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Customer Information Bulletin on email

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Victorian Water Register

Background

On 1 July 2007, as part of the State Government's reforms to secure Victoria's future water supplies, existing water entitlements held on land in irrigation districts in northern Victoria will be unbundled and separated into:

- a water share
- a delivery share
- a water-use licence.

This covers water entitlements on regulated systems managed by Goulburn-Murray Water, Lower Murray Water and First Mildura Irrigation Trust authorities.

Existing water entitlements held on land in irrigation districts in southern Victoria will be unbundled a year later on 1 July 2008.

Unbundling separates water from land. A water share will become an asset that can be traded and mortgaged. The recording of water entitlements will also be simplified and improved by the establishment of the Victorian Water Register.

The Victorian Water Register will come into operation on 1 July 2007 and will be shared by the Water Registrar, rural water authorities and the Office of Water.

Role of Water Registrar, water authorities and Office of Water

Land Victoria Executive Director Chris McRae has been appointed Registrar of the water register.

The Registrar has legal responsibility for the water register system and for ensuring the accuracy, reliability and accessibility of records.

He is also responsible for recording transactions on water shares — including transfers, mortgages, limited term transfers and discharges of mortgage.

The water register is a critical business system for water authorities.

They will use the water register in day-to-day management and delivery of water to customers including managing water allocations, approving applications to transfer water shares and issuing and managing water use licences and delivery shares.

The Office of Water will be responsible for the overall water system and will use the water register to maintain records of bulk and environmental entitlements, to credit water allocations to water share holders following seasonal determinations and to maintain water accounting and water trading reports.

Transaction Types for Water Shares

The most common types of transactions on water shares that will be recorded by the Water Registrar are:

- Mortgage of Water Share
- Discharge of Mortgage of Water Share
- Variation of Recorded Mortgage of Water Share
- Transfer of Recorded Mortgage of Water Share
- Variation in Priority of Recorded Mortgages of Water Share
- Application by Surviving Owner of a Water Share
- Application by Legal Personal Representative in respect of Water Share
- Transmission Application by Trustee in Bankruptcy of Water Share
- Limited Term Transfer
- Surrender of Limited Term Transfer
- Transfer of Water Share
- Transfer of Water Share by Mortgagee
- Memorandum of Common Provisions for Water Share Mortgage

Note: Fees will be set under Water (Resource Management) Regulations 2007 and will be advised as soon as possible.

Lodgement and Registration Processes

Water share transactions can be lodged in person over-the-counter — or by bulk lodgement — on level 9, 570 Bourke Street, Melbourne. Office hours are 8.30 am to 4.00 pm, Monday to Friday.

Transactions can also be lodged by mail addressed to the Water Registrar, Land Victoria, PO Box 500, East Melbourne 3002.

Completed documentation must be provided at the time of lodgement. Land Registration Services staff will advise if documentation provided is unsatisfactory. If satisfactory the documentation will be lodged and recorded on the water register.

Fees for lodging a transaction on the water register will be advised as soon as possible.

When the transaction is completed, the customer will receive a receipt and a copy of the updated water share record.

Searching

There are key differences between the Land Register and the new Victorian Water Register.

While both registers are open to the public, the water register has limited accessibility as set out under the Water Act 1989.

A search of the water register provides a copy of the water share record, which is somewhat similar to a Register Search Statement, in that it shows a subsisting or current record and points to relevant lodged transactions.

To search for a water share record, the water share ID provided by the vendor or their representative is required. There is no index or other way into the water register. The water share ID is a six digit number with a three letter prefix.

If the vendor or their representative does not know their water share ID they must contact the relevant water authority to obtain it.

To search a transaction on a water share that has been lodged with the Water Registrar for recording, you will need the transaction number, which you can obtain from the vendor or from a water share record. Transactions on water shares also have a three letter prefix and a six digit number.

Unlike Land Register searches, water register searches do not provide the addresses of any persons shown on lodged transactions.

Searches can be conducted from 1 July 2007 in person on Level 10 at Land Victoria, 570 Bourke Street, Melbourne.

Online searching of the water register will be available by the end of 2007.

Water register search fees will be advised as soon as possible.

Settlements (pre 1 July 2007)

Currently, when land listed on a water authority's Section 230 Register is sold, ownership of the land and the water right are transferred to the buyer.

This will change on 1 July 2007 when water rights listed on a water authority Section 230 Register will become tradeable water shares separate to the land.

Important transitional arrangements for settlements of land and associated water rights due to occur in June have been published at www.dse.vic.gov.au > Property, Titles and Maps > What's New

Forms

Water share transactions — including transfers of ownership, mortgages, discharges and other mortgage-related transactions and transmissions — will be recorded in the water register using approved forms.

The Registrar (as a recording body under Part 5A Water Act 1989) has, to date, approved the following forms under section 84ZI(2):

- Transfer of Water Share
- Limited Term Transfer of a recorded Water Share
- Surrender of a Limited Term Transfer of a Water Share
- Application by Legal Personal Representative in respect of Water Share
- Application by Surviving Owner of a Water Share
- Transmission Application by Trustee in Bankruptcy in respect of Water Share
- Mortgage of Water Share — all monies mortgage and principal sum mortgage
- Variation of Recorded Mortgage of Water Share
- Variation of Priority of recorded Mortgage of Water Share
- Transfer of Recorded Mortgage of Water Share
- Transfer of Water Share by Mortgagee
- Discharge of Mortgage

Transfers of water shares and limited term transfers can only be lodged for recording in the approved form of pre-filled transfer that will be issued by a water authority on approval of an application to transfer a water share or give a limited term transfer. No alterations or erasures to a pre-filled form of transfer are acceptable; these documents are required to be properly executed by the named parties, dated and lodging details completed as applicable.

Other printed approved forms can be obtained from the water register on Level 9, 570 Bourke Street, Melbourne and from water authorities. These forms will also be available online from 1 July 2007 on the Water Register site at www.dse.vic.gov.au > Property, Titles and Maps.

Except for the transfers referred to above, the forms used to record transactions with a water share in the water register can be produced on your personal computer provided the forms comply with the approved-form format including layout, and information included. Customers are also required to:

- use a laser printer to print the forms
- use a laser printer or ink to complete the forms
- use black ink when printing the forms and their contents
- use black or blue ink when completing the forms by hand
- ensure that all signatures and handwriting are in ink
- only print on one side of a page
- print in portrait
- use A4 size paper
- use white paper
- use paper of not less than 80gsm
- allow for label in margins in the top right-hand corner of each page; dimensions 40mm wide by 50mm depth
- left, right and bottom margins should be 10mm
- use Times New Roman 12 point font, except for Privacy Statement and directions for completion, etc
- staple the pages together in the top left-hand corner if a mortgage contains more than one page; binding is not acceptable
- number pages at the bottom right of each page if a document contains more than one page, for example 1 of 4, 2 of 4, 3 of 4 and 4 of 4 etc, as applicable
- not use correction fluid or any other impermanent medium

Questions & Answers

What should I do to transfer a water share?

You must firstly contact your water authority and apply to transfer your water share. Once your application is approved, your water authority will provide the seller with a pre-filled transfer form, which must be signed by all parties and then lodged with the Water Registrar.

What should I do to consolidate or divide my water share?

Consolidation and division of water shares is handled exclusively by your water authority. You can obtain explanatory notes and application forms from your water authority.

What information will the Water Registrar record?

Records and information will be maintained in different parts of the register by the Water Registrar and the water authorities. Details recorded by the Water Registrar in relation to a water share include proprietorship details, water share volume (in megalitres), relevant water system and water authority, details of water share transfers or limited term transfers, mortgages and other notifications.

Under which Act of Parliament will the Water Register operate?

Water Act 1989

Is it a mandatory requirement for transfers and limited term transfers of a water share to be lodged with the Water Registrar?

Future water allocations will continue to go to the original owner of the water share until a transfer or limited term transfer is recorded in the water register. Other transactions, like mortgages or transmission applications, may be

lodged for recording as required by the parties to these transactions.

Is there a time limit to record my water share transfer or limited term transfer with the Water Registrar?

Yes. Your water share transfer or limited term transfer must be recorded in the water register within two calendar months from the date of water authority approval of the transaction. If the transaction is not recorded within the two calendar months, the water authority approval lapses and the Water Registrar will not record the transfer.

A new application would need to be lodged with the water authority with another application fee. The two month time limit applies only to transfers of water shares and limited term transfers. Please note that you should allow a minimum of 24 hours for your transaction to be processed by the Water Registrar.

Do I need Mortgagee's consent to transfer my water share or to grant a limited term transfer?

Yes. If your water share is encumbered by a mortgage and the mortgage is not being discharged, consent from the mortgagee will be required. The consent must be a separate supporting document and must be lodged in conjunction with your transfer of water share or limited term transfer.

Is stamp duty applicable?

No. Stamp duty does not apply for any water register transactions.

Will I get a water share 'certificate of title'?

No. A water share certificate will not be issued.

What will I get as evidence that I own a water share?

When your transaction of a water share has been recorded by the Water Registrar you will be provided with a copy of the water share record.

Water Authorities (contact details)

Goulburn-Murray Water
Authority
Telephone: 1 800 013 357
www.g-mwater.com.au

Lower Murray Water Authority
Telephone: (03) 5051 3400
www.lmw.vic.gov.au

First Mildura Irrigation Trust
Telephone: (03) 5021 1811
www.fmit.com.au