



# Victoria Government Gazette

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## Water Act 1989

### MINISTERIAL PROHIBITION DETERMINATION APPLICABLE TO PARTICULAR PLACE OF TAKE APPROVALS THAT ARE TAGGED – JUNE 2024

I, Harriet Shing, MP, Minister for Water administering the **Water Act 1989**, make this prohibition determination under section 64FZE of the **Water Act 1989** in the circumstances prescribed in regulation 6(1) of the Water (Place of Take) Regulations 2023.

#### Commencement and Revocation

1. This determination commences on 8 June 2024 and remains in force until revoked.
2. The Ministerial Prohibition Determination Applicable to Particular Place of Take Approvals that are Tagged – November 2023 published in the Victoria Government Gazette on 20 November 2023 is revoked.

**Note:** Under section 64FZG(3) of the Act, this determination remains in operation until it is revoked.

#### Definitions

3. In this determination the following words have the following meanings:

**Act** means the **Water Act 1989**;

**King River rationing area** means rationing area King River declared in the Rationing Areas Declaration;

**Lower Ovens rationing area** means rationing area Lower Ovens declared in the Rationing Areas Declaration;

**Rationing Areas Declaration** means the Declaration of Rationing Areas in Declared Water Systems 2023 made under section 6C(1) of the Act on 15 November 2023;

**Regulations** means the Water (Place of Take) Regulations 2023<sup>1</sup>;

**Trading Rules** means the Order titled *Water Trading Rules for Declared Water Systems 2023*<sup>2</sup>, made under section 33AZ, 47E, 48P, 64AZ and 64FZP of the Act as amended from time to time;

**Water System Zone Declaration** means the *Order Declaring Water System Zones in Victoria*<sup>3</sup> made under section 6B of the Act on 24 October 2023;

**water system zone 1A (Greater Goulburn)** means water system zone 1A (Greater Goulburn) declared in the Water System Zone Declaration;

**water system zone 1B (Boort)** means water system zone 1B (Boort) declared in the Water System Zone Declaration;

**water system zone 4A (Campaspe)** means water system zone 4A (Campaspe) declared in the Water System Zone Declaration;

**water system zone 4C (Lower Campaspe)** means water system zone 4C (Lower Campaspe) declared in the Water System Zone Declaration;

**water system zone 5A (Loddon)** means water system zone 5A (Loddon) declared in the Water System Zone Declaration;

**water system zone 6B (Lower Broken Creek)** means water system zone 6B (Lower Broken Creek) declared in the Water System Zone Declaration;

**water system zone 9B (King)** means water system zone 9B (King) declared in the Water System Zone Declaration;

**water system zone 9C (Lower Ovens)** means water system zone 9C (Lower Ovens) declared in the Water System Zone Declaration.

**SPECIAL**

4. Terms defined in section 3(1) of the Act have the same meaning in this determination. These are: **approved place, Basin Plan, declared water system, general place of take approval, particular place of take approval, relevant water allocation, water register, water share and water system zone.**
5. Terms defined in the Regulations have the same meaning in this determination. These are: **Basin water resources, particular place of take approval that is tagged and source water system zone.**
6. This prohibition determination applies to all the declared water systems under the *Order Declaring Water Systems in Northern Victoria 2007*<sup>4</sup> made under section 6A of the Act on 19 June 2007.
7. I determine that, subject to clause 7.1 below, a holder of a general place of take approval in the declared water systems listed in Table 1 in Schedule 1 cannot take water under a relevant water allocation at the approved place for that approval whenever the following circumstances apply:
  - (a) the relevant water allocation is the subject of a particular place of take approval that is tagged between a source water system zone and an approved place outside that zone; and
  - (b) Part 2 of the Trading Rules provides that, at that time, a particular place of take approval cannot be given in relation to the same source water system zone (referred to in paragraph (a)) and the water system zone in which the approved place referred to in paragraph (a) is located.
- 7.1 Until the end of 30 June 2026, clause 7 of this determination does not apply to a holder of a general place of take approval taking water under a relevant water allocation in accordance with a particular place of take approval which is tagged for which –
  - (a) the source water system zone for that relevant water allocation is water system zone 1A (Greater Goulburn), water system zone 1B (Boort), water system zone 4A (Campaspe), water system zone 4C (Lower Campaspe) or water system zone 5A (Loddon); and
  - (b) the approved place is in water system zone 6B (Lower Broken Creek).
- 7.2 I determine that a holder of a general place of take approval in the Lower Ovens rationing area cannot take water at the approved place under a particular place of take approval for a relevant water allocation that is tagged whenever the following circumstances apply:
  - (a) the relevant water allocation is tagged from the water system zone 9B (King) to an approved place in the water system zone 9C (Lower Ovens); and
  - (b) a determination has been made:
    - (i) under section 64FZC of the Act that applies to the King River rationing area or the Lower Ovens rationing area; or
    - (ii) under section 64FZE of the Act and in the circumstance prescribed in regulation 6(2) of the Regulations that applies to the King River rationing area or the Lower Ovens rationing area.

#### Reasons for making this determination

- 8.1 I reasonably believe that a circumstance prescribed in regulation 6(1) of the Regulations exists, in that I consider it is necessary to prohibit the taking of water under a relevant water allocation or class of relevant water allocation that is the subject of a particular place of take approval that is tagged and that applies to the Basin water resources, because of one or more of the following reasons, as set out in section 12.18 of the Basin Plan:
  - (a) there are physical constraints;
  - (b) there is a need to address hydrological connections and water supply considerations;
  - (c) there is a need to protect the needs of the environment;
  - (d) because of certain levels of hydraulic connectivity; or
  - (e) for certain combinations of these reasons.
- 8.2 In this clause *hydrological connections and water supply considerations* has the same meaning given in section 12.18(2) of the Basin Plan.

## Transitional provisions

### 9.1 In this clause –

**preserved tagged water allocation** means a relevant water allocation that was a ‘relevant tagged water allocation’ under regulation 10 of the Water (Tagged Water Allocations) Interim Regulations 2020<sup>5</sup> or under regulation 11 of the Water (Tagged Water Allocations) Regulations 2021<sup>6</sup> as in force before their repeal, or a ‘relevant tagged water allocation’ under clause 9.3 Ministerial Prohibition Determination Applicable to Particular Place of Take Approvals that are Tagged – November 2023 as in force before its revocation.

#### Notes:

- (i) A **relevant tagged water allocation** is defined in regulation 10 of the Water (Tagged Water Allocations) Interim Regulations 2020 and in regulation 11 of the Water (Tagged Water Allocations) Regulations 2021 as in force before their repeal as a tagged water allocation under a tagged water access entitlement to which section 12.23(1) of the Basin Plan does not apply because of the operation of section 12.23(2) of the Basin Plan;
- (ii) A **tagged water access entitlement** is defined in section 12.23(5) of the Basin Plan.

9.2 Subject to clauses 9.3 and 9.4, this determination does not apply to a holder of a general place of take approval taking water under a preserved tagged water allocation.

9.3 This determination applies to a holder of a general place of take approval taking water under a preserved tagged water allocation if any of the following occurs to the preserved tagged water allocation on or after the making of this determination –

- (a) a recording in the water register of a transfer of ownership of the water share for the preserved tagged water allocation under sections 33S and 33X(1)(a) or (ab) of the Act;
- (b) a recording in the water register of a transfer, or if the transfer occurs on a later date specified in the transfer, that date, of the whole of the right to future preserved tagged water allocations under a water share for a fixed period under sections 33T and 33X(1)(b) of the Act;
- (c) an approval by the Minister under sections 33TA and 33X(1)(ba) of the Act of a standing assignment under which the whole of the right to future preserved tagged water allocations under a water share is transferred to the person nominated in the assignment;
- (d) an approval by the Minister under sections 33U and 33X(1)(c) of the Act of an assignment of a preserved tagged water allocation;
- (e) in relation to a preserved tagged water allocation that is approved by the Minister to be taken from a place approved under a general place of take approval, the recording in the water register of a cessation of the general place of take approval under section 64FE of the Act;
- (f) in relation to a preserved tagged water allocation that is approved to be taken from a place approved under a general place of take approval, an approval by the Minister under section 64FO of the Act to transfer the general place of take approval to another person or persons.

**Note:** The purpose of clause 9.3 is to provide that this determination will apply to a preserved tagged water allocation immediately upon the commencement of any recording or approval listed in clause 9.3 affecting that allocation.

9.4 This determination applies to a holder of a general place of take approval taking water under a preserved tagged water allocation if the allocation is one to which –

- (a) a determination of the Minister under the Water (Taking and Using Water Under Tagged Allocations) Interim Regulations 2019 applied because of regulation 10 of those Regulations as in force before their repeal; or
- (b) a determination of the Minister under the Water (Tagged Water Allocations) Interim Regulations 2020 applied because of regulation 11 of those Regulations as in force before their repeal; or
- (c) a determination of the Minister under the Water (Tagged Water Allocations) Regulations 2021 applied because of regulation 11 of those Regulations as in force before their repeal; or

- (d) clause 9.3 of the Ministerial Prohibition Determination Applicable to Particular Place of Take Approvals that are Tagged – November 2023, made under Water (Place of Take) Regulations 2023, applied before that determination was revoked by this determination.

**Note:** The purpose of clause 9.4 is to provide that this determination applies to a preserved tagged water allocation to which a previous determination made under any of the following Regulations applied:

- the Water (Taking and Using Water Under Tagged Allocations) Interim Regulations 2019,
- the Water (Tagged Water Allocations) Interim Regulations 2020;
- the Water (Tagged Water Allocations) Regulations 2021;
- the Water (Place of Take) Regulations 2023.

Dated 3 June 2024

HON. HARRIET SHING MP  
Minister for Water

## SCHEDULE 1: Declared water systems to which clause 6 applies

**TABLE 1: Declared water systems to which clause 6 applies**

Declared water system
Broken water system
Bullarook water system
Campaspe water system
Goulburn water system
Loddon water system
Murray water system

Note: The Ovens water system is not included in the table above as it is not a regulated water system, but rather a semi-regulated water system, to which clause 7.2 applies.

### Endnotes:

- <sup>1</sup> S.R. No. 111/2023;
- <sup>2</sup> copy available at Water trading – Water Register;
- <sup>3</sup> copy available at Water trading – Water Register;
- <sup>4</sup> copy available at Water reform history – Water Register;
- <sup>5</sup> S.R. No. 130/2020;
- <sup>6</sup> S.R. No. 140/2021.

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