



# AWBA POLICY UPDATE

Wednesday September 25, 2019

## **BROKER WATER ACCOUNTS**

*The AWBA acknowledge that water brokers are free to invest in water should they chose to do so.*

*However, the AWBA acknowledge that there exists the potential (if water accounts hold a water brokers clients water allocation and also hold the water brokers own water allocation) for this to:*

- a. create a conflict of interest, and*
- b. create the perception in the wider market that the water broker has a perceived conflict, and*
- c. make it difficult to separate allocation held on a water account on behalf of clients from that of the brokers own personal water.*

*The AWBA also acknowledge that where an AWBA Member Water Broker actually participates in the personal trade of water allocation or water entitlements with the public (especially with a client) then a conflict of interest inevitably arises.*

*Consequently, the AWBA have, as a matter of promoting Industry Best Practice formulated the following policy to mitigate these issues.*

## **PROPOSED CODE OF CONDUCT AMENDMENT**

An AWBA Member Water Broker is allowed to own and trade water, in their own right, under the following conditions:

1. The Water Broker (or any entity controlled or substantially established for the benefit of the member Water Broker) must not buy or sell water allocations or entitlement or any associated Water Market product in their own right (or to any person in a prescribed relationship to the Member Water Broker) from his or her own clients or clients of the firm or Company for which they work either as an employee or subcontractor.
  - 1.1. For the purpose of clarity, an entity controlled or substantially established for the benefit of a Member Water Broker includes (without limiting the definition);
    - a Company;
    - a Trust;
    - a Partnership;
    - a Superannuation Fund; and
    - a person in a "Prescribed Relationship" to a Member Water Broker includes a spouse, de facto spouse, mother, father, sibling or child of the Member Water Broker.
2. Any Member Water Broker may transact water transactions through the use of services of another independent Water Broker, Solicitor, Accountant or similarly appropriately qualified independent person genuinely representing and giving independent advice to the counterparty to the proposed

transaction. The Member Water Broker must be seen to have been transacting genuinely at “arm’s length.”

### **AUDITED BROKER WATER ACCOUNTS**

An AWBA Member Water Broker is permitted to operate a Water Allocation Account in any State and with any Irrigation Authority (whether in the name of the Member Water Broker or of the Company or Firm through which they are employed) upon the following conditions:

- a. they have the appropriate written client authority to do so, and
- b. the purpose of doing so is to better facilitate the clients water trades, and
- c. the purpose for doing so is lawful, and
- d. no personal water allocation owned by the Member Water Broker is to at any time be held in such Water Account(s), and
- e. the Member Water Broker maintains timely records in sufficient detail as to record the identity and volumes of water allocation held by each client in such Water Accounts, and
- f. such water allocation is held in such Water Accounts on Trust for the client(s) for which it is held, and
- g. the Member Water Broker will annually have such records audited by a suitably qualified Auditor and such audit report shall be submitted by the AWBA Member to the AWBA at the time of their Membership renewal (or in the absence of having held any water allocation in Trust for clients in such Water Accounts during the twelve months preceding the application for renewal of membership to the AWBA, a written statement to that effect.)

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