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Cap and Trade of Extraction Share in the Ovens Water System

Consultation Paper



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Photo credit

Marie Umbach – photograph of the Ovens River near Bright

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it.

We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

DEECA is committed to genuinely partnering with Victorian Traditional Owners and Victoria's Aboriginal community to progress their aspirations.



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Why we're consulting

- If you are a river diverter in the **Ovens** declared water system (which includes the King and Buffalo rivers), your rights to a **share** of water available **during restrictions** have recently been **clarified** by changes to Victorian legislation.
- Your extraction share is your entitlement to a share of the flow of water available in the river during the period of restriction.
- As of 20 November 2023, a **cap** has been placed on the total amount of these extraction shares in the Ovens, to make sure that your share of available water during restrictions **cannot be diluted** by additional shares being issued.
- This paper explains why this cap was introduced as an **interim measure**, and how public consultation is being done on whether it should endure into the future.
- We would like to **hear your views**, including at the upcoming **in-person consultation session in Wangaratta**.

Restrictions in the Ovens declared water system

The 'Ovens declared water system' (Ovens system) comprises:

- Lake Buffalo and the Buffalo River downstream from Lake Buffalo to the confluence with the Ovens River
- The Ovens River from the confluence with the Buffalo River, downstream to Lake Mulwala (on the Murray) including the Tea Garden Creek and Maloneys Creek
- Lake William Hovell and the King River downstream from Lake William Hovell to the confluence with the Ovens River

The Ovens system has very different characteristics to other declared water systems such as the Murray and the Goulburn. The Ovens system is highly reliable with the storages expected to fill and subsequently spill in nearly every year. However, the capacities of the two storages, Lake Buffalo and Lake William Hovell, are very low relative to the annual stream flow volumes. This means that only a small proportion of the annual stream flow is harvested and stored. If unregulated flows and volume in storage are insufficient during the season, the system is operated like an unregulated river system, with restrictions.

Due to this 'semi-regulated' nature, the Ovens system is the only declared system in northern Victoria where restrictions have been required in recent years. These were triggered by low inflows into the relevant storage which limited the ability to meet all water users' demands. This occurred most recently on the King River in 2020 and 2013, and both the King and Ovens Rivers during the 2006-07 water year.

Data published by the Bureau of Meteorology shows a long-term trend of declining annual streamflows in the Ovens system over the past 60 years, with median annual streamflows since 1996 significantly lower than before 1996.¹ Given that a warmer, drier climate in Victoria is predicted into the future, with less rainfall in the cooler months leading to less runoff and less water available in river systems throughout the year, restrictions are likely to be required again and potentially more frequently in the future.

The need to restrict water users is determined by the monthly Ovens and King restriction assessments undertaken by Goulburn-Murray Water (GMW).

These assessments consider several factors, including predicted inflows to relevant storages for the remainder of the season, modelled demand (including systems losses, domestic and stock demand, irrigation demand, urban demand and environmental minimum flows), and the current storage levels.

¹ Source: <http://www.bom.gov.au/water/hrs/index.shtml#panel=trend-explorer&id=403224&pill=annual&control-10=trend>

Rights for river diverters during restrictions have been clarified

Extraction share is now enduring and can be capped

Victoria's new 'place of take' approvals framework commenced on 20 November 2023. This framework clarifies and protects water users' existing rights to take water when restrictions are required and provides greater flexibility for water users to manage their own risks.

In all declared systems, all water users who take allocation directly from waterways (i.e., river diverters) are restricted based on their '**extraction share**' in the rare event restrictions are required. A river diverter's extraction share is their entitlement to a share of the flow of water available in the river during the period of restriction. It is expressed in *megalitres per day* on the user's General Place of Take Approval ('GPT').

River diverters have held extraction share on the works licences for their pump(s) since water shares and other 'unbundled' entitlements were created in 2007. Under the new 'place of take' framework, a user's extraction share has moved from works licences to the new **general place of take approvals** and been converted into an enduring delivery right (previously it expired with the works licence – typically every 5 to 15 years).

The Minister for Water can now **cap total extraction share in an area** to protect the rights of existing entitlement holders in systems where the risks of restrictions are significant and increasing..

In all declared systems, the Minister has also set a '**land-based limit**' on how much extraction share can be held on a property to ensure no one holds excessive extraction share well beyond their irrigation needs. This land-based limit is set as a proportion of the user's annual use limit (AUL) for that land.

In capped areas, water users can increase their extraction share, up to the land-based limit, by trading with other users in the same rationing area. Further information on extraction share trading is available on the Victorian Water Register website: <https://www.waterregister.vic.gov.au/water-entitlements/about-entitlements/place-of-take-approvals>.

Restrictions are now based on extraction share, not water share

The introduction of the new 'place of take' framework changes the basis upon which users are restricted from taking water in the Ovens system. The framework will not affect how restrictions are assessed in the Ovens system or their likelihood of occurring.

Historically, in the rare instances when river diverters in the Ovens system have been restricted, their access to available water was calculated based on the volume of their high-reliability water share (HRWS) a user held. This was because the majority of restrictions in the Ovens system were implemented prior to unbundling of water entitlements in 2007, which introduced extraction share.

More specifically, during restrictions, water users' permitted take was restricted as a percentage of their HRWS entitlement volume over a ten-day roster cycle, with the percentage depending on the stage of the restrictions.

From November 2023 onwards, should restrictions be needed, Ovens system water users will be restricted based on their extraction share, consistent with all other declared water systems.

If restrictions are in effect for a given rationing area, GMW will communicate the proportion of their extraction share that users are authorised to take and the duration of the restriction period. In accordance with GMW's charter, irrigators are required to order water through WaterLINE – GMW's online and telephone water ordering system – to be able to take water in the event of restrictions being implemented. Irrigators will not be authorised to take water during a restriction without an order.

Those only taking water for domestic and stock use can also be subject to restrictions, but unlike irrigators, they do not have to order water to be able to access it during restrictions.

Table 1 below shows the restriction stages that apply in the Ovens system, before and after the place of take changes.

Before November 2023, during Stage 1 restrictions customers could access 10% of their HRWS entitlement (ML/year) over a 10-day period. Assuming a 100-day irrigation period each year, this equated to being able to take 100% of their entitlement overall, but with restrictions on *when* they could take via rostering. Stage 2 restrictions were effectively a 75% ration, again managed through a 10-day roster cycle.

Following November 2023, users will be restricted based on their extraction share, which is expressed as a **daily** maximum rate of take during restrictions (e.g., 1 ML/day). During Stage 1 restrictions, a 100% ration still applies, which is equivalent to using 10 times your daily extraction share amount over a 10-day cycle.

Table 1: Goulburn-Murray Water restriction stages in the Ovens water system, before and after commencement of the place of take approvals framework

STAGE	PRIOR TO 20 NOVEMBER 2023	CURRENT
1	10% of entitlement (HRWS) every 10 days	10 times extraction share every 10 days
2	7.5% of entitlement every 10 days	7.5 times extraction share every 10 days
3	5% of entitlement every 10 days	5 times extraction share every 10 days
4	2.5% of entitlement every 10 days	2.5 times extraction share every 10 days
5	Suspension	Suspension

This table shows that if a water user held an extraction share volume that is equivalent to **1% of their HRWS entitlement**, they would experience the same restrictions as in the past. This is shown with the following example.

Let's say two users, Person A and Person B, hold the following entitlements:

Table 2: Example of restrictions for water users

	Person A	Person B
HRWS (ML)	100	100
Extraction share (ML/day)	1	0.5
Extraction share as a percentage of HRWS	1%	0.5%

Assuming that Stage 1 restrictions are in effect, Person A and B will be able to take the following amounts:

Table 3: Example of the volume that can be taken under the restriction scenarios in Table 2

	Before 20 Nov 2023	After 20 Nov 2023
Person A	10 ML every 10 days	10 ML every 10 days
Person B	10 ML every 10 days	5 ML every 10 days

This example shows that for Person A, who holds extraction share equivalent to 1% of their HRWS entitlement, their situation during a restriction remains unchanged. Most water users in the Ovens are in this category. Meanwhile, Person B would be worse off during a restriction than before because they hold less than 1% of their HRWS entitlement in extraction share.

A transition mechanism has been introduced in the Ovens to address the issue of a small number of users facing harsher restrictions under the new approach. This mechanism is explained below in the Section '*Ensuring that no users are worse off under the cap*'.

The Ovens system has been capped as a precaution to protect existing rights

The cap on extraction share in the Ovens system

During the place of take consultation process held over 2022-23, a cap on extraction share was initially only proposed for the lower Murray (i.e., trading zone 7, from Barmah to the South Australian border). A cap in the lower Murray is necessary to address increasing delivery risks resulting from the long travel times for water involved and significant ongoing changes in supply and demand drivers.

The Ovens system does not face these same pressures at present. However, the Ovens is the only declared system in northern Victoria where restrictions have been required in recent times, and it is likely that restrictions will be required again in the future.

Issuing additional extraction share to existing or new users would lead to the dilution of existing rights, which in turn would mean tougher and earlier restrictions.

To avoid this, a cap on extraction share was introduced as part of the new place of take rules as an interim measure, while the merits of a long-term cap are considered.

This cap generally prevents GMW issuing further extraction share in the Ovens, which protects existing rights from dilution. Water users who want to hold additional extraction share to manage their risks can buy it from other users in their rationing area.

Through this public consultation process, DEECA and GMW are seeking feedback from water users in the Ovens system on the proposal to maintain the cap on extraction share.

Ensuring that no users are worse off under the cap

Users with low extraction share can apply for more

There is one specific exception to the cap on extraction share in the Ovens system to ensure that users aren't worse off than they were during past restrictions.

As explained above, the basis for restricting water users in the Ovens system has recently changed from HRWS entitlement to extraction share, and users with low extraction share stand to experience harsher restrictions as a result.

Most water users in the Ovens already hold a volume of extraction share that is equivalent to 1% of their HRWS entitlement. This provides them with a share of available water during restrictions that is equivalent to what they were previously entitled to based on their HRWS entitlement. The transition to restricting based on extraction share therefore does not negatively affect the proportion of available water they are entitled to in the event of restrictions.

However, a small number of water users in the Ovens system currently hold a volume of extraction share that is equivalent to **less than 1%** of their HRWS entitlement. As a result, without change, these water users would stand to experience harsher restrictions following the transition to restrictions based on extraction share.

To avoid this outcome, the rules allow these water users to apply for additional extraction share up to 1% of the HRWS entitlement they held just prior to 20 November 2023.

While this does imply a small increase in the total volume of extraction share in the system, this will not make other users' worse off than when they were rationed under HRWS. It simply ensures that no user has less entitlement to a share of a ration than they did previously.

Setting the land-based limit in the Ovens

Under the cap, water users in the Ovens who want to hold additional extraction share can buy it from other users, **up to the land-based limit for their property** (i.e., the limit on how much extraction share can be held on land).

Under the interim arrangements for the Ovens system, this limit has been set at **1% of a user's Annual Use Limit (AUL)**.

Most Ovens users currently hold extraction share at **0.67% of their AUL**. This is because at unbundling in 2007, most users were:

- issued extraction share that was equivalent to 1% of their HRWS entitlement, and
- issued an AUL volume at 1.5 times their HRWS volume (because this AUL reflected the additional volume of low or spill reliability entitlements that were also issued at that time).

In other words, their HRWS was two-thirds (67%) of their AUL. This is why their extraction share volume, equivalent to 1% of HRWS, is 0.67% of their AUL volume.

The land-based limit has been set at 1% of AUL to ensure that water users:

1. continue to hold extraction share proportional to land on which they can actually use water (their AUL) i.e., avoiding excessive accumulation beyond their actual irrigation needs; and
2. still have additional flexibility to manage their own delivery risks via trade.

This limit could be reconsidered as trends in trade and use of extraction share are monitored closely over the next few years.

Options for managing extraction share in the Ovens

The table below summarises the benefits and risks of the current approach to managing extraction share in the Ovens system and its alternatives. These considerations are further discussed in the following section.

#	Description	Benefits	Risks/Impacts
1.	Cap Land-based limit set at 1% of AUL Current interim approach and proposed option	<ul style="list-style-type: none"> • Avoids dilution of existing rights • Within the cap, users can flexibly trade extraction share to manage their own risks up to their land-based limit 	<ul style="list-style-type: none"> • Higher administrative and transaction costs than no cap
2.	No cap Land-based limit set at 1% of AUL	<ul style="list-style-type: none"> • Avoids higher transaction and administrative costs of a cap 	<ul style="list-style-type: none"> • Extraction share can still grow via new developments, causing dilution of existing rights and making most users worse off during restrictions • Existing users can apply for more extraction share up to their land-based limit, causing dilution of existing rights and making most users worse off during restrictions
3.	No cap Land-based limit set lower than 1% of AUL	<ul style="list-style-type: none"> • Avoids higher transaction and administrative costs of a cap • Limits potential growth of extraction share through a lower land-based limit 	<ul style="list-style-type: none"> • Extraction share can still grow via new developments, causing dilution of existing rights and making most users worse off during restrictions • Existing users can apply for more extraction share up to their land-based limit, causing dilution of existing rights and making most users worse off during restrictions • However, the lower land-based limit means users have limited flexibility to manage their own delivery risks

Key questions for consideration

Q. Are the benefits of capping extraction share worthwhile given the associated costs?

Without a cap, the total amount of extraction share in the Ovens system can continue growing. As a result, existing users' rights to a share of the water available during restrictions could be diluted, making them worse off during future restrictions. The main benefit of capping extraction share is therefore to prevent such an increase of extraction share and dilution of users' existing rights. Noting that the main risk of dilution of users' extraction share in this system comes from existing users applying for additional extraction share, rather than from new irrigation developments.

In an uncapped system, users can simply apply to GMW for more extraction share, up to their land-based limit.

Capping extraction share therefore will have the following implications for users.

- If a user wants to increase their extraction share, they will need to find a willing seller in the same rationing area and apply to GMW to trade that extraction share.
- When there is a change of ownership of land, if the buyer wants to get the extraction share previously held on the land, they will need to make sure that the previous landholder transfers that extraction share to them.

Q. Could the land-based limit be used to prevent growth of extraction share, instead of a cap?

Instead of capping extraction share, an alternative could be to set a lower land-based limit for water users in the Ovens system. This would prevent existing users from applying for much more extraction share and therefore reduce the potential for dilution of existing rights.

However, the land-based limit is not as effective at preventing growth of extraction share as a cap. This is because the cap prevents further issuing of extraction share altogether, while the land-based limit allows existing and new users to apply for extraction share up to this limit.

Preventing extraction share growth through a lower land-based limit also removes users' flexibility to manage their own delivery risks by acquiring more extraction share via trade if needed.

To prevent significant growth of extraction share in the Ovens system, the land-based limit would have to be set at a level which is well below what would be needed to satisfy the daily peak irrigation demands of crops in that system. This means that users would not be able to hold a volume of extraction share that would be sufficient to meet the water needs of some types of crops during restrictions.

Have your say on the future of the rules for extraction share in the Ovens system

The Victorian Government invites the community and interest groups to read this consultation paper and provide feedback to help determine whether a cap on extraction share is maintained in the Ovens in the long term, and in what form.

The aim of this consultation is to explore the key drivers of the need for a cap, and whether it should endure. It is also to explore any equity issues that have arisen from the transition to the place of take approvals framework and the introduction of a cap.

We would like to hear your views:

- Are you in favour of the cap on extraction share enduring in its current form?
- Are there any further issues or impacts resulting from the introduction of the cap that you would like to bring to our attention?

Anyone can make a submission to us by midnight 31 May 2024.

In addition, DEECA and GMW will run a **community information session** in **Wangaratta** on **24 April 2024** and we invite you to discuss your views in person. Details are on the Your Say @ GMW page on the GMW website (<https://yoursay.gmwwater.com.au/>).

Making a submission

To make a submission on this consultation paper, please go to the Your Say @ GMW page on the GMW website (<https://yoursay.gmwwater.com.au/>).

Submissions can also be posted to:

Ovens extraction share cap C/O Retail Entitlements and Trade Reform
Department of Energy, Environment and Climate Action
PO Box 500
East Melbourne Vic 3002

Or emailed to: water.markets@deeca.vic.gov.au

Submissions will not be made publicly available, except where individuals clearly state that they wish to make their comments public.