

Diversions Management Water Trading Booklet

Yarra River Catchment
January 2009



Why is there Water Trading in the Yarra Catchment?

Water is a precious and valuable resource requiring careful management. Under the *Water Act 1989*, the State Government retains the overall right to the use, flow and control of all surface water and groundwater on behalf of all Victorians.

The *Water Act 1989* is the legislation that governs the way water entitlements are issued and allocated in Victoria. It defines water entitlements and establishes the mechanisms for managing Victoria's water resources.

Within the Yarra River catchment, Melbourne Water has the delegated responsibility to issue and manage surface water diversion licences. Approximately 1300 licences already exist for the taking of up to 38 billion litres of water per annum from waterways across the catchment.

In October 2006 a licensing cap was placed on the taking of additional water for commercial and irrigation use within the Yarra basin. Accordingly, no increase in allocations can occur within the Yarra catchment; a recognition that water is a precious and limited resource and that the Yarra basin is under some stress from existing water demands. The licensing cap has placed a limit on the total water available for commercial and irrigation use within the basin. Accordingly, persons wanting to obtain new or additional allocations must now purchase these through the water trading marketplace.

Water trading is also a cornerstone of the national water reform agenda, a strategy agreed by the Commonwealth, States and Territories to promote a sustainable and efficient irrigation industry while making sure our rivers stay healthy.

What is Water Trading?

Put simply, water trading is the buying and selling of water entitlements, or the water that is available under a water entitlement—at the discretion of the holder and at a price determined by market conditions.

What is Water Trading (continued)

Water trading throughout other parts of Victoria has demonstrated that an open trading marketplace can increase the value of water as a resource, encourage the movement of water to higher value uses and transfer water away from areas stressed due to over allocation.

Trading allows growers to:

- Increase their water reliability
- Manage droughts
- Expand their irrigation business
- Wind back their irrigation business/or change to less irrigation.

Because unused water has a market value, there is extra incentive to improve water use efficiency and improve economic and environmental performance. Tailoring your exposure to water shortage and your exposure to water price fluctuations by trading water is a relatively new challenge for some growers. The higher the level of entitlement you decide to hold, the more you may be sheltered from these influences. However, there can be a cost in having more capital tied up in the entitlement value if the water is not being used.

What are the Benefits in Trading?

- Trading promotes higher efficiency because water users can sell any surpluses they create or use them to increase their own production, such as by experimenting with a new crop grown under a different irrigation system.
- It will also be possible to subdivide a water entitlement into two or more new entitlements, or amalgamate several entitlements into a single larger one. Combined, these business tools enable the entitlement holders to consolidate their assets by moving them to the soils best suited for growing the crops they choose or provide opportunity for water users to switch to crops that generate higher profits or obtain higher yields.
- Water markets provide opportunities for water users to realise the value of their asset through sale, or earn an annual income by leasing or temporarily assigning their allocation.
- Environmental benefits flow from thriftier water use plus trading enables water to move to areas where more sustainable land use practices can be achieved.



In summary, water trading will ensure improved environmental and economic conditions by allowing water to be allocated to the use where it will be most highly valued.

Types of Trade

Licence holders may choose to trade their licensed water volume in part or in full and on a permanent or temporary basis.

(a) Part or full Trading

Trading is not restricted to just those people who are not using their licence at all. Licence holders who are using some of their water but hold a volume greater than what they require can trade the surplus water that they hold. Such trading can occur on a permanent or temporary basis (refer explanations below). In considering any trade, active licence holders should ensure they plan carefully and retain sufficient water to meet both their current and future demands.

(b) Permanent Trading

Permanent trade will result in the rights to water being transferred to the buyer permanently and the seller relinquishing all future rights of access to the volume being transferred. The volume is effectively sold outright to the purchaser and may be issued to the purchaser as a new licence.

(c) Temporary Trading

Temporary trade is like the leasing of water entitlements. Ownership of the licence volume remains with the original licence holder and temporary access is provided to the purchaser for the traded volumes. Temporary trades are issued on a year by year basis and must be renewed by the applicant for each subsequent year that the water is required. Any unused allocation cannot be carried over and is granted to the environment. At the conclusion of a temporary trade period the water allocation will revert back automatically to the original licence holder. The original licence holder remains responsible for payment of annual fees etc. throughout the temporary trade period.

Example: Farmer 'A' holds a licence for 40 megalitres (ML) per annum. He currently uses between 20-30ML per annum depending on the season. Considering his maximum demand at 30ML per annum, he wishes to trade 10ML of water on a temporary basis to Farmer 'B' for the next three years. A private agreement would be drawn up between the two parties to outline the volume, price and period agreed to. An application for a temporary trade would be made to Melbourne Water and once assessed, both parties would be advised of the outcome. If approved, Farmer 'A' would be advised of his reduced entitlement for the current season and Farmer 'B' advised of his increased entitlement and conditions of access. Although the private agreement between the farmers may be for a period greater than the current year, an application to temporarily trade the water would need to be made to Melbourne Water for each season in which the water is required. In most situations if the trade has been previously approved, it will be re-approved under the same or similar conditions.

Limitations to Trading

All proposals to trade water are subject to application being made and approval being granted by Melbourne Water. Approval will only be granted to trade water to a new location where it can be demonstrated that sufficient water is available at the new location without impacting adversely on the environment or on other existing users within the catchment.

In this regard trading of water to properties located downstream of the current pump location can be more readily supported as put simply the water previously pumped out at the current licence location remains in the stream until it reaches the new location and is pumped out with no nett difference to overall flows.

On the other hand, locations upstream of the current licence location or on different waterways altogether (cross-catchment trade) will often have very different flow conditions and may not be able to support more water being taken out. In such circumstances consideration will be given only where an off-stream dam can be used in conjunction with the proposed trade. More often such proposals cannot be supported at all.

Melbourne Water encourages parties seeking a water trade to investigate all opportunities to trade downstream or immediately local to their proposed location ahead of trying to relocate the water upstream or cross-catchment.

Downstream Trade – A trade is considered 'Downstream' if the location of the buyer or transferee is physically downstream of the seller or transferor.

Upstream Trade - A trade is considered 'Upstream' if the location of the buyer or transferee is physically upstream of the seller or transferor. The availability of water higher up in the catchment may be less than what occurs in the lower reach and this may place added pressure on the waterway. A dam will be required for such trades and access to water may be limited to nominated pumping periods.

Cross-catchment Trade - A trade is considered 'Cross-catchment' if the location of the buyer or transferee is on another stream system than the seller or transferor and the locations are not directly connected by flow. Such trades stand to have the same impacts as an upstream trade and support for such trades is subject to the same minimum requirements as outlined above.



Limitations to Trading (continued)

Local Trade – A trade is considered ‘Local’ if the location of the buyer or transferee is in close proximity of the seller or transferor. To be considered local, the trade must be within the same Sustainable Diversion limit (SDL) sub-catchment and with no substantial difference to contributing catchment area, channel form or flows.

Streamflow Management Plan Areas – In some catchments a Streamflow Management Plan (SFMP) may exist or be proposed. (A SFMP is generally undertaken on catchments where high demands or environmental stress is occurring. The plan sets out management arrangements to be put in place in order to manage the water resources in an equitable manner and ensure long term sustainability.) Permanent trade applications cannot be approved in catchments that have been declared Water Supply Protection Areas and are pending development of a SFMP. Temporary trades will be assessed in such areas during the Management Plan development period. Once a Management Plan has been approved, trading will be subject to any rules outlined in the plan

How Do I Find Water to Trade? / How do I Trade My Water?

Melbourne Water maintains a register listing licence holders who have indicated a willingness to trade all or some of their water entitlement. People looking to purchase water can obtain copies of the list by contacting the Diversions Team at Melbourne Water on 13 17 22.

Licence holders thinking of trading water are encouraged to place their details on the register so that prospective purchasers may be put in contact with you. There is no obligation to trade at any time.

Trade Negotiations

Trading of water entitlements remains a private negotiation between the buyer and seller. Prices are determined through negotiation and thus are set by the open market and the normal influences of supply and demand. Melbourne Water is unable to provide advice to individuals on how much to pay or sell their water for and can only provide general information around the market and past trades based on information known at the time.

Trade Applications

All applications for trade must be made on the appropriate Melbourne Water transfer form. An application will be considered by Melbourne Water when the following minimum tasks have been undertaken:

- Completion of a Diversions Permanent or Temporary Transfer Form (including the volume to be transferred and signatures of the vendor(s) and purchaser(s)).

Note:

- If a person executes the document on behalf of another person or party, they must provide evidence of their authorisation to act in that role. In the case of one or more of the licence holders being deceased, then the application must be completed by the executor of the estate and a copy of the will or probate document supplied to verify their capacity in this role.
- If the applicant is a Company name, evidence must be provided that the person(s) has authority to sign on behalf of the Company. (e.g. A current copy of Company Search not more than three months old. Company seal.). This can be obtained from www.asic.gov.au or your solicitor.

- Copies of the current Certificate of Title / Plan of Subdivision / Notice of Acquisition/ Disposition (not more than three months old) for all parcels of land where the water will be used. Details must be sufficient to accurately identify the subject land and land ownership.

Note:

- Proof of occupancy – Where management is under terms of a lease or partnership agreement, a copy of the lease or agreement must accompany the application to demonstrate the applicant's legal occupation of the land.



- Payment of the prescribed fee for transfer.
- Details of any and all proposed works associated with the proposal. (eg. Location and set-up of pumping works and ancillary equipment, construction of dams etc.)

Note:

- Separate approval may be required for the establishment and setup of any new pump / works on or adjacent to a waterway. Detailed plans showing the proposed works will be required. Refer Melbourne Water Guidelines for Waterway Offtakes and Works Plan Requirements available at www.melbournewater.com.au/diverters or contact the Diversions Team on 13 17 22
- The applicant must obtain and provide copies of consent from all landowners on whose land any pumps or lines will be situated.

Trade Applications (continued)

- if water is to be taken from a dam which is shared with other parties, the applicant must provide demonstrated evidence that they have entered into a dam sharing agreement outlining each parties' respective rights and interests in the dam with regard to the on-going water use, maintenance and liability
- Written approval or confirmation from Aboriginal Affairs Victoria (only required when a new licence or new works is to be issued)

Important Information

Please note: Failure to supply Melbourne Water with all of the above requirements will result in return of the application. Applicants should also note that once an application is lodged, a refund will not be provided should you choose not to proceed or the application is refused.

The extended dry conditions have lead to an increased number of Trade applications. Melbourne Water will endeavour to process your application within 8 weeks of receipt (excluding any time taken to meet advertising and referral requirements). Any trade application received after 31st March in any given year may not be processed for that current financial year.

Customers should be aware that during periods of high demand these timeframes may vary. To avoid delays in processing, please provide all the necessary documentation with your application and try to make any trade applications as early on in the season as possible.