Standards governing the collection, storage, transmission and publication of water market data and related information by trade service providers
- implement rules and processes for water announcements, which apply, at a minimum, to all governments or government agencies, and all trade service providers
- establish and implement a mandatory Digital Messaging Protocol for water trade and water market data
- improve the transparency of water market information, and implement a public-facing Water Market Information Platform
- implement lifetime traceability for water allocations
- increase the transparency of inputs, assumptions and administrative decision making involved in determining allocation announcements
- update carryover rules and policies to appropriately account for evaporation losses associated with storing water in a dam beyond the year in which that water was allocated
- strengthen existing commitments to better metering and measurement of water take across the Basin, and
- improve modelling of water use, delivery, and trade across the Basin, including through improving linkages between models.



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The NSW Government supports the parts of this recommendation that involve working collaboratively with the Australian and other Basin governments to improve existing water information and portals in preparation to transition to new digital infrastructure, to improve water information, standards and modelling, to increase transparency of market information and allocation announcements and to strengthen metering and measurement of water take.

NSW supports in principle point 4 (a digital messaging protocol) but does not support points 6 and 8 (implementing lifetime traceability for water allocations and an update to carryover rules and policies).

NSW is already engaged with the Commonwealth and other Basin state agencies to drive improvements to water market data and systems beyond NSW, through the *Roadmap* and the review of Schedule D of the Murray-Darling Basin Agreement.

The relevant Roadmap recommendations include:

- Recommendation 2 – the Commonwealth enact legislation to prohibit price manipulation and insider trading for all tradeable water rights, including water delivery and irrigation rights.
- Recommendation 6 – The Bureau of Meteorology’s Water Information Portal should be linked to decisions about Basin state water allocations and information about the drivers of water availability to increase transparency. This will complement the Murray–Darling Basin catchment-level information that is already on the portal about storages and allocations.
- Recommendation 9 – Basin governments should develop targeted education products, coordinated by the Commonwealth, to increase community awareness and understanding of Murray–Darling Basin water markets.
- Recommendation 10 – That the Bureau of Meteorology develop water market data standards and systems reforms including unique identifiers for all parties.
- Recommendation 13 – The Commonwealth, in consultation with Basin states, should develop and implement a hydroeconomic modelling program to improve understanding of the socio-economic impacts of policy options/reforms and future climate scenarios, and to support decision-making. This should be coordinated with the Murray–Darling Basin Authority’s hydrological river modelling uplift program.

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- Recommendation 15 – The Basin states and Murray-Darling Basin Authority should evaluate the impacts of carryover parking trade to better understand any material impacts on water rights holders, water markets and water management (including accounting for, and attribution of, evaporative losses, states shares and cross border water trade).
- Recommendation 20 – The Commonwealth and Basin state governments should work together to develop rules and guidelines that support consistent and accurate metering and telemetry across the Murray– Darling Basin.
- Recommendation 22 – To improve integrated rule-making and decision-making processes, all decision-making bodies in the Murray–Darling Basin should review their processes for assessing the implications of proposed decisions to ensure that the full range of interests are taken into account.

In particular, the NSW Government is supporting the Bureau of Meteorology to implement Recommendations 6 and 10 of the *Roadmap* – which involves developing a system to link the Water Information Portal to decisions about Basin state water allocations and information about the drivers of water availability.

These actions will increase transparency and enable regulators and intermediaries to automate data sharing with the Bureau of Meteorology. This will complement the Murray–Darling Basin catchment-level information that is already on the portal about storages and allocations. Please refer also to the response to recommendation 1.

The NSW Government is committed to improve its modelling of water use, delivery, and trade across the Basin, including model linkages. NSW is already participating in the Murray-Darling Basin Authority’s Integrated River Modelling Uplift program, which is a \$66 million Commonwealth investment to upgrade the Murray-Darling Basin’s 24 river models.

The NSW Government’s support to implement these *Roadmap* recommendations is underpinned by a suite of existing NSW water information and data improvement programs. These include:

- The NSW Water Strategy which includes actions to increase the amount and quality of publicly available water information (Action 1.2), enhance modelling capabilities and make more data and models available (Action 1.3), measure the majority of non-urban water take (Action 1.7), review water allocation and water sharing in response to new climate information (Action 4.2) and improve the operation and transparency

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of water trade (Action 5.3). For example, NSW is producing information products and [guides](#)<sup>16</sup> to continuously improve transparency of its allocation process.

- Providing access to data, information products and data models consistent with DPE Water's [Open data framework](#)<sup>17</sup>, [Open data and information guidelines](#)<sup>18</sup> and the *Government Information (Public Access) Act 2009* (NSW).
- Improving IT data systems including WaterNSW's WaterInsights Portal and upgrades through the Water Added Value Environment (WAVE) program. Refer also to the response to recommendation 1.
- Implementation of strong, consistent and transparent rules for metering non-urban water, through the [non-urban water metering](#)<sup>19</sup> framework to ensure robust and fair water management across the state. New metering rules became law in December 2018 and are taking effect in a staged roll-out to December 2024.

The NSW Government supports the recommendation for a digital messaging protocol (point 4) in principle. Implementing a digital messaging protocol is consistent with the *Roadmap* recommendation 10 and with the NSW Government's open data principle to be 'usable'. However, the NSW Government will not commit to mandating a particular digital messaging protocol without additional assessment.

The NSW Government does not support implementing lifetime traceability for water allocations (point 6) as this would be complex and costly to implement, without a clear purpose and value add for water users and market participants. This was not considered a priority by the *Roadmap*.

The NSW Government also does not support an immediate update to carryover rules and policies (point 8), however the NSW Government is supportive of an investigation of the need for possible changes under the *Roadmap* recommendations 7 and 15. Please also refer to the response to recommendation 5.

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### NSW actions

A9 Support the Commonwealth and Bureau to implement the Roadmap recommendations 6, 9, 13 and 20, including development of:

- (a) information products about NSW water allocations and drivers of water availability that can be hosted by, or linked to the Water Information Portal
- (b) educational products, to increase awareness and understanding of Murray-Darling Basin water markets.
- (c) fit-for-purpose hydro-economic models linked to the MDBA's Integrated River Modelling Uplift program
- (d) strengthened metering, measurement and telemetry across the Basin

A10 Implement the NSW Water Strategy.

A2 Continue to deliver improvements to IT systems including WaterNSW's WaterInsights Portal and upgrades through the Water Added Value Environment (WAVE) program.

A11 Implement strong, consistent and transparent rules for metering non-urban water, through the non-urban water metering framework.

Also see actions in response to recommendations 1, 5, and 6.

## Recommendation 9 – Support

**That the New South Wales Government investigate ways to improve water access for First Nations people, such as through grants of water allocations.**

The NSW Government is committed to partnering with First Nations and Aboriginal people to co-design a state-wide [Aboriginal Water Strategy](#)<sup>20</sup> that will deliver water rights for communities and include their interests in water management.

The strategy is part of the wider commitment of the NSW Water Strategy and will work to ensure continued access to water for our communities for food, kinship, connection, recreation, stories, song lines and healing. As part of the strategy development, we will review and identify the required amendments to the water management legislative framework to enable Aboriginal rights, interests and ownership of water.

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The NSW Government has committed \$15 million over 3 years for the Aboriginal Water Program which is progressing the Aboriginal Water Strategy and the other NSW Water Strategy Priority 2 actions to *Recognise First Nations/Aboriginal People's rights and values and increase access to and ownership of water for cultural and economic purposes*.

In August 2022, the NSW Government endorsed a new inland waters target under the [National Agreement on Closing the Gap](#)<sup>21</sup>. This target commits 3 per cent of the total volume of water access entitlements nationally to be held by Aboriginal corporations by 2031. NSW is working on an implementation plan to realise its contribution and the Aboriginal Water Strategy is a key component to deliver towards this target.

The Australian Government is providing \$40 million to help First Nations communities in the Murray-Darling Basin to invest in water for cultural and economic activities through the [Aboriginal Water Entitlements Program](#)<sup>22</sup> and \$9.2 million to [consult and design an enduring arrangement](#)<sup>23</sup> for First Nations peoples to own, access and manage water in Australia. The NSW Government will also work with the Australian Government on these programs to ensure these investments deliver benefits to NSW First Nations and Aboriginal communities.

### NSW actions

A12 Implement the NSW Water Strategy Priority 2 to *Recognise First Nations/Aboriginal People's rights and values and increase access to and ownership of water for cultural and economic purposes*.

A13 Develop an Aboriginal Water Strategy which will support the NSW contribution to the Closing the Gap inland water target.

A14 Collaborate with the Commonwealth on programs to deliver improved access and ownership of water for NSW First Nations and Aboriginal communities.

## Recommendation 10 - Support

**That the New South Wales Government ensure that capacity limits at the Barmah Choke are not exceeded because of water trading.**

The NSW Government supports ensuring river operations remain within capacity limits at the Barmah Choke unless there is clear environmental benefit in doing otherwise. This is a

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broader water management issue beyond water trading that is primarily driven by physical reductions in the channel capacity.

Integral to operating with capacity limits is the existing Barmah Choke trade rule stemming from the Murray-Darling Basin Agreement and administered by the MDBA - see [Barmah Choke trade balance](#)<sup>24</sup>. Rules within the Water Sharing Plan for the NSW Murray and Lower Darling Regulated Rivers Water Source 2016 (see [Murray region](#)<sup>25</sup>) prohibit water trade from above to below the Barmah Choke unless the NSW Minister for Water is satisfied that the trade will not diminish the ability to fully supply all water orders.

Options to reinstate channel capacity and reduce and repair bank erosion are currently being investigated through the [Barmah-Millewa Program](#)<sup>26</sup>, and improvements to the operation of the Barmah Choke trade rule are expected following the review of Schedule D of the Murray-Darling Basin Agreement and its related Barmah Choke trade rule review.

The NSW Government will continue to use a combination of regulatory, infrastructure, and collaborative measures to ensure that capacity limits at the Barmah Choke are not exceeded because of water trading.

### NSW actions

A15 Actively work with the MDBA to progress options to reinstate channel capacity and reduce and repair bank erosion through the Barmah-Millewa Program.

A7 Contribute to Phase 2 of the review of Schedule D of the MDB Agreement.

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## Appendix A – Roadmap recommendations for water market reform

Excerpt from: <https://www.dcceew.gov.au/sites/default/files/documents/water-market-reform-final-Roadmap-report.pdf>

Number	Roadmap recommendation	ACCC recommendation
<b>Headline integrity and transparency recommendations</b>		
1	<b>Integrity legislation</b> The Commonwealth should enact Murray–Darling Basin-wide water market conduct and integrity legislation to implement the recommendations set out in this roadmap.	1
2	<b>Market conduct prohibitions</b> The Commonwealth should enact legislation to prohibit price manipulation and insider trading for all tradeable water rights, including water delivery and irrigation rights.  The current mandatory water announcement requirements should largely remain and be extended to irrigation infrastructure operators. These decisions should be provided to the Bureau of Meteorology in a timely way for publication. The detailed requirement will be defined in the process of developing draft legislation to ensure the provisions are practical, have sufficient coverage and are enforceable.	3, 9
3	<b>Water market intermediary code</b> The Commonwealth should implement an enforceable mandatory code for water market intermediaries, at least across the Murray–Darling Basin. The obligations under the code should extend to intermediary services for all tradeable water rights, including water delivery and irrigation rights. The proposed contents of this code are described at <a href="#">Chapter 3</a> .	2
4	<b>Broaden and strengthen price reporting requirements for trade data</b> The Commonwealth should broaden and strengthen the requirement for trade approval authorities and irrigation infrastructure operators who approve trades within their networks, to report price data for all tradeable water rights, including water delivery and irrigation rights. This data should be available to the water market regulators and de-identified data should be publicly available.	3
5	<b>Price reporting requirements for pre-trade data</b> The Commonwealth should require water market intermediaries to report pre-trade price data (buy and sell offers) for all tradeable water rights, including water delivery and irrigation rights. This should apply in a phased way, to water exchanges first and then to other intermediaries. This data should be available to the water market regulators and de-identified data should be publicly available.	3



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Number	Roadmap recommendation	ACCC recommendation
6	<b>Transparency of decisions about water allocations and drivers of water availability</b> The Bureau of Meteorology's Water Information Portal should be linked to decisions about Basin state water allocations and information about the drivers of water availability to increase transparency. This will complement the Murray–Darling Basin catchment-level information that is already on the portal about storages and allocations.	15
7	<b>Transparency about conveyance losses</b> The Murray–Darling Basin Authority and Basin states should continue to improve transparency and understanding of conveyance losses, including their volumes and drivers. The Murray–Darling Basin Authority should continue to publish information on conveyance losses in the Summary of River Operations annual report. Basin states should also continue to improve their communication on conveyance losses to aid understanding and access.	21
8	<b>Transparency of intergovernmental committees</b> The Basin Officials Committee should continue to improve the transparency of the functions and activities of intergovernmental committees, including publishing easily accessible terms of reference.	29
9	<b>Water market education across the Basin</b> Basin governments should develop targeted education products, coordinated by the Commonwealth, to increase community awareness and understanding of Murray–Darling Basin water markets.	13
<b>Headline data and systems recommendations</b>		

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Number	Roadmap recommendation	ACCC recommendation
10	<p><b>Data and systems reforms to support integrity and transparency recommendations</b></p> <p>The Bureau of Meteorology (the Bureau), as Australia's lead agency for water information, should develop and implement a data and systems framework which includes:</p> <ul style="list-style-type: none"> <li>new water market data standards that require data providers to collect, store and transmit comprehensive trade and pre-trade data, reasons for trade and strike date to the Bureau. These standards should include unique identifiers for all parties and single transaction identifiers for each trade to enable the data and systems regulator to effectively trace trades</li> <li>data sharing agreements entered into (or existing agreements amended) between the Bureau and Basin governments, as well as some irrigation infrastructure operators and water market intermediaries</li> <li>a system that regulators and intermediaries can interact with to automate sharing of data with the Bureau</li> <li>a single National Water Data Hub which will provide: <ul style="list-style-type: none"> <li>all water trade and pre-trade data to regulators</li> <li>de-identified data and data services that third-parties could use for analytics or in the development of innovative information products</li> </ul> </li> <li>a new web application that provides near-real time pre-trade and trade information</li> <li>aggregated trade statistics published by the Bureau on the Murray–Darling Basin Water Information Portal.</li> </ul>	4, 6, 7, 10, 11, 12
<b>Other data and systems recommendations</b>		
11	<p><b>Harmonise and standardise terminology</b></p> <p>The Bureau of Meteorology should continue to harmonise terminology through the Water Markets Data Standard process and the Murray–Darling Basin Water Information Portal.</p> <p>Basin state governments should standardise terms, based on the most common usage of these terms.</p>	7
12	<p><b>Monitor trade approval authority and irrigation infrastructure operator timeframes for processing trades</b></p> <p>All trade approval authorities and irrigation infrastructure operators should regularly report trade approval processing times to the Bureau of Meteorology for publication.</p>	8
<b>Headline market architecture recommendations</b>		
13	<p><b>Improve hydro-economic modelling</b></p> <p>The Commonwealth, in consultation with Basin states, should develop and implement a hydro-economic modelling program to improve understanding of the socio-economic impacts of policy options/reforms and future climate scenarios, and to support decision-making. This should be coordinated with the Murray–Darling Basin Authority's hydrological river modelling uplift program.</p>	18

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Number	Roadmap recommendation	ACCC recommendation
14	<b>Improve intervalley trade (IVT) mechanisms</b> To improve efficiency and access to intervalley trade opportunities: <ul style="list-style-type: none"> <li>grandfathered tag provisions in the Basin Plan water trading rules should be removed by an amendment to the Basin Plan at the next opportunity</li> <li>Victoria and New South Wales should provide clearer guidance and improve transparency about the anticipated timing of IVT openings</li> <li>Victoria and New South Wales, in collaboration with the Murray–Darling Basin Authority, should consider options to improve equity of access to IVT opportunities</li> <li>the Trade Working Group should consider IVT issues and clarify principles for IVT delivery as part of the existing review of Schedule D of the Murray–Darling Basin Agreement</li> <li>the Basin Officials Committee should consider alternative policy approaches and mechanisms for allocating limited trade opportunities in the longer term, beyond the short- medium term work being undertaken as part of the Schedule D review.</li> </ul>	22
15	<b>Evaluate the impacts of carryover parking trade</b> The Basin states and the Murray–Darling Basin Authority should evaluate the impacts of carryover parking trade to better understand any material impacts on water rights holders, water markets and water management (including accounting for, and attribution of, evaporation losses, state shares and cross border water trade).	16
16	<b>Transparency of trade considerations in river-operations</b> To improve the transparency of how water markets are considered in river operations, the Murray–Darling Basin Authority should publish a report or factsheet (in consultation with Basin states) on how water trade and water markets are considered in river operations decision-making.  The roadmap supports the Basin Officials Committee's recent decision to work with the Basin Governments and the Murray–Darling Basin Authority to develop these ideas into a functional Decision Support Framework for further consideration by the Basin Officials Committee and the Ministerial Council.	20
<b>Other market architecture recommendations</b>		
17	<b>Manage delivery shortfalls</b> The ongoing River Murray Capacity and Delivery Shortfall Project (which is overseen by the Basin Officials Committee and the Murray–Darling Basin Ministerial Council) and the Basin state river operators should continue to progress the management and communication of shortfall risk across the Murray–Darling Basin.  The Murray–Darling Basin Authority should continue to report on delivery shortfall risks in the River Murray during peak irrigation season in its River Operations Weekly Reports.	19

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Number	Roadmap recommendation	ACCC recommendation
18	<b>Transparency of environmental water delivery</b> The Basin Officials Committee – in consultation with the Commonwealth, Basin states and environmental water holders – should increase transparency about how held environmental water trade, transfer and delivery is managed and communicated. This should include communicating the volume of environmental and other water flows in the system at any time.	23
19	<b>Conduct research to inform future water market reforms</b> A long-term research agenda should be developed and implemented to continue to inform potential improvements to market architecture and water management. This will be informed by the improved data collected through the implementation of other recommendations set out in this roadmap.	25
20	<b>Strengthen metering, measurement and telemetry implementation</b> The Commonwealth and Basin state governments should work together to develop rules and guidelines that support consistent and accurate metering and telemetry across the Murray–Darling Basin. This includes: <ul style="list-style-type: none"> <li>• Basin governments agreeing to the common principles and rules for telemetry across the Murray–Darling Basin. This will include thresholds for telemetry and the priority meters that will need to be telemetered. It will also include data and information requirements to support current water market needs.</li> <li>• Each Basin state designing and publishing its approach to how telemetry will be used – including the meters that will need telemetry, and any exemptions that will apply.</li> </ul>	17
<b>Headline governance recommendations</b>		
21	<b>Institutional arrangements</b> New water market functions should be allocated as follows: <ul style="list-style-type: none"> <li>• Proposed new National Water Commission – leadership role as the water markets expert and roadmap implementation monitor, with the Department of Climate Change, Energy, the Environment and Water to take on appropriate roles in the interim until the proposed new National Water Commission is established.</li> <li>• Australian Competition and Consumer Commission – regulator for the market conduct prohibitions and water market intermediaries' code.</li> <li>• Inspector-General of Water Compliance – regulator for water market data standards, record keeping and data reporting obligations.</li> <li>• Bureau of Meteorology – data administrator and custodian, including development of water market data standards.</li> </ul>	26

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Number	Roadmap recommendation	ACCC recommendation
22	<p><b>Implement better rule-making and decision-making processes</b></p> <p>To improve integrated rule-making and decision-making processes, all decision-making bodies in the Murray–Darling Basin should review their processes for assessing the implications of proposed decisions to ensure that the full range of interests are taken into account.</p> <p>This should include operational water management implications and social, cultural, environmental and commercial implications.</p> <p>This would also require improved consultation processes to ensure implications are assessed and understood by decision-makers.</p>	27
<b>Next steps</b>		
23	<p><b>Potential national application of reforms</b></p> <p>Governments should consider the application of these reforms nationally, with an initial focus on the introduction of:</p> <ul style="list-style-type: none"> <li>• a mandatory code for water market intermediaries, and</li> <li>• market misconduct provisions.</li> </ul>	

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## Weblinks

- <sup>1</sup> <https://www.dcceew.gov.au/sites/default/files/documents/water-market-reform-final-Roadmap-report.pdf>
- <sup>2</sup> <https://www.dpie.nsw.gov.au/water/plans-and-programs/nsw-water-strategy/toward-2050>
- <sup>3</sup> <https://waterregister.watarnsw.com.au/water-register-frame>
- <sup>4</sup> <https://www.nswlrs.com.au/Public-Register/WAL-Register>
- <sup>5</sup> <https://www.watarnsw.com.au/water-services/water-data/water-insights>
- <sup>6</sup> <http://www.bom.gov.au/water/>
- <sup>7</sup> <https://www.accc.gov.au/about-us/publications/murray-darling-basin-water-markets-inquiry-final-report>
- <sup>8</sup> <https://minister.dcceew.gov.au/plibersek/media-releases/reforming-australias-water-market-bring-trust-and-transparency-system>
- <sup>9</sup> <https://www.watarnsw.com.au/customer-services/your-account/customer-portal>
- <sup>10</sup> <https://www.industry.nsw.gov.au/water/allocations-availability/allocations/statements>
- <sup>11</sup> <http://docplayer.net/155881373-Murrumbidgee-river-operations-plan.html>
- <sup>12</sup> <https://www.mdba.gov.au/water-management/regular-reports-murray-data-storages/weekly-reports>
- <sup>13</sup> <https://www.mdba.gov.au/publications/mdba-reports/conveyance-losses-river-murray-system>
- <sup>14</sup> <https://www.mdba.gov.au/publications/independent-reports/river-murray-system-annual-summaries-reviews-river-operations>
- <sup>15</sup> <https://water.dpie.nsw.gov.au/licensing-and-trade/trade/trade-dashboard>
- <sup>16</sup> <https://www.industry.nsw.gov.au/water/allocations-availability/allocations/how-water-is-allocated/resource-assessment-process>
- <sup>17</sup> <https://www.dpie.nsw.gov.au/water/science-data-and-modelling/data/open-data-framework>
- <sup>18</sup> <https://www.dpie.nsw.gov.au/water/science-data-and-modelling/data/open-data-and-information-guideline>
- <sup>19</sup> <https://www.dpie.nsw.gov.au/water/nsw-non-urban-water-metering>
- <sup>20</sup> <https://water.dpie.nsw.gov.au/plans-and-programs/aboriginal-water-program/strategy>
- <sup>21</sup> <https://www.closingthegap.gov.au/national-agreement>
- <sup>22</sup> <https://www.niaa.gov.au/indigenous-affairs/environment/murray-darling-basin-aboriginal-water-entitlements-program>
- <sup>23</sup> <https://minister.dcceew.gov.au/plibersek/media-releases/delivering-water-ownership-first-nations>
- <sup>24</sup> <https://www.mdba.gov.au/managing-water/water-markets-trade/interstate-water-trade/barmah-choke-trade-balance>
- <sup>25</sup> <https://www.industry.nsw.gov.au/water/plans-programs/water-sharing-plans/status/murray-region>
- <sup>26</sup> <https://www.mdba.gov.au/publications/mdba-reports/barmah-millewa-program>