



National Irrigators' Council

Food · Fibre · Future

Drop-In Session
Water Markets Decisions
6 November 2024





Today's Session

- Water Markets Decisions Regulation Discussion Paper
 - Brief overview
 - Preliminary discussions
 - Next steps
- Note: Submissions **due 29 November 2024**

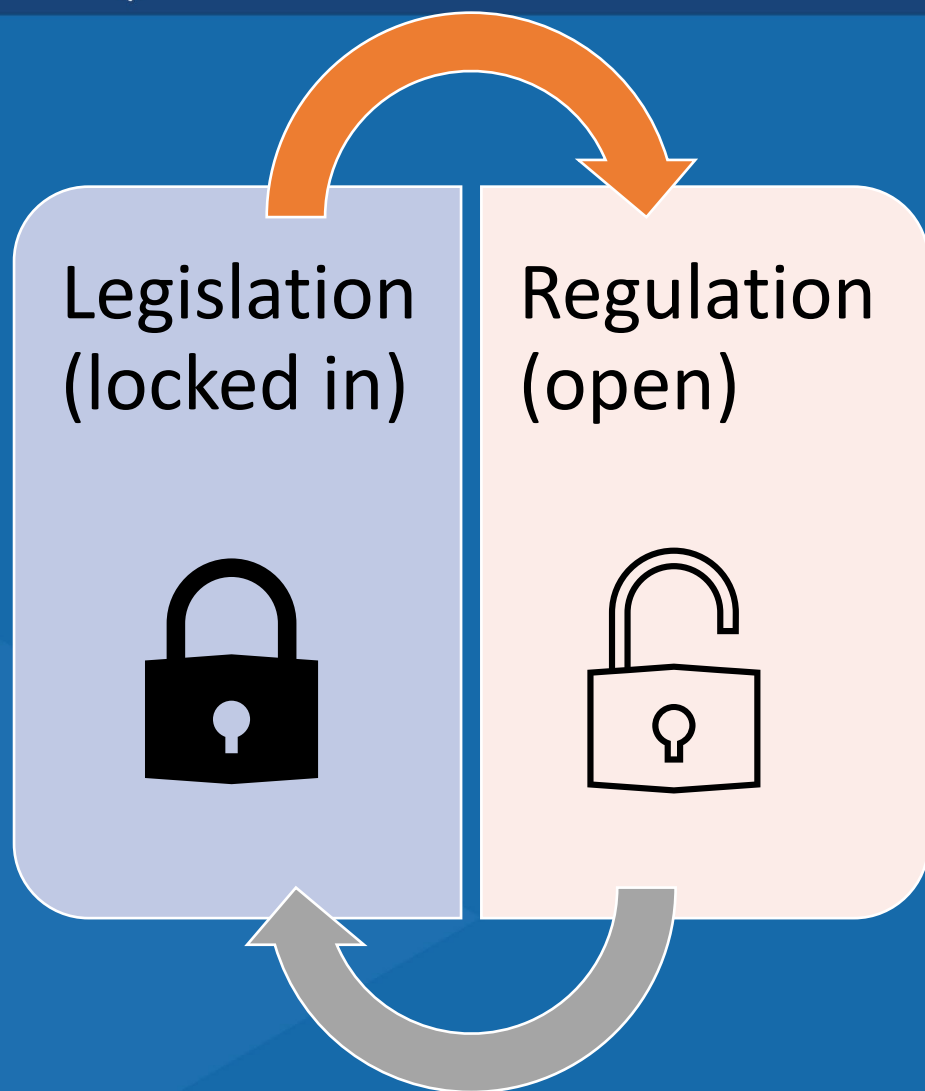


Context

- The Federal Government is developing regulations to enable operation of the new Part 5A to the Water Act 2007, relating to the announcement of 'water markets decisions'.
- This follows the Water Amendment (Restoring Our Rivers) Act 2023 (RoR Act) in December 2023.
- Part 5A is related to enabling and supporting the Water Market Reform Roadmap.
- It is understood that once these obligations commence (1 July 2026), they will supersede the existing water announcement obligations under the Basin Plan which will cease.



Approach



- Step 1) Identify what is 'locked in' in the legislation
 - See Appendix 2 of Discussion Paper
- Step 2) Review what has been proposed in the Discussion Paper (for the regulation to give effect to the legislation)



The legislation

- The following terms are defined in the legislation:
 - Section 4(1)
 - generally-available
 - material effect
 - water markets decision
 - eligible tradeable water right (see 6A)
 - Other relevant sections:
 - 101B Announcement of water markets decisions
 - 101C Records to be kept about information reported





1.1. What should be prescribed in the regulations as a 'water markets decision'?

- *It is proposed to prescribe a decision in the regulations as a water markets decision if it relates to:*
 - *actions that a Commonwealth agency, a Basin State agency or IIO is undertaking or may or will undertake, and— is **reasonably likely** to influence persons who commonly acquire ETWRs in deciding whether or not to acquire or dispose of such rights, that is, it would have a **material effect** on the price or value of ETWRs, and*
 - *is a decision which, if included in the regulations, would support the broader objectives and purpose of the new Part 5A.*



27. DCCEEW is interested to understand stakeholder views on the above, and particular on the following:

a. Are there any decisions or types of decisions that should be added or omitted? If so, why?

b. Are the proposed descriptions of the decisions listed above appropriate and accurate? If not, why?

Decision ID:	Decision:	Proposed Description
1	Trade decision	<p>A decision to trade ETWRs, including a decision to offer ETWRs for sale or accept an offer of sale, that would have a material effect on the price or value of an ETWR.</p> <p>This does not include decisions that relate to a particular trade of an ETWR if:</p> <p>(i) the trade is or will be consistent with, and conducted pursuant to, a trading strategy; and</p> <p>(ii) the trading strategy has been announced under subsection 101B(1).</p>
2	Trading strategy	A decision to adopt a trading strategy with respect to the trade of ETWR.
3	Decision on new government legislation, regulations or rules	A Commonwealth or Basin State agency decision to amend legislation, regulations, rules etc. that will change existing ETWRs or create new ETWRs, that would have a material effect on the price or value of an ETWR.
4	Allocation decision	A decision to increase, decrease or leave unchanged the quantity of water allocated to water access entitlements.
5	Carryover decision	A decision about whether or when water allocations are covered by a carryover arrangement may be taken.
6	Limitation or restriction decision	A decision to limit or restrict the use or trade of ETWRs.
7	Risk of spill decision	A decision to release advice about potential impact to spillable water accounts.
8	Member or customer offer decision	A decision by an IIO to offer eligible members or customers the opportunity to purchase excess allocation.
9	Network distribution decision	A decision by an IIO to distribute additional water to members or customers as a result of efficiency gains or similar within a network.
10	Change to network or scheme decision	A decision to expand, or reduce the size of a network or scheme, including a decision to increase or decrease the number of ETWRs within the network or scheme.



1.1. What should be prescribed in the regulations as a 'water markets decision'?

Draft position:

Overall, NIC is concerned by the risk that these regulations will lead to a significant regulatory, administrative and financial burden on IIOs, which in turn, poses time delays and a risk to efficient and effective operations. NIC recommends that either:

- A threshold is needed so these provisions only apply to significant or major decisions, and will not capture smaller 'decisions' which do not pose the same risk to the market (but do pose these same regulatory burdens); OR
- Certain 'decisions' of an IIO are omitted/exempt, where they are not considered to be within the intent of the provisions, such as if they are minor, and the regulatory burden outweighs the benefits.



1.2. How should water markets decisions be announced?

- *Section 101B(1) of the new Part 5A to the Water Act will require a person who makes a water markets decision to ensure that water markets decisions are first announced by one of two methods:–*
- **Method 1:** *The decision is provided to the Bureau for the purpose of publication, or*
- **Method 2:** *The decision is first announced in a manner prescribed by the regulations (and then reported to the Bureau).*

32. DCCEEW is interested to understand stakeholder views on the above, and particularly if there are other methods that should be prescribed in regulations that ensure fair access to the announcement of water markets decisions? If so, why?

33. DCCEEW is also interested to understand from stakeholders what is regarded as a 'reasonable period' in the context of a water markets decision being made generally available for the attention of interested members of the public?



1.3. If a person is providing a decision to the Bureau for publication as the means of first announcement, what details about the decision must be provided?

Table 2: Proposed details to be provided to Bureau for publication of a water markets decision, to be prescribed in regulations.

Detail	Description
Decision ID	Unique identifier number (reference number) for the decision from the data provider's source system.
Decision name (Heading)	A short (one sentence maximum) name that identifies the decision.
Decision summary	Summary description of the water markets decision. Note that this may potentially be optional if the Bureau is provided with the Decision name and text.
Decision text	Full text of decision announcement.
Decision area	List of water systems (e.g. catchment, water management area) trading zones that the water markets decision relates to and/or irrigation network or water service infrastructure (e.g. in relation to water delivery rights).
Related ETWR type	ETWR and reliability type that the water markets decision relates to and/or irrigation network or water service infrastructure (e.g. in relation to water delivery rights).
Methodology	Description of any calculation or methodology used by decision makers that is relevant to the water markets decision.
Reference links	Weblinks to reference documents if applicable (e.g. Water Sharing Plan, Strategic plan).
Announcement date and time	The date and time that the Bureau is to publish the decision. (The preference would be for the Bureau to publish the decision and associated metadata immediately once it is received from the organisation. In that instance the announcement date and time will be determined by the time at which the decision information is provided to the Bureau).
Name and contact details of decision maker(s)	Name and contact details of decision maker(s) to be retained as metadata (regulator access only).

Method 1

36. DCCEEW is interested to understand stakeholder views on the above, and particularly if there are any other details that should be included or details that should be omitted from this list? If so, why?



1.4. If a water markets decision is not provided to the Bureau for publication as the means of first announcement, what is to be reported to the Bureau and by when?

Method 2

Table 3: Proposed details to report about an announcement of a water markets decision, to be prescribed in regulations.

Details	Description
Decision ID	Unique Identifier number (reference number) for the decision from the data provider's source system.
Decision name (Heading)	A short (one sentence maximum) name that identifies the decision.
Decision summary	Summary description of the water markets decision.
Decision text	Full text of decision announcement.
Decision link	A web link to the full text of decision announcement.
Decision area	List of water systems (e.g. catchment, water management area), trading zones that the water markets decision relates to and/or irrigation network or water service infrastructure (e.g. in relation to water delivery rights).
Related ETWR type	ETWR and reliability type that the water markets decision relates to.
Methodology	Description of any calculation or methodology used by decision makers that is relevant to the water markets decision.
Reference links	Weblinks to reference documents if applicable (e.g. Water Sharing Plan, Strategic plan).
Announcement mechanism	The type of mechanism for first announcing the decision and making the decision generally publicly available.
Announcement mechanism detail	Details of the mechanism for first announcing the decision and making the decision generally publicly available (e.g. website URL).
Announcement date and time	Date and time of first announcement of the decision.
Name and contact details of decision maker(s)	Name and contact details of decision maker(s) to be retained as metadata (regulator access only).

40. DCCEEW is interested to understand stakeholder views on the above, and particularly on the following:
- Are there other details that should be included or details that should be omitted from the list above? If so, why?
 - Is the reporting period of 24 hours of the announcement being made appropriate? If not, why?



1.5. Manner or form for reporting decision information to the Bureau

The Bureau is developing a new Water Data Hub which will allow for secure provision of water markets decision information. The Water Data Hub will accommodate several methods for provision of data (manner of provision) via an online data provider portal, which are expected to include:

1. a form or capacity for manual file upload
2. API interface
3. Secure File Transfer Protocol (SFTP).

The form or format of the water markets decision information will need to be such that it can be automatically ingested by the Water Data Hub, appropriate to the manner of provision.

Email not currently considered.

46. In providing a submission on the above, DCCEEW is particularly interested to understand stakeholder views on the following:

- a. Are there other ways or forms in which the information should be able to be provided? If so, why?
- b. Is this information already reported to other government agencies or bodies?



1.6. What records are to be kept?

Legislation	Regulation (proposed)
<p>A person who makes a water markets decision will be required to keep the following records in relation to the decision for at least 5 years commencing on the water markets decision date:</p> <ol style="list-style-type: none">1. The fact that the water markets decision was made and the date on which it was made (section 101C(1)(a)),2. If the water markets decision was provided to the Bureau under section 101B(1)(a) – all the details provided, and the date and time on which the water markets decision was provided (section 101C(1)(b)),3. If the water markets decision was not announced under section 101B(1)(a) – the date, time, manner and content of the announcement of the water markets decision (section 101C(1)(c)), and4. any other information as is prescribed by the regulations (section 101C(1)(d)).	<p>It is proposed to also include in the regulations records of the following:</p> <ul style="list-style-type: none">• The name of the person that made the water markets decision, and• If the water markets decision was not announced under section 101B(1)(a):<ul style="list-style-type: none">– all information which is required to be reported, and is reported to the Bureau under section 101B(3), and– if not otherwise prescribed under Regulations for the purposes of section 101B(3), the date and time on which the decision was reported to the Bureau and the name of the person that reported it.

50. DCCEEW is interested to understand stakeholder views on whether there is any other information that should be required to be kept as a record of a water markets decision and first announcement? If so, why?



General business

- What are the risks?
- What are the opportunities?
- What can we change (regulation), what can we not (legislation)?
- Note timing for regulations to commence (post buybacks)


Decision-point: Next steps for NIC



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