QUEENSLAND FARMERS' FEDERATION

Public submission on ACCC Water Trading Rules Position Paper
By the Qld Farmers Federation
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Queensland Farmers' Federation (QFF) is the peak body representing and uniting 16 of Queensland's rural industry organisations who work on behalf of primary producers across the state. QFF's mission is to secure a sustainable future for Queensland primary producers within a favourable social, economic and political environment by representing the common interests of its member organisations'. QFF's core business centres on resource security; water resources; environment and natural resources; industry development; economics; quarantine and trade.

Our goal is to secure a sustainable and profitable future for our members, as a core growth sector of the economy. Our members include:

- Australian Prawn Farmers' Association,
- CANEGROWERS,
- Cotton Australia,
- Growcom,
- Nursery and Garden Industry Queensland,
- Queensland Chicken Growers Association,
- Queensland Dairyfarmer's Organisation,
- Queensland Chicken Meat Council,
- Flower Association of Queensland Inc.,
- Pork Queensland Inc.,
- Biological Farmers of Australia
- Fitzroy Food and Fibre Association,
- Pioneer Valley Water Co-operative Limited,
- Central Downs Irrigators Limited, and
- Burdekin River Irrigators Association
- Queensland Aquaculture Industries Federation

Summary Position

QFF believes the Basin Plan and catchment water resource plans must provide the frameworks required for the implementation of water trading. The 'preliminary positions' put forward in this paper are very broadly stated principles which would provide some guidance for the preparation of the Basin Plan and the catchment water resource plans and a basis for evaluating the performance of the plans. However, the value that would be derived from converting broad principles into specific trading rules is questioned. Care would need to be taken to ensure any rules do not impede the catchment planning process from implementing frameworks that will facilitate trading within and across catchments.

The following section provides specific comments on the preliminary positions put forward by the ACCC drawing attention to the difficulty of drafting specific rules to put these 'principles' into practice. QFF recommends that the ACCC develop a set of principles that could be included in the Basin Plan to guide, monitor and evaluate the trading frameworks implemented by the catchment planning process.

Queensland Farmers Federation response to Preliminary Positions

<u>Section 3 - Water access rights — general matters</u>

3.1 Ownership restrictions

(3-A) There should not be specific restrictions on the ownership of water access rights by particular classes of entities such as non-landholders, environmental water holders and urban water authorities.

(3-B) Basin states should be able to restrict the ability of an individual to own a water access right on the basis that the individual has been in breach of water legislation or owes money for water charges.

QFF – agree with these principles

3.2 Co-held water access rights

(3-C) The ACCC considers that there may be barriers to trade generated by:

- an individual who is a co-holder of a water access right having to obtain the approval of other co-holders and
- the administrative process of obtaining the approval of other co-holders before subdivision or trade of the jointly held water access right.

(3-D) The ACCC considers that basin state governments should review the existing arrangements for trade or subdivision of co-held water access rights by members of a co-holding that are not related entities.

QFF – agree with these principles but implications for state regulations should be checked.

3.3 Unbundled water rights

(3-E) The approval of an application to trade a water access right should not be conditional on the purchaser holding, obtaining, trading or terminating:

- a water delivery right, or
- a water use approval

where these rights or approvals are governed through separate instruments or processes.

(3-F) The approval of an application to trade a water access right should not be conditional on the purchaser being the owner or occupier of land.

QFF – agree with these principles but implications for state regulations should be checked

3.4 Restrictions based on the intended use of water

(3-G) In the case of tradeable water access rights, the ACCC believes that:

(i) there should be no restrictions on trade due to the purpose for which the water has, is currently, or will be used

QFF – water resource plans in the QMDB prohibit changing entitlements from urban to other purposes to ensure that water supply entitlements needed for towns in rural areas are preserved. In other areas, such as South East Qld, only one purpose is defined for all entitlements (urban and rural) but restrictions apply to conversions. This issue must be addressed in the preparation of each catchment water resource plan and should not be regulated Basin wide.

(ii) exit fees (or fees of a similar nature) should not be charged by an IIO solely for the reason that a water access right has been traded and will be used outside of the IIO's irrigation network

QFF – This issue should have been addressed in the water market rules.

(iii) the purpose for which water arising from a trade is used should not be restricted as part of the trade approval process (water use on land should be separately addressed through use approvals)

QFF - Agreed but care needs to be taken to ensure that requirements affecting the use of water on farm don't restrict trade.

(3-H) The ACCC also considers:

- There should be no exemptions from water trading rules for, or additional restrictions placed on, environmental water holders.
- Water access entitlements and water allocations held by environmental water holders should be treated no differently to water access entitlements and water allocations held by any other person.

QFF – Agreed however the environmental water holder will need to comply with an environmental watering plan and accordingly any water that the holder may have available to trade permanently would have to be approved as not required to meet the requirements of the plan. Temporary trades must also not limit the ability of the environmental water holders to meet plan requirements.

3.5 Stock and domestic water use

(3-I) Both stock and domestic rights could be made tradeable where existing stock and domestic rights are converted into water access entitlements, provided that there are adequate safeguards in place to meet critical human needs in the event of very low allocation levels, and that no new stock and domestic rights are created.

(3-J) New stock and / or domestic water needs should be sourced through the market, rather than simply issuing new stock and domestic rights.

QFF – Any regulation must not bind a jurisdiction to create tradeable entitlements for existing or new stock and domestic water rights.

3.6 Trade into and out of the MDB

(3-K) A water access right trade should not be refused on the basis that the water will be used in an area outside of the MDB (and the use of water inside the MDB should not be restricted solely because it was taken from a water resource outside of the MDB). Relevant use approvals would be required in any case.

QFF – The impact of any inter-basin trade on the Basin and relevant catchment plans must be assessed through a formal process before a trade is approved, this assessment could be done as part of the making of use approvals.

3.7 Environmental impacts resulting from trade

(3-L) Water trading should occur within the environmental bounds set through the water planning process.

QFF – Agree with this principle

(3-M) Where environmental impacts result from the use of water on land (e.g. salinity), these impacts should be managed through separate use approvals, not restrictions on trade.

QFF – Agree with this principle

3.8 Over-allocation and overuse

(3-N) Water access right trades should not be conditional on a reduction in the trade volume to address over-allocation.

(3-O) Trade within an over-allocated system should not be restricted solely on the basis that the system is over-allocated.

QFF – It is assumed that water trading rules are to be included in the Basin Plan and implemented through catchment water resource plans when they are reviewed and implemented in the QMDB from 2014. It is also understood that the Plan will address the over-allocation issue and require entitlements to be adjusted through catchment water resource plans to meet sustainable development limits. Trading arrangements can then be put in place within the planning framework.

3.9 Conversion between priority classes

(3-P) The ACCC recommends against allowing for conversion between priority classes of water access rights. The benefits of allowing conversion may be realised through more efficient water market, and the potential disadvantages may be severe in terms of third party impacts.

QFF – Disagree - The water resource planning process should be able to address whether conversions should be allowed or not. A trading rule should not constrain the water planning process in this regard.

3.10 Carryover

(3-Q) There should not be restrictions on trade specific to water carried over, nor should there be any specific exclusion of traded water from having access to carryover (assuming other criteria, such as the possession of a water access entitlement, are met).

(3-R) Where continuous sharing arrangements are not in place, the ACCC supports the use of a 'spillable water account' with no limits on carryover volumes.

QFF – Agreed but it must be recognised that carryover arrangements that are suitable for implementation in a scheme are defined and implemented through operating licences granted to IIOs to meet water resource planning requirements for the particular scheme. It may not be feasible to implement carry over in QMDB schemes that don't have continuous sharing arrangements.

(3-S) Relevant agencies should determine appropriate signals about the likelihood of carryover water being available (and the timing of that availability in the season) and how this should be communicated to water access right holders. This could possibly be linked to the tiered water sharing arrangements in the Basin Plan.

QFF – Disagree - It is not considered that it would be feasible for agencies such as IIOs to provide these forward seasonal forecasts with any confidence in QMDB schemes.

3.11 Metering

(3-T) Both the seller and buyer of a water access right should have an approved meter installed for all off-take points (except where the water is held independently of land or where the seller does not retain any water access rights).

(3-U) The meters should be compliant with relevant National Standards or Framework, such as that being developed through the Water Metering Experts Group.

QFF – Partially agree - The need for metering to an acceptable standard is accepted but it is questioned whether this issue should be addressed in water trading rules.

Section 4 - The 4 per cent limit

(4-A) As the rationales for the 4% limit are better addressed through other mechanisms, the ACCC believes that the 4% limit should be removed throughout the MDB.
(4-B) If not already removed, a limit on the volume of trade out of an area (other than for environmental or physical reasons) should only be applied on permanent trades of water access entitlements (of any priority class) out of an irrigation area *as defined in the NWI* (that is, the area managed by an operator, rather than a number of particular areas within an operator's network).
(4-C) If not already removed, any such limit should be raised according to a minimum transition path and must be completely removed by 1 July 2014.

QFF – Has no comment on this issue

Section 5 - Water access rights—approval processes

5.1 Approval Times
(5-A) As long as COAG and NRMMC service standards are subject to ongoing review, monitoring and public reporting, there does not appear to be a compelling case to impose maximum approval times for trades of water access rights at present. However, should there be evidence of a continual failure to meet service standards; mandated approval times should be further considered.

QFF – Agree with this principle

5.2 Consideration of applications by multiple approval authorities
(5-B) Basin states should investigate the potential for trade approval authority cross-delegations to enable a trade approval authority in one state to carry out specified approval functions on behalf of an interstate approval authority. This could potentially reduce processing times but would need to be considered carefully.
(5-C) Over time, basin states should consider the merits of consolidating trade approval functions into one approval authority.

QFF – Agree as a recommendation regarding further investigations but this is not a matter for regulation

5.3 Information sharing between approval authorities
(5-D) There are likely to be significant benefits in making approval authorities' systems interoperable, or otherwise providing authorities with the opportunity to access information contained on each other's systems. The ACCC notes the work being done by the National Water Market System in this regard.

QFF – Agree as a recommendation for attention but this is not a matter for regulation

(5-E) Jurisdictions should prioritise work towards a common registry system as part of the National Water Market System.

QFF – Agree as a recommendation for further investigation but this is not a matter for regulation

5.4 Applications to trade
(5-F) Jurisdictions should seek to standardise their application forms as much as possible. It may also be useful for jurisdictions and the MDBA to develop standard application forms for interstate trades

that would include all information required by the relevant approval authorities to approve the transaction.

(5-G) Basin states should provide a facility to allow electronic lodgement of applications to trade a water access right, where this is not currently possible.

QFF – Agree - in principle although it is understood that both propositions have been subject to some investigation already and a number of significant impediments have been identified. Further investigation may be warranted into ways to address identified impediments.

5.5 The role of water market intermediaries

(5-H) There is insufficient evidence to support the introduction of specific regulation of water market intermediaries.

QFF – Agree with this principle

5.6 Approval authorities' other activities

(5-I) Approval authorities' other activities may give rise to potential or perceived conflicts of interest that may have the potential to undermine the water market. This is particularly where a conflict of interest is not disclosed to other parties to the transaction. This issue deserves closer attention by government.

QFF – Agree - There is a need to investigate whether SunWater's role in determining announced allocations may give rise to a potential or perceived conflict of interest.

(5-J) Basin states should consider requiring their trading approval authorities to disclose whether they have any interest in a water access right (other than in their approval role), to all other parties involved in a potential trade of that right. It may also be appropriate to require trade approval authorities to inform the market of any water trade to which they have been a party.

QFF – Agree with this principle

Section 6 - Water access rights—location matters

6.1 Trade in regulated systems

(6-A) Water resource plans should define trading zones for regulated systems, on which location-specific trading rules are referenced. The rationale behind each zone should be explicitly stated in the water resource plan (for example, environmental or physical constraint).

QFF – Agree with this principle

(6-B) While differences in jurisdictions or management authorities may require different trading zones, they should not (in isolation) limit trade between these two zones.

QFF – Agree with this principle but this is addressed in the planning process and should not become a trading rule

(6-C) The ACCC supports the following principles in relation to regulated systems (based on the MDBC manual):

- trades within a trading zone should generally not be restricted
- downstream trades between hydrologically connected systems should generally be possible

- where a downstream trade is impeded by a physical constraint to channel capacity (and delivery shares across that constraint have not been created), it should only be approved as back trade
- where an upstream trade is made into a separate hydrological system, it should only be approved as back trade
- trades should be possible between the upper reaches of regulated river systems that converge downstream, provided that any supply obligations of the original location's river below the point of confluence, which may be affected by the trade, are assumed by the destination location's river
- upstream trades from a location supplied by more than one source to a location supplied by only one of those sources should be possible, but may be subject to special limits and conditions.

QFF – Agree with principles of this nature but it is questioned whether dot points 4 and 6 could be implemented in the QMDB

(6-D) Trading zones and water trading rules that refer directly to these zones should be re-assessed and if necessary amended in the event that hydrologic connectivity or physical or environmental constraints change.

QFF – Agree although re-assessment of trading zones and associated rules needs to be conducted in the context of defined arrangements for the monitoring and reporting on the implementation of water resource plans and any arrangements for the review of these plans which in Qld is every 10 years.

(6-E) The current and likely future magnitude and variability of river transmission losses in the MDB should be assessed, and, if found to be significant, options to account for these losses should be explored.

QFF – Agree although it is also considered any re-assessment of transmission losses needs to be conducted in the context of defined arrangements for the monitoring and reporting on the implementation of water resource plans and any arrangements for the review of these plans.

(6-F) Operators should regularly provide information to market participants about the likelihood of short-term changes to trading restrictions due to changes in hydrologic connectivity. This information should include relevant values (such as trading volumes or storage levels) relative to defined trigger values, estimates of transmission losses, the use of available delivery capacity and back trade opportunities.

QFF – Agree - Market participants should be kept fully informed of reassessments as outlined in 6D and 6E.

(6-G) Tagging, and not exchange rates, should be used to manage the trade of water access entitlements between trading zones in regulated systems.

QFF – Agree with this principle

(6-H) The administrative process associated with tagging should provide irrigators with the option of how they access allocations made to their tagged entitlement, including the option for allocations to be automatically transferred to the irrigator's account in the area of destination according to set criteria.

QFF – Agree with this principle

6.2 Trade in unregulated systems

(6-I) Water resource plans should consider the potential for trade of water along rivers which are intermittently connected. To inform this process:

- more detailed information should be established and publicly reported about delivery losses
- arrangements for better communication between water users about options to minimize delivery losses for such trades should be investigated
- if triggers are used to define hydrologic connectivity, these should be clearly stated, reported against and communicated.

QFF – Agree with this principle but question the need for this as a trading rule

(6-J) Where the likely benefits outweigh the likely administrative costs, trading zones should be established for unregulated rivers, defining areas within which trade can occur without detailed assessment. These trading zones should consider:

- that hydrology should be homogeneous within the zone
- the location of important environmental assets and major off-takes
- the existing volume of available water and likelihood of further development
- transmission losses and local catchment inflow.

QFF – Agree with this principle but question the need for this as a trading rule

(6-K) Options for improving the clarity and excludability of water access rights in unregulated systems should be examined. This should include an investigation of a range of management strategies including rostering, restrictions and options to 'shepherd' water through zones, while recognising that different management approaches may be better suited to different stream types.

QFF – Agree with this recommendation for further investigation.

(6-L) In unregulated systems that are heavily used, trading rules should be established with reference to trading zones to enable trade between zones. In other unregulated systems, processes should be implemented to enable the assessment of individual trades between zones on a case-by-case basis.

QFF – Agree with this principle which should be addressed in the preparation of catchment plans.

6.3 Trade between regulated and unregulated systems

(6-M) Exchange rates should not be used as a mechanism to manage trade between regulated and unregulated systems.

(6-N) Further options to manage trade between unregulated and regulated systems should be considered. The conditions for such trade may vary between catchments. It may be appropriate to have unregulated and regulated trading zones in place for the same river reach. This investigation should be run parallel to any process of investigating trade options within unregulated systems.

QFF – Disagree - It is not accepted that there can be trade between regulated and unregulated systems in QMDB

6.4 Trade in groundwater systems

(6-O) Trade of groundwater access rights should be allowed within groundwater trading zones.

(6-P) Trade should not be permitted between groundwater trading zones that are not in the same aquifer.
(6-Q) Consideration should be given to assessing groundwater extraction rights (which specify location and conditions of use) as a separate process to trade of groundwater access right. Impacts on neighbouring bores and surface water users could be assessed as part of the groundwater extraction right assessment.

QFF – Agree but these principles should be addressed through the water resource planning process

(6-R) The MDBA and state authorities should investigate the feasibility of tradeable extraction rights (pumping rates) in groundwater zones that are heavily utilised.

QFF – Agree with this recommendation for further investigation

6.5 Trade between groundwater and surface water
(6-S) Trade between groundwater and surface water would only appear feasible when:

- there is a high level of connectivity and well defined and clearly understood lag time
- the groundwater and surface water systems are managed as a single resource (that is, with a common water access right governed by common extraction conditions, and a single diversion limit).

QFF – Agree but this principle should be addressed through the water resource planning process

6.6 Farm dam trade
(6-T) Trade of farm dam water access rights within the same catchment should be assessed on an individual basis and —in order to provide appropriate protection of third party interests—would need to consider the following:

- the farm dam has been duly authorised under the law of the basin state
- the new location is in the same zone as the original farm dam
- new dam construction in the zone is capped for that particular water use type
- the size of the dam is comparable
- the catchment areas (or inflow volume) of the two dams are similar in size
- third party impacts are assessed at the new location and potentially impacted parties are consulted.

(6-U) Trade does not appear feasible between farm dams and surface water systems while providing appropriate protection to third party interests.

QFF – Agree with these principles

Section 7 - Water delivery rights

7.1 Specific and separate water delivery rights and 7.2 Trade in water delivery rights
(7-A) IIOs should clearly specify the volume/unit share of their customers'/members' access to their irrigation network under a water delivery right. The water delivery right should be explicitly provided for in a contract or agreement for delivery services.
(7-B) An IIO may not require a person to obtain, terminate or vary the volume of a water delivery right as a result of, or condition for approval of, a trade of a water access right or an irrigation right.

(7-C) IIOs should not unreasonably prevent, deter or delay the trade of water delivery rights between persons who own or occupy land that is serviced by their irrigation network. Factors that may inform whether a trade has been unreasonably prevented, deterred or delayed include:

- overall capacity in the network
- capacity in the parts of the network where the water delivery rights would potentially be traded to
- connectivity of the network (i.e. whether there is one large network or several component networks that are not physically connected)
- payment of previous water access fees or security for future water access fees and other relevant charges
- the amount of water delivery rights reasonably required to irrigate a person's property
- ensuring the necessary administrative arrangements are in place to assess and give effect to a trade in water delivery rights.

QFF – These principles are agreed with the proviso that it is feasible to implement tradeable delivery rights in specific schemes.

Section 8 - Irrigation rights

8.1 Specifying the volume/unit share of irrigation rights and 8.2 Trade of irrigation rights

(8-A) Where an IIO does not have a written contract with each of its irrigators outlining each irrigator's individual entitlement to receive water under their irrigation right, the IIO should make a determination of the volume of water or unit share of all irrigation rights held against that IIO.

(8-B) To facilitate informal and possible formal negotiations in the event of a dispute between the parties, the IIO should provide written details to support the determination of the volume of water or unit share of all irrigation rights held against the IIO.

(8-C) IIOs have significant incentives not to restrict the trade of irrigation rights. In addition, there is a strong countervailing threat of irrigators seeking to transform their irrigation right and employing the protections offered to irrigators under the water market rules. In light of these considerations, there does not appear to be a compelling need to specifically prohibit IIO restrictions on the permanent or temporary trade of irrigation rights within, outside or into an IIO's network.

QFF – No comment as entitlements held by irrigators in QMDB schemes

Section 9 - Reporting and the availability of information

9.1 Information regarding tradeable water right characteristics

(9-A) The ACCC considers that state governments should provide information about the different licensed water access rights (but not 'temporary' water allocations) available under the water management regime in their state.

The information would be provided according to a template and could contain the following information (if applicable):

1. Location (water source name)
2. Water source type (regulated, unregulated, groundwater)
3. Priority class
4. Total entitlement on issue of that kind
5. Reliability profile (both long-term and more recent)
6. Fees and charges payable by the holder of the entitlement
7. Applicable carryover policy
8. Dates of allocation announcements etc.
9. Information on how allocation levels are determined (for regulated systems)

10. Links to applicable trading rules, especially applicable trading zone rules
11. Areas where the entitlement, and where allocation made against that entitlement, can be traded (tagged) to
12. Areas from which water can be traded to the water source location.

For some of these categories of information, it may be sufficient for a link to be provided, as long as this is to a readily accessible source of information. The ACCC considers that links may be appropriate for item 6 and onwards.

The templates should be available at a central location (e.g. the NWMS National Portal or as determined by the MDBA).

QFF – Broadly these principles are accepted <u>but</u> how do these information requirements overlap with the Bureau of Meteorology reporting? Also is the detail suggested in some (eg reliability profiles both long term and more recent) justified in terms of the benefit/cost?

9.2 Information about trading rules and processes

(9-B) Governments should provide all applicable rules regulating the trade of water access rights to a central information point (which could be provided by the MDBA or the NWMS National Portal).

(9-C) IIOs should have to provide their own internal trading rules to the same central information point, on their website and/or upon request.

QFF – These principles are agreed

9.3 Trading volumes and prices

(9-D) Trading parties should be required to accurately report to approval authorities or registers on the consideration paid for all trades of water access entitlements and water allocations.

QFF – These principles are agreed

9.4 Allocation and policy announcements

(9-E) Water authorities should disclose how allocation levels are calculated whenever an announcement is made.

QFF – These principles are agreed

(9-F) Allocation announcements and announcements of market-sensitive policy changes (including changes to carryover conditions and changes in the ability to trade between trading zones), along with amendments to announcements, should be made to the entire market at the same time. Parties privy to these policy changes before such an announcement should not be permitted to trade relevant water access rights until the announcement is made.

QFF – These principles are agreed but it is unclear what arrangements will be adequate to cover the 'entire market at the same time'.