

Tagged water use restrictions

Frequently Asked Questions – November 2019

Q. What changes are being made to tagged trade arrangements in December 2019?

A. On the 20 August 2019 the Minister for Water announced that all types of inter-valley trade, including use of allocation from tagged accounts, will be brought under the same rules in December 2019. This means that Victoria will be matching the rules allowing use of allocation from tagged accounts (tagged use) with the same rules for allocation trade between valleys. Tagged use will be restricted when inter-valley trade limits are closed.

The new restrictions are planned to take effect on 12 December 2019 to clearly translate the intent of Basin Plan trading rules into the Victorian framework.

Q. What is tagging?

A. Tagging is a way of tracking the source and use of water between valleys.

Tagged trade is an agreed approach across the Murray-Darling Basin for managing the trade of water entitlements between valleys without having impacts on other entitlements.

Tagged trade is also a way for customers to use water allocation that they own in other valleys. It is like having a direct debit arrangement rather than having to do a new allocation trade each time water is to be used.

Q. What is a tagged account?

A. A tagged account is an allocation account which is located in one trading zone but marked for used in another. For example, an account in the Goulburn (e.g. zone 1A) can be marked for use in the Murray, either upstream or downstream of the Barmah Choke (e.g. zones 6, 6B and 7). This arrangement gives the holder of a tagged account the ability to use their Goulburn water in the Murray.

Q. Why has Lower Murray Water recently allowed tagged use?

A. The Minister's announcement on 20 August 2019 signalled the upcoming restrictions in December early, to allow water users to plan for the changes occurring during the 2019-20 season.

This means that Victorian water corporations need to apply the current arrangements for tagging consistently for all water users (no restrictions to tagged use).

Lower Murray Water and Goulburn Murray Water are both allowing their customers to use water from tagged accounts until the December 2019 changes take effect.

Tagged water use restrictions

Q. Can I still set-up a tagged trade arrangement after December 2019?

A. Yes, the rules governing tagging a water share for use in a different trading zone or to set up and trade water to a tagged allocation account remain unchanged. It is only the rules around when water can be used from a tagged account that are changing.

Water will only be able to be used from a tagged account when any relevant inter-valley allocation trade opportunity is also open.

Q. Why is this change occurring?

A. This action is part of the review of inter-valley trade rules in northern Victoria to ensure market settings are appropriate. The Victorian Government is ensuring that there is a level playing field in the water market and that all water users have access to trade opportunities under the same rules. The trade rules are in place to ensure the trade activities do not adversely impact the environment or the rights of other entitlement holders. These changes also align Victoria's regulatory framework with Basin Plan trading rules.

An important driver for implementing these changes ahead of the 2019-20 peak summer irrigation season is to protect the health of the lower Goulburn River downstream of Goulburn Weir. The river has been negatively impacted by long periods of high unseasonal flows needed to deliver traded water to the Murray over the last two years under existing rules. The Goulburn River is an important environmental, economic and community asset and how we manage the river needs to recognise this and strike the right balance.

Q. Where will the new restrictions on tagged trade apply?

A. Restrictions on tagged use will occur where trade limits come into effect in northern Victoria. The two rules that are relevant are the 'Goulburn to Murray' and 'NSW to Victoria' trade rules.

- **Goulburn to Murray trade rule** – this trade limit is currently closed. This trade rule controls allocation trade from the Goulburn, Campaspe and Loddon systems to the Victorian Murray and interstate. When the trade limit reaches 200 gigalitres, allocation trade is closed. Beginning 12 December 2019, Goulburn, Campaspe and Loddon system entitlements and allocations tagged to the Murray will be restricted from using such water while trade is closed.
- **NSW to Victoria trade rule** – this trade limit is currently open due to dry conditions and is unlikely to be triggered in 2019-20. The trade rule limits allocation trade from NSW to Victoria to the lesser of a net annual volume of 200 gigalitres or a volume that keeps the risk of spill in Victoria's share of the Murray system below 50 per cent. In the future should the trade limit be reached, NSW entitlements and allocations tagged to Victoria will be restricted from using such water while trade is closed.

Q. How will restrictions be implemented?

A. Water that is used by an irrigator and recorded in the Victorian Water Register when trade is closed will not be debited from their tagged account. Use instead will be debited against the water user's allocation account in the zone where the water was physically taken (their "local" account).

Tagged water use restrictions

Starting when restrictions take effect on 12 December, water users with a tagged account must also maintain at least one local account. For example, if a water user has a Goulburn allocation account tagged for use in the Murray, they must also have a Murray local account.

As part of putting in place these arrangements, a water user's existing local accounts will be identified. If a water user does not currently have such a local account, one will be created for them by their water corporation. A water user can also opt out of having one or more of their existing local accounts from being debited when a trade limit prohibits tagged use. However, at least one local account must exist.

Q. How will I know which is my local account?

A. Water users will be contacted directly by letter from their water corporation to let them know their relevant local account(s). Local accounts will be either an existing local account(s) linked to the same water-use licence (or water-use registration) as their tagged account, or if there is no such account, a new account will be created for them.

Q. How do I know that trade restrictions are in place?

A. A trade restriction is in place when there is no available trade opportunity between trading zones. It is possible to check the available trade opportunities with the 'Where can I trade?' web application on the Victorian Water Register webpage (waterregister.vic.gov.au) or directly at <https://waterregister.vic.gov.au/TradingRules2019/>.

The application provides the ability to check the current trade opportunity between trading zones either by checking the total available trade opportunity or by entering the volume you would like to move between the trading zones. The application also provides additional historical insights on trade limits.

Alternatively, a trade limit can be checked using the 'water market watch' mobile application. When the trade limit opportunity volume is reporting zero or negative, this means there is no opportunity to move water between trading zones. The application also includes functionality to set up notifications for when the trade limit changes, is above or below a user set volume in megalitres. The application is free to download from:

📱 Apple App store: <https://apple.co/2Z1sr3O>

📱 Google Play Store: <https://bit.ly/2Lsv2AP>

Q. What if I already have an approved order and trade restrictions take effect?

A. An approved order is not a guarantee use will be debited from the nominated tagged allocation account. Use will only be debited from the tagged account if trade is open when the water use is recorded in the Victorian Water Register.

Tagged water use restrictions

Q. What happens if I use water when tagged use is restricted?

A. If trade closes, use will not be debited from the tagged account. It is the responsibility of water users to ensure there is sufficient water in their local account(s) if there is a risk that they will take water at a time when trade limits are closed and tagged use is not allowed.

If a water user has more than one local account, then usage will be debited from the account with the most water first and then down to the account holding the least water in a descending order. Should usage exceed the amount available in the final local account, that local account will record a negative balance, meaning the water user will have taken water without authorisation.

Alternatively, users can choose to order against a local account rather than their tagged account if there is a risk of the limit closing.

Q. What happens if my local account records a negative balance?

A. Water corporations will work with water users through this initial transition season to ensure they are aware of the new rules and the applicable compliance actions that may result if there is unauthorised use of water when trade is closed.

If the trade limit is closed and there is insufficient water in the local account to cover the water taken, as represented by a negative balance in the local account, the relevant water corporation may do either or both of the following:

- bring enforcement proceedings against the holder(s) of the local account for an unauthorised taking of water which is an offence under the Water Act 1989.
- suspend or cancel the licence of any works used to take the water without authorisation.

The maximum penalties for such unauthorised takings have recently been increased. If the taking is knowingly done and results in land, water or works being seriously damaged or another person suffering substantial economic loss, a court can impose a penalty of up to \$198,265 on an individual (or up to 10 years imprisonment) or up to \$991,320 on a body corporate. If the person takes water recklessly (without authorisation), and causes serious damage or substantial loss, the maximum penalties are \$99,132 (or 5 years imprisonment) for an individual and \$495,660 for a body corporate. In the absence of serious damage or substantial loss being established, a court can impose a penalty of up to \$39,652 on an individual or up to \$198,264 on a body corporate for an unauthorised taking of water.

Q. How can I ensure I can continue to irrigate if trade opportunities only arise from time to time?

A. It is your responsibility to make sure that your allocation accounts hold enough water to meet your irrigation requirements. When trade opportunity between valleys is open only intermittently, water users may choose to trade their allocation between valleys from the tagged system to the local system to ensure that there is enough water in their local allocation account when the water is to be used. Water users with tagged accounts may also choose to

Tagged water use restrictions

sell their allocation in the source system (e.g. Goulburn) and purchase allocation in the system they plan to physically extract water, referred to here as the local system (e.g. Murray).

Q. Are there any exemptions to these restrictions?

A. Yes, the following categories of water users will have limited exemptions from the restrictions taking effect in December.

- **Rule 12.23 “grandfathered” exemptions** – Tagged water shares established before 22 October 2010 which are not restricted under Basin Plan Trading Rule 12.23, and hence referred to as ‘grandfathered’, will continue to be exempt in certain circumstances.
- **Lower Broken Creek** – Water users with water allocation held in an account from the Goulburn, Loddon or Campaspe system that is tagged for use in the Lower Broken Creek zone will be exempt while DELWP reviews the Lower Broken Creek zone’s unique circumstances as part of the current review of the Goulburn to Murray Trade Rule.
- **Identified Connections Project tagged arrangements** – water users that took part in the government-funded Connection project to create water savings, and whom had their sole supply point created in the Torrumbarry system and disconnected from the Loddon Valley system, will be given a transitional exemption from restrictions in certain circumstances to allow such affected water users time to re-structure their entitlement holdings.

These exemptions are explained in more detail below.

Q. What does it mean to be “grandfathered” under Basin Plan trading rule 12.23 in Victoria?

A. Basin Plan trade rule 12.23 sets out that orders for water under tagged arrangements are subject to the same restrictions as allocation trade. Trade rule 12.23 does not apply to tagged water access entitlements that were established before 22 October 2010 – these tags are often referred to as “grandfathered” tags. If changes are subsequently made, this may constitute establishing a new tagged arrangement.

Victoria’s new restrictions retain this exemption for tagged water shares, in which changes have not been made to the tagged arrangement since 22 October 2010. Any of the following changes would extinguish the grandfathering status and therefore the associated exemption:

- **source** – change in source of the tagged water share.
- **volume** – a division or consolidation of the tagged water share.
- **place of extraction** – change to the places the allocation is allowed to be extracted and used, as reflected by a change in the water use licence or change to the delivery system.
- **ownership** – change in the ownership of the tagged water share.

The exemption is limited to water allocations made under the grandfathered tagged water share, along with any related carryover. Water allocation that is traded into or out of the account is not exempt.



Tagged water use restrictions

An inter-state tagged entitlement considered grandfathered in Victoria is similarly exempt from Victoria's 'NSW to Victoria Trade Rule'. This exemption is limited to water allocations made under the inter-state grandfathered tagged entitlement, along with any related carryover. Similarly, water allocation that is traded is not exempt.

Note that the limit on trade out of the Murrumbidgee is a trading rule set by NSW. Restrictions on Murrumbidgee entitlements that are tagged to Victoria are determined by NSW in line with this rule.

Q. Will “grandfathered” entitlements under rule 12.23 always be exempt?

A. Victoria is committed to removing the remaining permanent exemptions from trade rules, including for tagged entitlements grandfathered under Basin Plan trading rule 12.23. Victoria will be raising this issue with the Australian Competition and Consumer Commission (ACCC) as part of its inquiry into water trading across the Murray-Darling Basin.

Q. Are there any other exemptions from restrictions?

A. Yes. Temporary exemptions will also apply in two cases – for Lower Broken Creek customers (Trading Zone 6B), and for specific customers that are impacted to a greater degree than most Victorian water users due to the physical transfer of their water supply from the Goulburn to the Murray side of inter-valley trade rules through the Connections Project.

Q. Why are Lower Broken Creek customers exempted from restrictions?

The Lower Broken Creek (Trading Zone 6B) is a small and unique trading zone as water is physically supplied by both the Goulburn system and the Murray system through GMW channels. Water delivered to this zone is not delivered via the lower Goulburn River and therefore does not increase the environmental risk to the lower Goulburn River.

Customers in this zone have historically been subject to more restrictive trading rules than other zones, which means that many are heavily reliant on tagged trade to meet their water needs.

Water users in this zone with accounts that are tagged from the Goulburn system will be exempt from the changes being put in place in December 2019 while the Goulburn to Murray trade rule is being reviewed over the next year.

Q. What trade activity will be allowed by Lower Broken Creek customers?

A. Lower Broken Creek customers will be able to continue to use water in 2019-20 from the Goulburn system via their tagged accounts, including traded water, even if the Goulburn to Murray trade rule closes and limits allocation trade. All other current trading rules for the Lower Broken Creek will continue while the Goulburn to Murray Trade Rule is under review.

Q. Will Lower Broken Creek customers always be exempt?

A. No, this is an interim measure as the government reviews the Goulburn to Murray Trade Rule. The review will consider Lower Broken Creek zone's unique circumstances, both in terms of appropriate restrictions on allocation



Tagged water use restrictions

trade and appropriate restrictions on use from tagged accounts. Public consultation on this trade rule review will begin in January 2020.

Q. What is the Connections Project?

A. The Connections Project is the largest irrigation modernisation project in Australia and a response to the Millennium Drought when inflows into Goulburn-Murray Water's storages hit an all-time low. The Project is modernising the irrigation infrastructure in the Goulburn-Murray Irrigation District to achieve water savings. When the project is complete – and the channels that lost water through leakage, seepage and evaporation are upgraded, reconfigured or rationalised – it's estimated that 429 gigalitres of long-term annual water recovery will be achieved.

Q. Which specific Connections Project customers are temporarily exempted from restrictions?

A. To enable the Connections Project to improve the level of service for customers and achieve water savings, a small number of irrigators on irrigation district boundaries that were previously supplied from one trading zone in the Goulburn have moved their sole supply point to a new trading zone in the Murray, prior to the Basin Plan trading rules coming into effect on 1 July 2014.

With the upcoming changes to how use of tagged water is restricted in December, those Goulburn-Murray Water customers who had their sole supply point for their property moved from the Loddon Valley to the Torrumbarry system would not be able to access their entitlements in the Goulburn system when inter-valley trade is closed.

Q. Why are these specific Connections Project customers temporarily exempted from restrictions?

The specific customers are impacted to a greater degree than most Victorian water users due to the physical transfer of their water supply from the Goulburn to the Murray side of inter-valley trade rules.

The entitlements that are eligible for exemption were already linked to specific water-use licence before changes were implemented through the Connections Project. These customers will continue to be able to use these tagged entitlements on their water-use licences for this transition period.

Q. What trade activity will be allowed by these specific Connections project customers?

A. The customers that have moved their sole supply point for a property from the Loddon Valley to the Torrumbarry system through the Connections Project will be able to use Goulburn water shares tagged for use in the Murray on the affected properties.

The amount of water that can be used will be limited to the entitlement volume of the affected tagged water shares and to the Annual Use Limit on the affected properties. Water allocation that is traded into or out of the account is not exempt.



Tagged water use restrictions

Q. Will these specific Connections project customers always be exempt?

A. No, this is an interim measure to enable these specific customers to have access to water on their properties this season, and to help them to plan for the future. They will be able to have access to using water from tagged Goulburn entitlements on their properties for a 12-month period.

The Victorian Government and the Connections Project will continue to work with the affected customers to define a long-term solution that enables these irrigators to continue to provide a valuable contribution to irrigated agriculture in Victoria.

The Victorian Government is committed to limiting the exemptions that exist under trade rules to provide a fair playing field for trade for all water users.

Q. How will I know if I am exempt?

A. Water users will be contacted directly by their Rural Water Corporation through letters to confirm if and why they are eligible for any of the exemption criteria.