

Progress on NSW/ACT trade mechanism
NSW – MDBA Bi-lateral agreement Action 5

30 June 2020

Under the NSW – MDBA Bi-lateral agreement dated 1 June 2020, NSW is required to:

5.1 For the Murrumbidgee WRP area, NSW will:

- 5.1.1 work with the ACT Government to develop a process for enabling two-way interjurisdictional retail water trading between NSW and the ACT; and
- 5.1.2 provide to the Authority a **report** on progress against the NSW/ACT agreed workplan.

NSW will engage with the Authority on the possible implications of the approach on interstate trade and any amendments that would be required to either Schedule 1 of the Act or its protocols

The following report meets action 5.1.2.

NSW and the ACT held a workshop on 14 February 2020. In attendance were the MDBA (Chair) and ACT consultants. The draft meeting record, with NSW amendments, is at Attachment A.

Discussion focused on:

- Options for ACT-NSW water trading model
- Bi-lateral agreement for trial arrangements
- Updating the MDB Agreement – Schedule D and Protocols

Workshop outcomes:

- NSW and the ACT could not agree on a trade mechanism. This is the major issue that is slowing agreement on resolving this issue.
- Without an agreement on a trade mechanism NSW cannot enter into trial arrangements or propose updating the MDB agreement.

NSW Workshop actions

- NSW to advise of nominee to further the development of the bi-lateral agreement by Friday 21 February
 - Mahala McLindin nominated
- NSW to provide comments on the draft BOC paper by Friday 21 February
 - BOC paper was withdrawn as agreement on trade framework could not be reached

Future steps

- Post the 14 February workshop, NSW has not received any correspondence from the ACT on the trade issue
- NSW is undertaking internal briefing to determine future directions regarding NSW/ACT trade arrangements

ACT-NSW Water Trading Arrangements

Workshop #5

Friday 14 February 2020 (0900–1230 hrs)

NSW DPIE offices, Queanbeyan

WORKSHOP SUMMARY

Attendees: see list at end of this document

1. Administrative business

- a. Welcome and introductions. Five participants joined in by phone/video conference.
- b. The meeting notes from Workshop #4 (November 2019), as revised by NSW, were accepted. NSW reiterated that they had not agreed to start a trade trial until there is an agreed trade framework.

2. Brief updates

- a. The ACT's Water Resource Plan was submitted to the MDBA for assessment in December 2019.

3. Options for ACT-NSW water trading model

NSW

- a. NSW noted the following concerns with the ACT WWTP trickle flow proposal:
 - i. Set an unacceptable precedent for NSW. For example, councils and mines in NSW may also request similar treatment for return flows. Creates risk to NSW water users
 - ii. Stakeholders will oppose increased risk
 - iii. Creates issues for Planned Environmental Water (PEW)
 - iv. Is not consistent with existing mature trading framework
 - v. Under NSW trade framework the WWTP trickle flow is seen as unregulated entitlement that cannot be guaranteed
 - vi. Requires significant funding and resources from NSW with no benefit to NSW
- b. NSW preferred option is to enable a callable IVT account, which would also meet ACT's longer term objectives for ACT-NSW trade.
- c. If the trading model is to include the southern-connected Murray–Darling Basin in the future, then the impacts on the Murrumbidgee IVT would need to be considered. NSW noted that the proposed system should be scalable to allow for future expansion to multi-state trade, rather than creating a framework now that would need to be completely amended in the future.
- d. NSW need a trading model which is consistent with the current mature NSW trade framework, including IVT.
- e. If an IVT model was used, a call-out could be stopped if the volume in ACT storages dropped below, say, 65%. This would assist with ACT's water security.
- f. NSW pointed out that if water is traded by a retail entitlement holder, then this trade would not be reducing water security for other entitlement holders

- g. NSW noted that ACT's water security concerns could be addressed by the ACT developing rules to restrict trade where they deem necessary.
- h. NSW doesn't allow trade from an unregulated river to a regulated river. Entitlement in Lower Molonglo water resource area would not be guaranteed from a storage so it would be considered an unregulated licence under NSW trade framework.
- i. NSW noted that considering urban runoff as an entitlement would be unacceptable
- j. NSW don't consider SA bulk deliveries of 'State Entitlement flow' to be comparable to ACT's WWTP trickle flow proposal, because:
 - i. The SA State Entitlement Flow volume is still accounted for in a storage
 - ii. It relates to bulk deliveries rather than retail trade – environmental deliveries to CEWH or OEH (in NSW) are always still undertaken within the standard retail trade framework
 - iii. Trickle flows from a WWTP cannot be 'shaped' to meet downstream demand, as is designed in the SA system.
- k. NSW don't consider trade with QLD on the Border Rivers to be comparable to this situation because that is a regulated system with shared storages.
- l. NSW noted that supply of NSW towns is currently undertaken through bulk level agreements and future growth could be addressed by expanding existing arrangement or other commercial agreements, rather than using a retail trade framework.

ACT

- a. ACT are considering creating an entitlement from the Lower Molonglo Water Management Area (LMWMA), near the downstream ACT–NSW border, which would include the Waste Water Treatment Plant (WWTP), urban and other catchment runoff.
- b. ACT are keen to participate in the Commonwealth's water efficiency program.
- c. The ACT's three main priorities are:
 - i. In the short term, the shared reduction amount of 4.9 GL needs to be met. It was **agreed** that an amendment to the Basin Plan could be used to achieve this requirement.
 - ii. In the short–medium term, trade from the ACT to NSW is required to enable the ACT to participate in the water efficiency program. The volume available for trade could be up to 10.1 GL (i.e. 15 GL less 4.9 GL).
 - iii. In the long term, To supplement the SDL with trade arrangements
- d. ACT reiterated their preference for the flows from the LMWMA (mainly the WWTP) to be used for trade delivery, rather than a callable IVT account as:
 - i. ACT currently have no mechanism to trade water out of their dams (legislated)
 - ii. Release of water out of the dams would reduce water security within the ACT
 - iii. ACT dams are owned by Icon Water, and use is currently restricted to urban water supply
- e. ACT noted that interstate trade between SA and the upper states is not callable, but rather delivered in accordance with the trade adjustment pattern i.e. a shaped delivery.
- f. ACT noted that flow in the Murrumbidgee, upstream of the ACT, had ceased in January 2020, due to the dry conditions.

MDBA

- a. Noted extremely complex and unique situation
- b. Drivers and benefits to each jurisdiction need to be considered
- c. Noted that the SA deliveries are different from this situation because that relates to bulk deliveries of SA entitlement flow, whereas this is retail trade.

ACTION: MDBA to follow-up regarding requirements for an amendment to the Basin Plan regarding the shared reduction amount.

4. Bi-lateral agreement for trial arrangements

- a. Megan Dyson provided an outline of the paper titled “Agreeing a NSW-ACT Water Trading Trial”. This paper had been distributed prior to, and also discussed at, Workshop No 4.
- b. The group agreed that any trial would initially be bi-lateral i.e. ACT–NSW only.
- c. NSW consider that the priority is to agree a trading model.
- d. There was discussion regarding whether the trial should be for one-way trade from the ACT to NSW or whether back-trade would also be possible.
- e. ACT will lead the development of a bi-lateral agreement, with a NSW nominee.

ACTION: NSW to advise of nominee to further the development of the bi-lateral agreement by Friday 21 February.

5. Updating the MDB Agreement — Schedule D and Protocols

- a. MDBA provided an outline of the draft BOC paper distributed prior to the meeting, and also to Workshop No 4, titled “Notification of potential amendments to enable ACT/NSW water trade”.
- b. MDBA noted that probably only changes to the Permissible Transfers between Trading Zones Protocol would be required. If ACT is added to Table 1 of this protocol, it may be easiest to include trade with all possible zones, not just Zone 13 (Murrumbidgee), but for the trial arrangements to potentially restrict trade to ACT and Zone 13 in the first instance.

ACTION: NSW to provide comments on the draft BOC paper by Friday 21 February.

6. Next steps

- a. ACT to lead the development of the bi-lateral agreement.
- b. The date for the next workshop will depend on individual progress by all jurisdictions.

Attendees:

State/Federal Agency	Organisation	Delegate
Commonwealth	Murray–Darling Basin Authority	Joe Davis (Chair)
		Kerry Greenwood
	Department of Agriculture, Water and Environment	n/a

NSW	Department of Planning, Industry and Environment (Water)	Peter Hyde
		Phil Moss (by video)
		Mahala McLindin (by video)
		Samantha McCallum (by video)
		Kelly Lynch (by phone)
ACT	Environment, Planning and Sustainable Development	Matt Kendall
		Nigel Dears
		Chris Glendinning
		Lucinda Berrie
—	Megan Dyson Law and Policy	Megan Dyson (by phone)