

ELMA review – Proposing a way forward

Purpose of this paper

The purpose of this paper is to:

- Recap important historic policies
- Recap where we are in the ELMA review process
- Report back to the community on the key themes heard during public consultation
- Set out a proposal to manage ELMA going forward; and
- Provide responses to frequently asked questions.

The review will not include changes to the total volume of water set aside for environmental land management purposes in the Lower Murray (22.2 GL)

Current management authorisations will remain in place and are unaffected by any proposed policy change until licenses are due to expire on 30 June 2021

Historic policy settings

When irrigation and ELMA entitlements were originally granted there was recognition that over time ELMA would be redistributed in line with changing land use. This recognised that volumes originally allocated to some ELMA users would be insufficient to achieve the objectives of ELMA to manage salt, acid sulfate soils, and soil cracking and movement. Rules were in place so that A) if class 3 water was traded there would be a corresponding reduction of ELMA B) if pasture irrigation decreased a proportional adjustment in ELMA rates would occur, and C) if irrigation ceased all together then ELMA would be granted at 3.5 ML/ha. These policies were not fully implemented resulting in the current situation where the expected redistribution of ELMA has not been achieved.

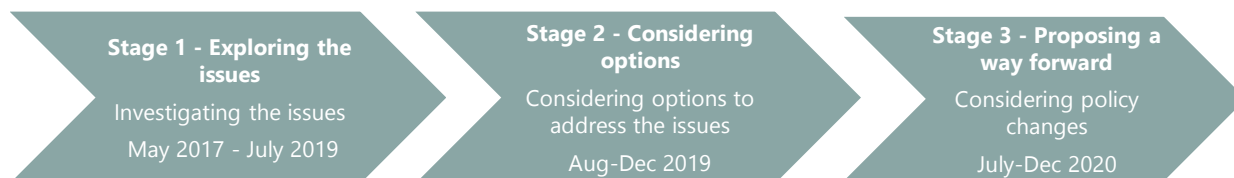
The process

Stage 1 - The Board¹ commenced the ELMA review in May 2017 and began exploring the application and management of ELMA and commissioned two scientific reports to help inform the review, this stage is now complete.

Stage 2 of the review considered options to address issues identified with:

- ELMA applications rates – being unable to achieve its objectives across the whole LMRIA
- Use of ELMA
- Access and availability of ELMA during dry times (longer term concepts)

Stage 2 has also been completed.



We are now at stage 3 which is about proposing a way forward and considering changes to the River Murray Prescribed Watercourse Water Allocation Plan (*the Plan*). Over the next 6 months the Murraylands and Riverland Landscape Board will begin amending the Plan. Refer to heading *Where to from here?* for further details.

¹ The SA Murray-Darling Basin Natural Resources Management Board has been replaced by the Murraylands and Riverland Landscapes Board as a result of changes in legislation. The *Natural Resources Management Act, 2004* has been repealed and is replaced by the *Landscapes Act, 2019* which comes into effect on 1 July 2020. The role of the Board in relation to the development of water allocations plans remains unchanged.

Key themes heard during consultation

During consultation in October 2019 the board received 71 submissions and heard a wide variety of comments. In working through the comments, a number of re-occurring themes emerged and these have been used to help shape the policy going forward. These themes included:

- Recognising the history
- Re-distributing unused ELMA to those people who do apply it
- Not granting ELMA to those who don't apply it or to those people who can't apply it
- Removing land parcels that are permanently inundated from being eligible for ELMA going forward in the future
- Bringing the southern LMRIA up to the optimised application rates and not reducing the northern LMRIA, particularly where use has been 100%.

A detailed consultation report is available at: www.landscape.sa.gov.au/mr/elmareview

Principles to guide development of policy options

The ELMA review committee has developed some principles to guide policy development based on the most common themes identified from the consultation process. These principles are to:

- Maintain consistency with all relevant legislation
- Allocate ELMA to achieve its objectives where use/application can be demonstrated
- Manage land and support existing businesses
- Provide certainty for businesses going forward
- Encourage and support land management for environmental purposes and at the same time, support economic diversity
- Encourage more ELMA to be applied to the land

The proposed ELMA policy – Application rates

ELMA optimised rates - the application rates (in ML/ha) that give all ELMA eligible landholders equal ability to manage soil salinity, acidity, movement and cracking based on recommendations in the recent science review (Cook & Mosley, 2018)

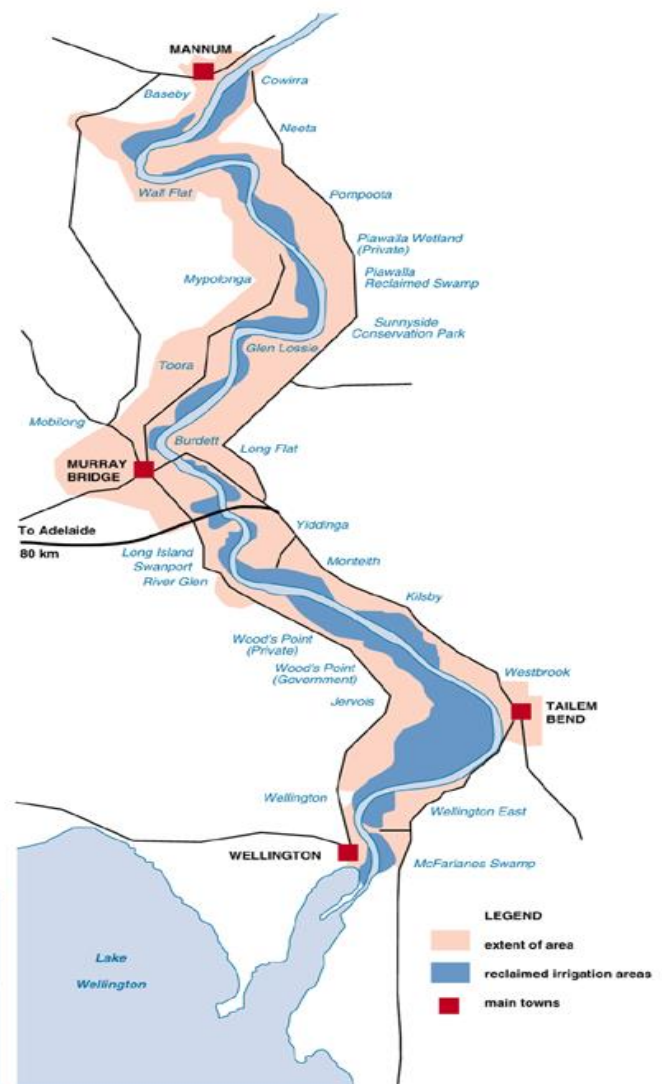
1. ELMA will be granted to eligible land parcels at the optimised rate (refer to Column 3 of Table 1) except where:
 - a. The current ELMA rate (refer to Column 2 of Table 1) is greater than the optimised rate and licensees have used between 90 - 100% of their ELMA allocation in any one water use year from 2015/16 – 2018/19 inclusive. In which case, the licensee will retain the current ELMA rate, to revert as per points 3 and 4 below; or
 - b. Licensees have not recorded any metered usage for all water use years from 2015/16 – 2018/19 inclusive, in which case, no ELMA will be granted.
2. Those licensees with ELMA granted at the current rate will revert to the optimised rates in the following circumstances:
 - a. upon the sale of land to a non-family member. At this time ELMA reverts to the Minister for Environment and Water and the new owners would be eligible to apply for the optimised ELMA rate. Over time this will result in ELMA being redistributed equitably; or
 - b. ten years after the date of issue (~30 June 2031);

which ever occurs first.
3. An exemption to point 3.a. (above) applies when the sale of land is to an immediate family member, in which case, the current rate will revert to the optimised rate ten years after the first date of issue (i.e. ~30 June 2031). This allows for the land to be sold/transferred to a family member without losing the current ELMA rate within the first 10 year period.

4. Where any licensee granted ELMA at the current rate ceases to apply ELMA to an eligible land parcel then the ELMA rate will be adjusted to the optimised rate. The reduction will not be proportional to the reduced area of irrigated land – any reduction in irrigated area will result in a move to the optimised ELMA rates. This is because the current ELMA rates are granted on the basis of being needed to maintain businesses at their current level.
5. An exemption to point 1.b. (the no ELMA use rule from 2015/16 – 2018/19 inclusive) may apply provided proof of significant financial or legal commitment can be demonstrated. In this case, provided the ELMA eligibility criteria is met, the optimised ELMA rate would be granted.
6. Permanently inundated areas and some licences that have been surrendered² (e.g. Finniss) that exist on ELMA eligible land will be removed from being eligible for ELMA in future – this enables redistribution of ELMA to those who are using it.

Table 1. Current, optimised and historic adjustment ELMA applications rates per trust

Column 1	Column 2	Column 3	Column 4
Irrigation Area	Current ³ rate (ML/ha)	Optimised ⁴ rates (ML/ha)	Historic rate ⁵ (ML/ha)
Northern LMRIA			
Cowirra	6.35	4.49	3.5
Baseby	6.30	4.49	3.5
Neeta	6.10	4.49	3.5
Wall Flat	5.93	4.49	3.5
Neeta North	6.01	4.44	3.5
Pompoota	5.74	4.42	3.5
Mypolonga	5.38	4.35	3.5
Paiwalla	5.04	4.35	3.5
Glen Lossie	4.99	4.19	3.5
Toora	4.77	4.14	3.5
Mobilong	4.58	4.14	3.5
Burdett	4.46	4.14	3.5
Long Flat	4.37	4.10	3.5
Long Island	4.13	4.10	3.5
Southern LMRIA			
Swanport	4.06	4.10	3.5
Yiddinga	4.04	4.10	3.5
River Glen	3.90	4.10	3.5
Kilsby	3.53	4.16	3.5
Monteith	3.79	4.05	3.5
Woods Point	3.50	4.05	3.5
Westbrook	3.39	4.04	3.5
Jervois	2.90	4.03	3.5
Seymour	2.28	3.97	3.5



² The majority of ELMA eligible land parcels that relate to licences that have been surrendered will still be eligible for ELMA going forward provided there is sufficient ELMA held by the Minister. If ELMA is fully allocated then historic ELMA eligible land parcels cannot be watered until such time that ELMA water becomes available.

³ The allocation rate provided to licensees is 97.9% of the rate indicated in the River Murray WAP. A 2.1% reduction to the River Murray WAP rates was applied to keep the total volume of water that could be allocated to 22.2 GL.

⁴ Optimised rates – the rates in ML/ha based on recommendations in the recent review of the ELMA application rates. Cook F.J., and Mosley L.M. (2018). Optimisation of Environmental Land Management Allocations (ELMA) in the Lower Murray Reclaimed Irrigation Area (LMRIA).

⁵ Historic rate – the flat rate of 3.5 ML/ha originally derived for ELMA and the rate to be granted if irrigation of pasture ceases.

Does the policy work?

Outcomes of the preliminary scenario testing show the proposed policy is achievable within the 22.2 GL limit provided that:

- those people not previously using ELMA not applying for and/or qualifying for ELMA; and
- permanently inundated areas and land corresponding to some surrendered licences (e.g. Burbridge, Finniss) will not be eligible for ELMA in future.

These two assumptions must be met for the policy to be viable otherwise the 22.2 GL limit for EMLA will likely be exceeded.

Are there any risks to not achieving the current policy proposal?

Yes, if more people apply for ELMA than anticipated (e.g. those licensees with no recorded ELMA use for the 4 water use years 2015/16 to 2018/19), then the 22.2 GL cap could be exceeded. If this were to occur then a proportional reduction will be applied across the LMIRIA to each licensee (as occurred historically). This ensures that the intent of the revised policy position, developed in consultation with the community, is maintained and any necessary adjustments are made equitably.

Based on the current information, the need for proportional adjustments may not be required but we will not know this until all applications are received, assessed and determined. As a guide, initial scenario testing indicates that if the cap was exceeded by 1 GL then a 5% adjustment to all ELMA licensees (granted either at the current or optimised rate) would be required to stay within the ELMA 22.2 GL cap.

Who is eligible for ELMA?

To be eligible for ELMA you must have an ELMA eligible land parcel which is land that was identified as being eligible for ELMA during 1993/94 application process. In most instances existing rights to ELMA will remain unchanged however there will be exceptions e.g. Finniss, this licence of 54 ha was surrendered a number of years ago and has not been reissued. It is important that, where possible, savings to ELMA are made so ELMA can be redistributed to those people who are using.

Provided you have been using water between 2015/16 to 2018/19 then you will be eligible for ELMA. If you haven't used water at any time from 2015/16 to and including 2018/19 you will not be eligible for ELMA initially. This is because you have failed to demonstrate use of ELMA to achieve its objectives, which is requirement of the Plan. Simply, if you are not applying ELMA you are not meeting its objectives to manage the land. This policy position helps to redistribute ELMA to those people who are using it which was suggested during the consultation period.

You must demonstrate you have infrastructure in place and in good working order to be eligible for ELMA in future – if you can't apply ELMA you cannot achieve its objectives so it will not be granted.

You must put in an application for an ELMA licence by the due date, (you will be notified when this is to occur) - failure to do so will mean you will not qualify for ELMA going forward.

In summary, to be eligible for ELMA in future you must:

- Have an ELMA eligible land parcel
- Have been using ELMA water between 2015/16 and 2018/19
- Have infrastructure to deliver ELMA that is in good working order, including a meter; and
- Submit a licence application (once notified) and provide any additional information to support your application if it is requested.

Will I need to apply for ELMA?

Yes, licences for ELMA expire on 30 June 2021. You will need to re-apply for ELMA to make sure that your management authorisations are in place for the 2021-22 water use year. Failure to apply for ELMA will mean that you will not be issued an ELMA water access entitlement / water licence even if you are eligible based on all other criteria. You will be notified when it's time to submit your application.

Who assesses the applications?

Applications for ELMA will need to be submitted to the Water Licensing Branch of the Department for Environment and Water (DEW) in Berri, where they are assessed and a recommendation will be made to the Minister's delegate. Additional supporting information may be required for assessing what ELMA rate you will be granted or to be considered for ELMA where no water has been applied. If additional information is requested then it must be provided for ELMA to be granted.

Will those people who are eligible to retain the current rates have to be adjusted to the optimised rates at some stage?

Yes, it is proposed this will occur when the property is sold to a non-family member or at the end of a 10 year period, whichever ever occurs first. The intent is to give current businesses sufficient time to adjust to the new rates, with the longer term aim of achieving the optimised rates across the LMRIA.

If the sale of land is to an immediate family member⁶ within the 10 year period then they will maintain the current ELMA rate until 2031 before being reissued the optimised rates. It is important that over time the optimised rates are achieved.

Adjustments to those licensees who receive the current ELMA rate will also occur if the area of irrigated ELMA eligible land is reduced. Refer to *What if my business changes?* below.

What is the term that ELMA licences will be issued for?

ELMA licences will be re-issued to those eligible initially for a period of 4 years. At the end of the first 3 water use years, individual water usage and irrigation annual reporting information (if requested) will be analysed. Where there has been significant ELMA underuse or a change in irrigation area (where current rates are granted) then licences may be varied or not extended and the ELMA (or part thereof) may revert to the Minister.

After the first review period, it is proposed that ELMA licences will be issued for longer period e.g. 5-10 years to give businesses greater certainty in the future. This will be assessed at the end of the initial review.

If there is unallocated ELMA retained by the Minister can I apply for more water than I was originally granted?

No, any unallocated ELMA retained by the Minister will be redistributed back to licensees in line with the intent of the original policy. If proportional adjustments were previously applied then these will be re-adjusted incrementally to the original rates. If there is still unallocated water held by the Minister after adjustments are made then historic ELMA eligible parcels can subsequently be bought back into production (upon application).

What about applying ELMA for a neighbour, can this occur?

Yes, however you must have a private supply agreement in place. Originally we consulted on varying or amending site use or works approvals to enable a neighbour apply ELMA on behalf of their neighbour, however feedback received was that it was unlikely to help with the application of ELMA because of the expense associated to reconfigure irrigation systems. With this in mind, and the complexity of enabling this under the current legislation, it was decided not to make these amendments to the Plan as this can already occur under private supply agreements. If you are going to enter into a private supply arrangement contact DEW water licensing branch to ensure appropriate meter requirements can be met.

⁶ An immediate family member for the purpose of this paper is a spouse or former spouse, de facto partner or former de facto partner, child, parent, grandparent, grandchild or sibling of the land owner/occupier, or a child, parent, grandparent, grandchild or sibling of a landowner's spouse or de facto partner. It includes step-relations (eg. step-parents and step-children) as well as adoptive relations.

Where to from here?

In the coming months the Murraylands and Riverland Landscape Board will make an announcement on their website that the Plan is being amended specifically to address the issues identified with ELMA. Following this announcement, statutory consultation will occur, likely during late spring to early summer 2020. At this time you will be invited to make further submissions in relation to the proposed ELMA policy. The consultation period will be open for two months.

Once consultation is completed, submissions will be considered by the landscape board and the draft Plan will be amended accordingly before being submitted to the Minister for Environment and Water for consideration and adoption.

Once the new Plan is in place you will be written to requesting to submit a licence application. It is important that you do this as current licences are due to expire on 30 June 2021

More information

For more information go to:

www.landscape.sa.gov.au/mr/elmareview

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