

TRADE OF COMMONWEALTH ENVIRONMENTAL WATER

The Commonwealth environmental water holdings are actively managed which means water may be:

- delivered within the current year to meet current environmental needs;
- carried over to future years to meet future environmental needs; or
- traded (sell or buy).

The Commonwealth Environmental Water Holder (CEWH) has developed a trading framework that includes operating rules, procedures and protocols. The trading framework has been developed to ensure that the CEWH's trading activities:

- support enhanced environmental outcomes;
- have regard to social and economic outcomes;
- consider impacts on the market, including any third-party impacts;
- are undertaken in a manner which meets legislative requirements;
- are financially responsible, fair, equitable, transparent and accountable; and that
- the CEWH and Commonwealth Environmental Water Office (CEWO) staff act with integrity and high ethical standards.

The Trading Framework is underpinned by the *Water Act 2007* (Water Act) and the Basin Plan trading rules. These are the primary legislative instruments that govern the circumstances under which trade can occur and the information used when making a trade decision.

Water Act

Section 105 (3) (a) of the Water Act requires the functions of the CEWH to be performed for the purposes of protecting or restoring the environmental assets of the Murray-Darling Basin, and section 105 (4) (a) that Commonwealth environmental water assets must be managed in accordance with the environmental watering plan.

Section 106 places parameters on the circumstances under which trade can occur and how the proceeds of a sale are used. Section 106 of the Water Act provides for the trade of Commonwealth environmental water which is supported by the Basin Plan trade rules. The first legislated provision for trade of the portfolio (Section 106 (1)) only allows trade to occur if the water is not required within the water year to meet the objectives of the environmental watering plan and if it cannot be carried over for use in future years. As carryover is often available to some extent on entitlements in regulated parts of the Basin, trade under this provision will not be possible in many cases.

If trade does occur under this provision then the proceeds from the trade can be used to meet management costs associated with the portfolio and / or possible water acquisitions.

The second legislated provision (Section 106 (2)) allows for trade provided the proceeds of a disposal are used to acquire other water. The key test in relation to Section 106 (2) is whether the trade will improve the capacity of the portfolio to protect or restore environmental assets. The opportunity to sell will be supported by an assessment against retaining water for use in current year, or carrying water over for use in future years. The proceeds of a trade under Section 106 (2) need to be used for acquisition of water that will improve the capacity of the portfolio to meet the environmental objectives of the environmental watering plan. Future acquisitions will not necessarily be within the year or catchment of disposal. This trading opportunity, in addition to that in Section 106 (1), is to ensure that the highest priority assets receive water.

The following flow chart outlines these key requirements and the trade options which are available to the CEWH.

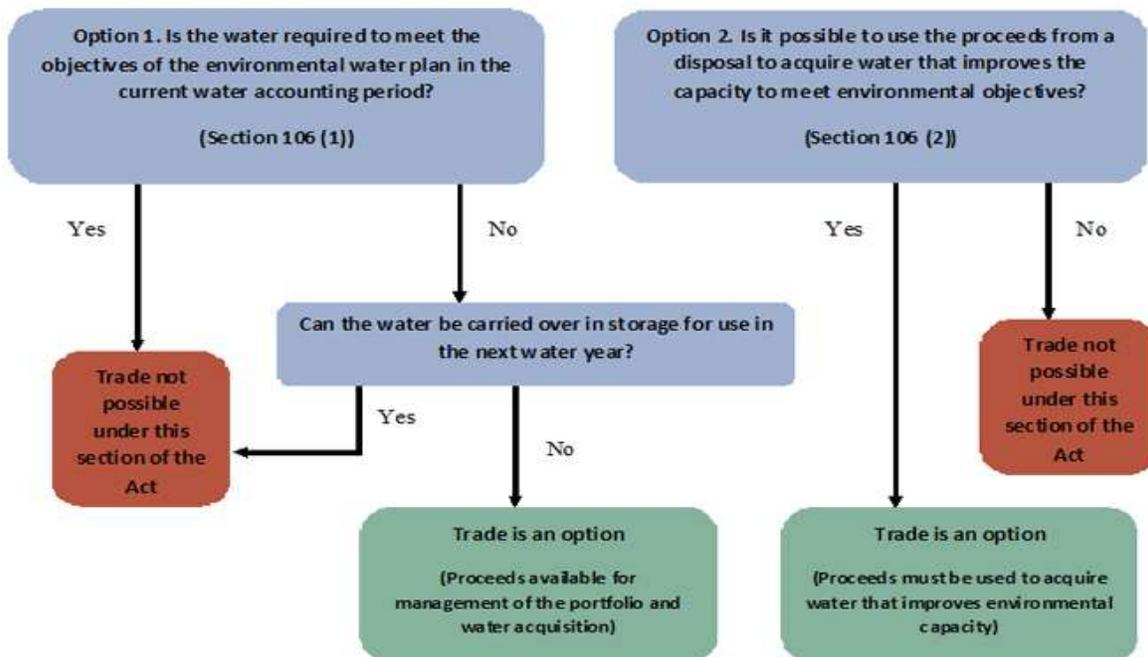


Figure 1: Legislative provisions for trade of Commonwealth environmental water portfolio (section 106 of the Water Act 2007)

Basin Plan

The Murray Darling Basin Plan contains water-trading rules that govern how persons or agencies are to behave including if they are aware of a water announcement that has not been made generally available. These rules limit the capacity of people or agencies to trade if aware of such information. The trading rules identify mechanisms that can apply in order to help manage this obligation. These rules come into effect on 1 July 2014.

Ethics and standards of behaviour

The CEWH and CEWO staff are public servants and therefore must abide by the Australian Public Service values and Code of Conduct, which requires the identification of conflicts of interest and steps required to avoid them. To assist in managing these requirements the CEWH has developed Protocols.