

Explanatory Notes

General

1. A limited term transfer entitles the holder of the limited term transfer to receive future water allocations under the water share from the date specified in the transfer or the date the limited term transfer is recorded- whichever is later.
2. The owner of a water share can only transfer the whole of the right to allocation under a water share for a limited, identified and consecutive period. If the owner wishes to transfer just some of the right to allocation a separate application to divide the water share must be made prior to applying for approval of a limited term transfer.
3. A limited term transfer cannot be transferred again to another party.
4. If the water share owner(s) has the water share in the non water user limit the water share will remain in the non water user limit during the period of the limited term transfer.
5. A person must not use water for irrigation on land unless the person has a water-use licence that authorises the use of water on that land.
6. A person must not use water on land for purposes other than irrigation unless the person has a water-use registration.
7. A limited term transfer can be terminated early by the holder of the limited term transfer by lodging for recording a *Surrender of a Limited term transfer* in the approved form.
8. On expiry or surrender of a limited term transfer, all future allocations issued under the water share will be issued to the Water Allocation Bank Account of the owner of the water share.

Process for obtaining approval

Pre-Lodgement

The proposed limited term transfer holder (transferee) must already have a water-use licence/water-use registration.

Lodgement

9. The parties must complete the *Application for a Limited Term Transfer* form and lodge the completed form including payment of the application fee with the Water Authority over the counter or by mail. A schedule of fees can be obtained from your Water Authority.
10. The Water Authority will not accept:
 - Photocopied forms as the application number on the top right-hand corner must be unique.
 - Faxed forms as original signatures are required.
11. The Water Authority also requires proof of the identification of all the transferors (owner(s) of the water share). This requires each transferor presenting identity check documentation to the Water Authority as specified in the document *100 Point Check: Proving your identity to the Water Authority*. The document is available from the Water Authority.

If you require further information please contact your Water Authority:

Goulburn-Murray Water
40 Casey Street
PO Box 165, TATURA 3616 T: (03) 5833-5500

Lower Murray Water
741-759 Fourteenth Street
PO Box 1438, MILDURA 3502 T: (03) 5051-3400

First Mildura Irrigation Trust
120 Ninth Street
PO Box 5024, MILDURA 3502 T: (03) 5021-1811

Approval by the Water Authority and recording by the Registrar

12. The Water Registrar will not record the transfer until the application has been approved by the Water Authority, and a pre-filled *Limited Term Transfer* form has been lodged for recording in the water register along with either discharges of any mortgages over the water share, or consents by any mortgagees to the Limited Term Transfer. (Please see point 14 below). An approved form of consent is available from the Water Registrar.
13. If the application is approved by the Water Authority:
 - The Water Authority will send a letter of approval to the first listed water share owner (transferor) and the proposed limited term transfer holder (transferee), with a copy to the water broker if a water broker coordinated the trade. A pre-filled *Limited Term Transfer* will be sent to the water share owner (transferor).
 - The *Limited Term Transfer* must be recorded in the water register within two calendar months from the date the Water Authority approves the Application. If the *Limited Term Transfer* is not recorded within the two months, the Water Authority approval lapses and the Water Registrar will not record the transfer. A new application for a *Limited Term Transfer* would then need to be lodged with the Water Authority with another application fee.
14. The Registrar will not accept any alterations or erasures to the pre-filled *Limited Term Transfer*. The document must be signed by all the proposed holders of the water share (transferee(s)) and the water share owners (transferor(s)).
15. The Water Registrar will send a letter to advise the water share owner (transferor) and the limited term transfer holder (transferee) of the recording. A copy of the Water Share Record will be attached to these letters.

Registrar's Directions

16. The Water Registrar may from time to time publish Directions setting out procedures for recording Limited Term Transfers and other transactions. These Directions will be available from the Office of the Water Registrar, Level 9, 570 Bourke Street, Melbourne 3000.

Refusal of the Application

17. The Water Authority will send a letter to the water share owner(s) (transferor) and the proposed limited term transfer holder(s) (transferee) advising that the application was refused. A copy of the letter will be forwarded to the water broker if a water broker coordinated the transfer.
18. Reasons for refusal of an application for a Limited Term Transfer may include:
 - i. there is no room in the holding limit of the water-use licence /water-use registration;
 - ii. there is already an existing limited term transfer over the water share;
 - iii. the monetary consideration for the trade is not provided; or
 - iv. the proposed transfer does not comply with trading zone rules.

More information required

19. If the Water Authority requires more information a letter will be sent to the water share owner(s) (transferor) and the proposed limited term transfer holder(s) (transferee) making clear the missing information and/or incorrect information that requires correction. A copy of the letter will be forwarded to the water broker (if applicable).
20. Applicants must provide missing information or correct information within two calendar months or the application for the *Limited Term Transfer* will lapse and a new application would need to be lodged with another application fee.

Note: A reference in these notes to actions to be undertaken by the Water Authority may mean the Water Authority is acting as delegate of the Minister under section 306 of the Water Act 1989.

How to complete the Application for a Limited Term Transfer

Questions 1-2 – Term of the Transfer

The limited term transfer must specify a period of transfer, being a period of not more than 20 years and a date must be specified in the transfer from which future water allocations will be received by the limited term transfer holder.

The term transfer period must be greater than one year.

Questions 3 – Monetary Consideration

Under section 84ZG of the Water Act 1989, any limited term transfer must state the monetary consideration for the transfer. If question 3 is not complete the application will be refused.

Water Share Owner(s)

Question 4 – Water Share ID

The identification number of the water share that is the subject of the limited term transfer. This number can be found on the copy of the water share record. You may apply to your Water Authority for a copy of the water share record.

Question 5 – Water Share Owner(s) Signature(s)

Only water share owner(s), and legal personal representatives can apply for approval for a limited term transfer. All owner(s) of the water share must sign this application.

Limited Term Transfer Holder

Question 6 – Water Allocation Bank Account

If you want your allocation issued to an existing Water Allocation Bank Account you will need to provide that Water Allocation Bank Account number. If you do not have a Water Allocation Bank Account you should indicate you would like to open a new Water Allocation Bank Account.

Question 7 – Water-Use Licence/Water-Use Registration

This number can be found on the copy of the Water-Use Licence/Water-Use Registration record. Alternatively, you may apply to your Water Authority for a copy of the Water-Use Licence/Water-Use Registration record.

Question 8 – Water Share Location Details

Detail the Water Authority that will deliver the water, trading zone (where the water will be used) and delivery system (where that water will be taken from).

Any variation from the original water share location details are subject to trading zone rules and must be within the annual limit on trade out of irrigation areas or districts.

Question 9 – Limited Term Transfer Holder(s) Proposed Ownership Structure

Manner of Holding

The 'manner of holding' refers to the way in which a person or other legal entity holds the limited term transfer (hereafter any reference to 'person' includes legal entity').

A limited term transfer can be held by one person or it can be held by two or more persons:

Sole Holder

This is where only one person holds the limited term transfer. On that person's death, the transfer forms part of the estate of that person; s.33AV(3) Water Act.

Joint Holders and Tenants in Common

When two or more persons describe themselves in the limited term transfer as 'joint holders', this means that on the death of one of them, the whole of their entitlement under the limited term transfer remains with the surviving joint holder (see section 33AV(4) Water Act 1989). An alternative manner of holding is as 'tenants in common'. If holders describe themselves that way in a limited term transfer, they must also state the 'portions' in which they hold their entitlement. For example, Mrs Smith as to 1/2 holding and Mr Smith as to 1/2 holding. The portions must always be expressed as fractions. On the death of a person who holds a limited term transfer as a tenant in common with other persons, that person's portion of the limited term transfer becomes part of the estate of that person (see s.33AV(6) Water Act 1989).

Disclaimer

This explanation of the 'manner of holding' does not constitute legal advice. Please note that you may require legal advice in order to determine your manner of holding requirements.

Limited Term Transfer Holder(s) Signatures

The application must be signed by all the proposed limited term transfer holders (and owners of the new Allocation Bank Account, if applicable).

Questions 10 – Water Broker

Please provide the name, contact telephone number and party identification number if a water broker is coordinating the application. If the water broker has not received a party identification number, a number will be issued on receipt of this application.

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9. Limited Term Transfer Holder(s) Proposed Ownership Structure

Please print name(s) in full and in capital letters. (All holders of the proposed limited term transfer must sign. If there is to be more than three holders or the holder is a company please ensure that Annexure 2 is also completed). The first listed person will be the person to whom all correspondence will be sent.

EITHER

a) The **WHOLE** limited term transfer (i.e no portions) is to be held by one or more limited term transfer holders.

Given name(s)	Surname	Signature
i.		
Postal address		
ii.		
Postal address		
iii.		
Postal address		

Dated

OR

b) The limited term transfer is to be held in **PORTIONS** as tenants in common. Please print name(s) in full and in capital letters below. If there is to be more than than three portions or the holder is a company please ensure that Annexure 2 is also completed. Please see explanatory notes on how to complete the following. Legal advice may be required.

First portion Size of portion:

Given name(s)	Surname	Signature
i.		
Postal address		
ii.		
Postal address		

Dated

Second portion Size of portion:

Given name(s)	Surname	Signature
i.		
Postal address		
ii.		
Postal address		

Dated

Third portion Size of portion:

Given name(s)	Surname	Signature
i.		
Postal address		
ii.		
Postal address		

Dated

10. Water Broker (if Water Broker Coordinated the Application)

Given name(s)

Surname

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Postal Address

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Party ID

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Phone Number

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SAMPLE

Annexure 2

Water Act 1989

This is page _____ of Approved Form 1, 3 and 10

dated _____ between:

Signatures of the Parties

Privacy Collection Statement

The information from this form is collected under the Water Act 1989, in order to process this transaction. The information is used for the purpose of maintaining the water register and for the provision of statistical water market information. Most of the information in the water register is available to the public. Incomplete forms cannot be processed.

To be Completed by the Seller(s)

Given name(s)	Surname	Signature

Dated

Buyer's Proposed Ownership Structure

Please print name(s) in full and in capital letters. All prospective owners of the relevant water share must sign.

EITHER

a) The **WHOLE** water share (i.e no portions) is to be held by one or more owners.

Given name(s)	Surname	Signature
iv.		
Postal address		
v.		
Postal address		
vi.		
Postal address		

Dated

OR

b) The water share is to be held in **PORTIONS** as tenants in common. Please print name(s) in full and in capital letters below.

Please see explanatory notes on how to complete the following. Legal advice may be required.

Fourth portion

Size of portion:

Given name(s)	Surname	Signature
i.		
Postal address		
ii.		
Postal address		

Dated

Annexure 2

Fifth portion

Size of portion:

Given name(s)

Surname

Signature

i.		
----	--	--

Postal address

ii.		
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Postal address

Dated

<input type="text"/>	<input type="text"/>	<input type="text"/>
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To be Completed if Company is Seller

All notices and invoices will be sent to the postal address of the first named company.

1. Name of Company

ABN

<input type="text"/>	<input type="text"/>
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Postal Address

<input type="text"/>

Dated

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

Given name(s)

Surname

Signature

Position

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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2. Name of Company

ABN

<input type="text"/>	<input type="text"/>
----------------------	----------------------

Postal Address

<input type="text"/>

Dated

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

Given name(s)

Surname

Signature

Position

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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To be Completed if Company is Buyer

All notices and invoices will be sent to the postal address of the first named company.

1. Name of Company

ABN

<input type="text"/>	<input type="text"/>
----------------------	----------------------

Postal Address

<input type="text"/>

Dated

<input type="text"/>	<input type="text"/>	<input type="text"/>
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Portion Size (if applicable)

Given name(s)

Surname

Signature

Position

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Annexure 2

2. Name of Company

ABN

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Postal Address

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Dated

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Portion Size (if applicable)

--	--

Given name(s)	Surname	Signature	Position

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SAMPLE