



**Australian Government**  

---

**Department of Agriculture**

**The Australian Government**  
**Water for Fodder**

---

**Program Guidelines**

**Round 1**  
**2019-20 water year**

## **IMPORTANT INFORMATION ABOUT THE GUIDELINES AND OTHER KEY DOCUMENTS**

**These Water for Fodder Guidelines (Guidelines) will assist you in making an Application to purchase and receive Water Allocations owned by the South Australian Government.**

**The Guidelines provide key information on how to submit an Application, how Applications are assessed, and what happens after an Application has been assessed.**

**Prior to submitting an Application, Applicants should have read this version of the Guidelines and any amendments to this document, available on the Department of Agriculture (via [agriculture.gov.au/water-for-fodder](http://agriculture.gov.au/water-for-fodder)).**

**Applicants should seek their own professional advice as appropriate. These Guidelines or other materials released in relation to the Application Process do not provide and must not be construed as providing investment, legal, business or tax advice.**

**If you have any further questions regarding this Application Process please contact us by email at [waterforfodder@agriculture.gov.au](mailto:waterforfodder@agriculture.gov.au).**

# Table of Contents

- Introduction..... 4**
  - Background.....3
  - Eligibility to participate in the program.....3
  - Key process steps for Water for Fodder.....6
- Submitting an Eligible Application..... 7**
  - Who may submit an Application .....7
  - Method for submitting an Application .....7
  - Timeframes affecting an Application .....7
  - Application Form Requirements .....7
  - Issues affecting submission of an Application.....9
- How Applications are assessed ..... 10**
  - Eligibility Criteria..... 10
  - Ballot, selection and ranking ..... 10
  - Confidentiality ..... 12
- What happens after your Application is submitted ..... 13**
  - Conditional Acceptance of Application ..... 13
  - Submission of Trade Approval Form(s) ..... 14
  - Payment and charges ..... 14
  - Lodgement of Trade Approval Forms..... 14
- Compliance and Program review ..... 15**
- Change in circumstances ..... 16**
- Further information..... 17**
- Definition and Key Terms ..... 18**

# 1. Introduction

## Background

- 1.1 The Commonwealth is providing funding to the South Australian Government to increase production of desalinated water at the Adelaide Desalination Plant.
- 1.2 Consequently, the South Australian Government has agreed to sell up to 100 gigalitres of water allocations from its metropolitan water account drawn from the River Murray to drought affected farmers in the southern connected Basin to grow Fodder in the next 2 years.
- 1.3 This water will be allocated in two rounds. There will be 40 gigalitres of water available under the program in Round 1 for use in this water year (2019-20), and 60 gigalitres available in Round 2 for use in the next water year (2020-21). These Guidelines and this current application process relates only to the initial 40 gigalitres of water (Round 1). An evaluation of the program will occur after the first 40 gigalitres has been allocated under Round 1 to allow amendments or improvements to the program design before the second round of water becomes available.

## Eligibility to participate in the program

- 1.4 To be eligible, the Applicant must agree to the conditions, obligations and requirements for participating in the Water for Fodder program set out in these Guidelines. These are:
  - (a) Applications are for an allocation of 50 megalitres.
  - (b) The Applicant may submit one application per water allocation account and, where the Applicant holds more than one water allocation account, no more than two Applications in total. The Applicant must comply with these Guidelines in relation to each Application and each Allocation.
  - (c) The cost of each 50 megalitre Allocation is \$5,000.
  - (d) The Applicant must not have had more than 1 gigalitre available for delivery this water year (through carryover and/or allocations) allocated to the Allocation Account.
  - (e) The Allocation received under the program must be used in the water year in which it was allocated. The Allocation cannot be carried over to the next or any subsequent water year.
  - (f) Only applications received using the electronic application form on the Department of Agriculture's website ([agriculture.gov.au/water-for-fodder](http://agriculture.gov.au/water-for-fodder)) will be considered.
- 1.5 By submitting an Application, the Applicant is confirming that:
  - (a) the information provided in their Application is accurate and satisfies the eligibility criteria set out in these Guidelines.

- (b) they are making an offer to purchase an Allocation of 50 megalitres from South Australia Government for \$5,000.
  - (c) their offer relates to the Applicant's Allocation Account.
  - (d) the Allocation provided under the Water for Fodder program will be used to grow Fodder on land which is linked to the Allocation Account.
  - (e) they accept the obligations as set out under the Water for Fodder program, including the requirement to provide a further declaration in the form of a deed poll, and will use the water allocated to them under the Water for Fodder program in accordance with these Guidelines.
  - (f) they consent to the Department's privacy policy (which is compliant with *the Privacy Act 1988* (Cth)).
- 1.6 The Commonwealth's policy is to engage in the highest standards of ethical behaviour and fair dealings throughout the Water for Fodder program. It requires the same standards from those with whom it deals.
- 1.7 These Guidelines may change from time to time. Potential Applicants should regularly refer to the Website for up to date information concerning any changes to these Guidelines and/or the Water for Fodder program.

## Key process steps for Water for Fodder



## **2. Submitting an Eligible Application**

- 2.1 By submitting a completed Application, you are making an application to purchase an Allocation from the South Australian Government on the terms set out in these Guidelines.

### **Who may submit an Application**

- 2.2 Applications can only be submitted by one of the following:
- (a) where there is only one holder of the Allocation Account, the sole holder of an Allocation Account;
  - (b) where there is more than one holder of the Allocation Account, one of the holders of the Allocation Account that has been authorised by all holders of the Allocation Account to act on their behalf; or
  - (c) an authorised representative of the holder(s) of the Allocation Account (provided that an application may not be submitted by brokers or intermediaries).
- 2.3 Where submitted in accordance with paragraph 2.2(b) or 2.2(c) above, we may request to be provided with the documentation that has been listed in the Application Form which will provide evidence in support of any authority to submit the Application.

### **Method for submitting an Application**

- 2.4 Applications must be submitted electronically using the Application Form publicly available on the Department's Website ([agriculture.gov.au/water-for-fodder](http://agriculture.gov.au/water-for-fodder)).

### **Timeframes affecting an Application**

- 2.5 Applications must be received by us after the Sale Open Time.
- 2.6 We advise that:
- (a) Applications received before the Sale Open Time will not be considered by us;
  - (b) a record of the time and date that each Application is received will be kept by us;
  - (c) the Applicant is responsible for allowing enough time to complete and submit the Application Form including correcting any errors;
  - (d) the Application process will run as described in Section 4 of these Guidelines.

### **Application Form Requirements**

- 2.7 The Application Form will require the following information to be provided:

- (a) the proposed Allocation Account and details of the land linked to the Allocation Account (for example, connected to a designated irrigation system or a direct diverter) where the Applicant proposes to use the Allocation
- (b) reference number (if applicable) for the Right to Use linked to or associated with the Allocation Account;
- (c) the Trading Zone associated with the Allocation Account;
- (d) a valid Australian Business Number for the Applicant;
- (e) confirmation that the Applicant is
  - (i) a Primary Producer;
  - (ii) able to use the Allocation allocated to them through this program for producing Fodder on land which is linked to the Allocation Account; and
  - (iii) able to pay for the Allocation as well as all costs incurred in the delivery of the Allocation and the production of Fodder.
- (f) confirmation that the Applicant has not:
  - (i) been named by the Workplace Gender Equality Agency in a report to the Minister responsible for the *Workplace Gender Equality Act 2012* (Cth), as an employer currently not complying with the requirements of that Act; or
  - (ii) been subject to a judicial decision against it relating to employee entitlements, not including decisions under appeal, and have not paid the claim.
  - (iii) had more than 1 gigalitre available for delivery in the current water year (through carryover and/or allocations) in the Allocation Account.
  - (iv) applied for an Allocation under this program in the past, except as permitted by these Guidelines.

2.8 By submitting an Application, the Applicant represents that the Applicant has not:

- (a) engaged in any misleading or deceptive conduct, collusive bidding, anti-competitive conduct, or any other unlawful or unethical conduct in connection with the Application;
- (b) attempted to solicit, or solicit information from, or influence improperly any current or former officer, employee, contractor or agent of the Commonwealth, or violate any Laws or Australian Government policy regarding the offering of inducements in connection with the Application; or
- (c) engaged in, or procured or encouraged others to engage in, activity that would result in a breach of the Lobbying Code of Conduct and APSC Circular 2008/4 Requirements relating to the Lobbying Code of Conduct and post separation contact with Government.

2.9 By submitting an Application, the Applicant:

- (a) agrees to use the Allocation provided through this program by the end of the 2019-20 water year (June 2020) to grow Fodder;
- (b) agrees to assist the Commonwealth in any review or audit of the program and outcomes from the use of the Allocation provided through this program;
- (c) agrees to provide further material as requested in support of any information in their Application and/or their compliance with these Guidelines; and
- (d) agrees to all terms set out in these Guidelines including those relating to privacy, confidentiality and the release of information.

### **Issues affecting submission of an Application**

- 2.10 Once you submit your Application Form, a confirmation message will appear in your internet browser indicating it has been sent for processing.
  
- 2.11 On receipt of your Application Form by us, a confirmation of receipt will be generated and issued to the email address entered in the Application Form. If you do not receive this confirmation of receipt then it is possible that the email address you entered on the Application Form is incorrect. If you do not receive this confirmation of receipt and you consider that your Application Form may not have been received by us:
  - (a) you should check any junk mail folders in case the confirmation of receipt has been filed there; and
  - (b) you may contact us by email at [waterforfodder@agriculture.gov.au](mailto:waterforfodder@agriculture.gov.au) to advise that you did not receive a confirmation of receipt and you consider that your Application Form may not have been received. In this case you may then resubmit your Application Form subject to any further directions we give you.

### **3. How Applications are assessed**

- 3.1 We will conduct an assessment process with a view to determining which Applications will be conditionally accepted and receive an offer to purchase an Allocation.

#### **Eligibility Criteria**

- 3.2 Applications that do not meet any one or more of the Eligibility Criteria described below will be excluded. For an Application to be eligible, it must:
- (a) be submitted electronically using an Application Form via the Department's Website ([agriculture.gov.au/water-for-fodder](http://agriculture.gov.au/water-for-fodder)) in accordance with the Application Form Requirements of paragraph 2.7;
  - (b) be received by us after the Sale Open Time;
  - (c) meet the requirements set out paragraph 1.4
  - (d) nominate:
    - (i) a valid Allocation Account into which the Allocation can be transferred (subject to paragraph 3.5); and
    - (ii) a valid reference number for any Right to Use (if applicable) which is linked to the Allocation Account; and
    - (iii) a valid email address via which we can communicate with the Applicant (subject to paragraph 3.5).
- 3.3 As there is a high demand for water, and the timeframes available for allocation are compressed, Applications may also be excluded at any time if we seek clarification or otherwise request information from the Applicant and the Applicant does not respond in the timeframe requested.

#### **Ballot, selection and ranking**

- 3.4 The Application process will run as follows:
- (a) Applications can be lodged from the Sale Open Time. Each 24 hour period from the Sale Open Time will be referred to as a Sale Day
  - (b) At 10:00am (AEDT) at the end of each Sale Day (Assessment Time) we will estimate or determine the total number of Eligible Applications
  - (c) Eligible Applications received up until the Assessment Time each Sale Day will be Conditionally Accepted until the total number of Eligible Applications received equates to a total volume of water allocations which exceeds the Sale Volume.
  - (d) Where the total number of Eligible Applications received up to an Assessment Time equates to a total volume of water allocations which exceeds the Sale Volume, then

- (i) Eligible Applications received on the days prior to the Sale Day on which the Sale Volume is exceeded will be Conditionally Accepted;
- (ii) Eligible Applications received during the Sale Day on which the Sale Volume is exceeded will be selected randomly and Conditionally Accepted until the Sale Volume has been fully allocated;
- (iii) all Eligible Applications:
  - (A) received on the Sale Day on which the Sale Volume is exceeded which are not Conditionally Accepted under paragraph (ii) above; and
  - (B) received after that Sale Day on the day specified in the Sale Closure Notice,
 will be ranked randomly and held in reserve to potentially be Conditionally Accepted in order of that random ranking in the event that one or more Conditionally Accepted Applications is subsequently excluded or does not proceed for any reason.
- (e) We will issue a Sale Closure Notice once the number of Eligible Applications received equates to a volume of water allocations which exceeds the Sale Volume.

3.5 We reserve the right to contact an Applicant to confirm:

- (a) a valid email address; and/ or
- (b) a valid Allocation Account reference;
- (c) a valid Australian Business Number (ABN) for the Applicant;
- (d) a valid Right to Use reference (if applicable)

if:

- (e) the details provided in the Application Form appear to not be valid; or
- (f) there appears to be an error or duplication.

3.6 Despite any other provision in these Guidelines we:

- (a) are not bound to accept any Application(s); and/or
- (b) may exclude or not accept an Application (including a Conditionally Accepted Application) if we consider that:
  - (i) an Applicant does not meet the requirements of or has contravened these Guidelines; and/or
  - (ii) an Applicant will or is likely to be unable to comply with the requirements of these Guidelines for any other reason, including but not limited due to the Applicant not having a Right to Use; and/or
  - (iii) accepting the Application would otherwise not be consistent with the intended purpose and/or outcomes of the Water for Fodder program.
- (c) may add or remove any Application from consideration at any time after the Sale Volume is reached.

## Confidentiality

- 3.7 Except as set out in this Guidelines or as otherwise advised to Applicants, we will treat as confidential information contained in Applications. Where an Application is accepted, we may disclose information regarding the Application for the purposes of managing and processing payments for water and completing and lodging Trade Approval Forms and other steps necessary to effect the Trade and otherwise implement, manage and/or report on the Water for Fodder program and its outcomes. The Department may disclose your personal information to other Australian Government agencies, ministers, persons or organisations where necessary for the described purposes, or where otherwise required or authorised by law. Your personal information will be handled in accordance with the Australian Privacy Principles.
- 3.8 In addition, in accordance with the Australian Privacy Principles, the Department will publicly release, including by publishing on the Water for Fodder webpage:
- (a) information regarding successful applicants, such as the applicant name, ABN and address, volume of water, Allocation Account and Water Access Entitlement registration number and water resource area;
  - (b) details of the outcomes of the Water for Fodder Program including photographs and reports and any other information acquired by us in connection with the Water for Fodder Program, its implementation and/or any outcomes, including any information provided to or obtained by us as a result of any monitoring or compliance and enforcement activity.
- 3.9 We may use email automation platforms to communicate effectively and efficiently with Applicants. When we send an email, it bounces from server to server as it crosses the Internet and where an email automation platform company has servers located overseas, information we send to Applicants may be transferred to, stored, or processed overseas. We use email automation platforms with appropriate security and privacy protocols to ensure information is transmitted securely and personal information is protected. For information on how we are using personal information that we collect, please see our Privacy Policy at [agriculture.gov.au/about/privacy](http://agriculture.gov.au/about/privacy).

## 4. What happens after your Application is submitted

- 4.1 We will notify all Applicants of whether their Application has been Conditionally Accepted or rejected or is held in reserve. Notification may be issued on a staggered basis reflecting the progression of assessment. Please contact us if you have not received notification within 5 Business Days of submitting your Application. Unsuccessful Applicants will be offered an opportunity for a debrief.

### **Conditional Acceptance of Application**

- 4.2 Successful Applicants will receive a Notice of Conditional Acceptance advising that their Application has been conditionally accepted. This Notice of Conditional Acceptance will include all the conditions that the Applicant must meet including (but not limited to):
- (a) Payment of \$5,000 is made to South Australia as directed; and
  - (b) Submission of all relevant Trade Approval Form(s); and
  - (c) any further information or declaration, including a deed poll, required by us.
- 4.3 If the conditions of acceptance are not met within the timeframe set out in the Notice of Conditional Acceptance or the information provided indicates that the Applicant does not meet the Eligibility Criteria or otherwise does not comply with requirements of these Guidelines, then the Application may be rejected by us.
- 4.4 Without limiting any other provision in these Guidelines, we may also elect to reject an Eligible Application or Conditionally Accepted Application if we consider that:
- (a) there is a material risk that the trade relating to the Application would not be completed or would not proceed in a timely way (including due to restrictions on transfers out of the Source Jurisdiction or the Source Trading Zone or restrictions on transfers into the Destination Jurisdiction or the Destination Trading Zone); and/or
  - (b) rectifying a failure of the Applicant to submit any Trade Approval Form(s), or the submission of incomplete or inaccurate Trade Approval Form(s) or other Application information is reasonably likely to delay the progression of the trade.
- 4.5 Once we have received evidence that the conditions set out in the Notice of Conditional Acceptance have been met, then we will:
- (a) provide all information relevant to the trade of water to your allocation account from South Australia; and
  - (b) pay South Australia all lodging and registration fees associated with the Trade.

### **Submission of Trade Approval Forms(s)**

- 4.6 The conditions of the Notice of Conditional Acceptance may include a requirement to submit a Trade Approval Form and any applicable evidence of authority. The Trade Approval Form(s) and evidence of authority should be as complete as possible, legible and correctly signed. It is the Applicant's responsibility to ensure that the information provided in the Form(s) is complete and accurate and in the particular form required by the relevant Authority.
- 4.7 We may at our discretion clarify with you minor errors or omissions in form or content we identify with a submitted Application Form or Trade Approval Form(s) (including any errors in Allocation Account reference, email address or the Trade Approval Form(s) or evidence of authority or the non-submission of Trade Approval Form(s) or evidence of authority), but we are under no obligation to do so.

### **Payment and charges**

- 4.8 Successful Applicants will receive a Conditional Acceptance of Application notice advising that their Application has been Conditionally Accepted and confirming requirements for payment of \$5000 to South Australia.
- 4.9 Except as specifically provided for in these Guidelines, the Applicant is solely responsible for all costs and expenses that you incur in connection with participating in the Application Process, including responding to requests from us for additional information as well as all costs incurred in the delivery of water and production of Fodder or otherwise complying with the requirements in these Guidelines.

### **Lodgement of Trade Approval Forms**

- 4.10 The Applicant will be advised of the process for making payment to South Australia and the completion and lodgement of the Trade Approval Form(s) with the relevant water trade authority or authorities (Authority).
- 4.11 Trade approval may take a number of weeks. You may be advised of the outcome of the Trade approval request directly by the relevant Authority with which the Trade application was lodged. If there are any queries regarding the status or progress of Trade approval, you should contact the relevant Authority directly.

## 5. Compliance and Program review

- 5.1 If you are not able to agree to the obligations and requirements provided in these Guidelines, we cannot accept your Application and you will not be eligible to participate in this program.
- 5.2 Applicants are reminded that it is an offence to knowingly provide false or misleading information to a Commonwealth entity, including under Division 137.1 of the *Criminal Code*.
- 5.3 We may conduct a range of compliance and enforcement activities in relation to the program to ensure water is used for the intended purpose. These could be: remote sensing, onsite visits, audit of evidence such as metering records, allocation account statements for the Allocation Account and any other water allocation accounts held by the Applicant, invoices, photographs and farm surveys. By submitting an application, you agree to participate in and assist with the conduct of these activities, including by promptly providing documentation and other material and access to records and premises as and when requested.
- 5.4 If we identify that you have not complied with any obligations or requirements of the first instalment of the Water for Fodder Program you may be excluded from participating in the second instalment of the Water for Fodder Program.

## **6. Change in circumstances**

- 6.1 You must notify us immediately should any of the information you have provided as part of your Application or otherwise under this Program changes or any event occurs that may impact on your ability to comply with the requirements set out in these Guidelines, including, if successful, after the transfer of the Allocation.

## **7. Further information**

- 7.1 The Commonwealth has no liability to any Applicant should any information or material provided with respect to these Guidelines, or the Application Form be inaccurate or incomplete or if actual volumes or other relevant matters in relation to any sale or allocation vary from those advised by the Commonwealth at any time.
- 7.2 The Commonwealth is not bound to accept any Application(s). We may also, at our discretion at any time:
- (a) amend the Guidelines; or
  - (b) waive or defer compliance with any requirement of these Guidelines; or
  - (c) abandon the program altogether.
- 7.3 If you have any further questions regarding this process please contact us by email at [waterforfodder@agriculture.gov.au](mailto:waterforfodder@agriculture.gov.au).

## 8. Definitions and Key Terms

- 8.1 **Allocation** means a volume of 50 meglitres of water allocation, which is the subject of the Application.
- 8.2 **Allocation Account** means the valid water allocation account nominated in the Application into which the water allocation under this Program is to be transferred.
- 8.3 **Applicant, you or your** means the holder or owner of the Allocation Account and where there is more than one holder or owner, all or any of them as the context requires.
- 8.4 **Application** means an application to purchase an Allocation, submitted in accordance with the terms and conditions of the Water for Fodder Program.
- 8.5 **Application Form** means the application form which each Applicant must use to submit the Application.
- 8.6 **Business Day** means a day which is not a Saturday, Sunday or public holiday in the Australian Capital Territory.
- 8.7 **Conditionally Accepted** means conditional acceptance of an Eligible Application pursuant to Section 5.
- 8.8 **Eligibility Criteria** means the criteria described in clause 3.2.
- 8.9 **Eligible Applications** means Applications which satisfy the Eligibility Criteria and are otherwise compliant with the requirements in these Guidelines and are not or have not been excluded in accordance with paragraphs 3.2 or 3.3 or excluded for any other reason;
- 8.10 **Fodder** means any crop grown for the purpose of feeding livestock (including pasture, hay, lucerne and silage)
- 8.11 **Minister** means the Minister for Water Resources, Drought, Rural Finance, Natural Disaster and Emergency Management
- 8.12 **Notice of Conditional Acceptance** means the conditional acceptance notification issued pursuant to paragraph 5.3
- 8.13 **Primary Producer** means an individual, partnership, trust or company operating a primary production business and undertaking plant or animal cultivation (or both).

- 8.14 **Right to Use** means a right to take and use water accrued to an Allocation Account (including a nominated works approval in New South Wales, a water-use licence or water-use registration in Victoria and a site use licence in South Australia and any other similar right to take and use water whether or not that is a right arising due to the nature of the Allocation Account or a right which is separate but connected to the Allocation Account)
- 8.15 **Sale Close Time** means 10:00am (AEDT) on the next business day after the day on which we give a Sale Closure Notice
- 8.16 **Sale Closure Notice** means a notice from us published on the Department's Website which states the Sale Close Time
- 8.17 **Sale Open Time** means the date announced by the Department on the Department's Website which states the Sale Open Time.
- 8.18 **Sale Volume** means 40 gigalitres.
- 8.19 **Trade Approval Form(s)** means the prescribed form(s) which are required to be completed and submitted to the relevant water authority to facilitate the transfer of the water allocations.
- 8.20 **Us** means the Department of Agriculture.
- 8.21 **Water for Fodder Program** is the program to which these Guidelines relate.
- 8.22 **Website** means [agriculture.gov.au/water-for-fodder](http://agriculture.gov.au/water-for-fodder)