

Explanatory Notes

General

1. There are a significant number of matters that the Water Authority must consider in issuing a water share under section 33J of the Water Act 1989. In addition, there are a number of matters to be considered under section 33K of the Act in issuing water shares upon the cancellation of an interstate entitlement. It is therefore advisable that you contact your Water Authority before you apply for the issue of a water share.
2. The *Issue of a Water Share* application form can only facilitate the issue of one new water share. To vary and/or associate/voke and association of an EXISTING water share (Form 9) should be completed.
3. Before you can apply for the issue of a water share (upon the cancellation of an interstate right, bundled entitlement, high/low reliability water share, or supply by agreement), you must have already applied to cancel the existing water share or bundled entitlement. Both applications can be submitted to the Water Authority at the same time.

Process for obtaining approval

Lodgement

4. The applicant must complete the *Issue of a Water Share* application form and lodge the completed form including payment of the application fee with the Water Authority over the counter or by mail.
5. 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.
6. The *Issue of a Water Share* application form and the schedule of application fees can be obtained from your Water Authority. Please note that if you are also submitting an application to *Cancel a Water Share* that only one fee will need to be paid.

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 of the Application

7. If the Water Authority approves the application, the Water Authority will record the issue of the water share on the water register.
8. The Water Authority will send a letter to the first water share owner listed advising that the water share issue has been approved and recorded in the water register. Attached to the letter will be a copy of the water share record. A copy of the letter will also be forwarded to the water broker (if applicable).

Refusal of the Application

9. If the Water Authority refuses the application, the Water Authority will send a letter to the first water share owner listed stating the reasons for the refusal. A copy of the letter will be forwarded to the water broker (if applicable).
10. If the applicant chooses to apply again a new *Issue of a Water Share* application form would need to be lodged with another application fee.

11. The Water Authority will not be able to issue the water share if:
 - i. On issuing the water share it would not be an associated water share;
 - ii. The maximum volume of water determined for that water share would cause the non water user limit for the proposed associated water system to be exceeded for the class of water share to which the water share would belong;
 - iii. The non water user limit for the proposed associated water system has been exceeded for the class of water share to which the water share would belong;
 - iv. The issue of the share would be in conflict with any approved management plan for a water supply protection area;
 - v. The issue of the share may result in the permissible consumptive volume for the proposed associated water system being exceeded; or
 - vi. The issue of the share would be in conflict with any relevant bulk entitlement.

More information required

12. If the Water Authority requires more information a letter will be sent to the first water share owner listed and to the water broker (if applicable). The letter will make clear the missing information and/or incorrect information that requires correction.
13. Applicants must provide missing information or correct information within two calendar months or the *Issue of a Water Share* application 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 the Issue of a Water Share

Question 1 – Reason for Issue

If you have applied to *cancel a bundled entitlement* (e.g supply by agreement) you will then be applying for the “issue of a water share upon the cancellation of a bundled entitlement”.

If you have applied to *cancel an interstate entitlement* you will then be applying for the “issue of a water share upon the cancellation of an interstate entitlement”. Under section 33K of the Water Act 1989 there are a number of matters to be considered in issuing water shares upon the cancellation of an interstate entitlement. It is advisable that before you apply for the issue of a water share that you contact your Water Authority.

If you have applied to *cancel a water share to change the reliability to high/low* you will then be applying for the “issue of a water share upon the cancellation of a water share with a high/low reliability”.

If you are applying for the issue of a water share there are a significant number of matters that the Minister must consider in issuing a water share under section 33J of the Water Act 1989. It is advisable that before you apply for the issue of a water share that you contact your Water Authority.

Question 2 – Application Number to Cancel the Water Share

If you are applying for the issue of a water share upon the cancellation of a bundled entitlement, issue of a water share upon the cancellation of an interstate entitlement, issue of a water share to trade a water share to a supply by agreement or for the issue of a water share upon the cancellation of a water share with a high/low reliability, you MUST have already lodged an application to cancel the existing water share in order for the new water share to be issued. If you do not provide the application number from the cancellation form your application for a new water share will be refused.

Question 4 – Water Share Attributes

Please 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).

Question 5 – Association with Water-Use Licence/Registration

To associate your new water share with a water-use licence/water-use registration there must be capacity within the holding limit for the property (twice the annual use limit). If the water share is not to be associated with a water-use licence or water-use registration there must be capacity within the non water user limit.

Question 6 – Water Allocation Bank Account

If you have an existing Water Allocation Bank Account you may choose to link your new water share to it. Alternatively, you may wish to open a new Water Allocation Bank Account.

Question 7 – Water Share Owner(s) Proposed Ownership Structure

Manner of Holding

The manner of holding refers to the way in which a person or a legal entity owns a water share. (Hereafter any reference to ‘person’ includes legal entity).

A water share can be owned by one person or it can be owned by two or more persons:

Sole Owner

Is where only one person owns the water share.

Joint Owners

Is where two or more persons own a water share as joint owners. On the death of one joint owner the whole of the water share remains with the surviving joint owners.

Tenants in Common

Two or more persons can own water shares as tenants in common. For example Farmer A as to 1/2 water share and Farmer B as to 1/2 water share. A tenant in common can sell their portion (1/2) without the approval of the owners of the other portion(s). If the person dies their portion passes either in accordance with their Will, or in accordance with the laws of intestacy should they die without a Will.

Tenants in Common may Own their Portions as Joint Owners

Multiple persons may own a portion of a water share. For example, in a share divided into two portions Farmer A and Farmer B may own 1 of the 2 portions (1/2) as joint owners, and Farmer C may solely own the other portion (1/2). This ownership structure would be expressed:

- Farmer A and Farmer B as joint owners of 1/2 water share and Farmer C as to 1/2 water share as tenants in common.

If Farmers A and B wanted to own their portion as tenants in common, the fractions would need to be re-expressed as:

- Farmer A as to 1/4 water share, Farmer B as to 1/4 water share, and Farmer C as to 2/4 water shares as tenants in common.

For each portion, the size must be recorded (expressed as a fraction), the sole owner or multiple owners named, and their

manner of holding expressed. A common denominator must be used for the shares held by the tenants in common.

Share portions may be unequal but in all cases the fractions must add to 1. If a portion size is not provided in the application the portions will be considered equal.

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.

Water Share Owner(s) Signature(s)

The applicant(s) to sign the application should be the people who will be recorded as the owner(s) of the water share. The owner(s) will be required to sign for all future transactions such as transfer of a water share, division of a water share, consolidation of a water share and cancellation of a water share.

If a new Water Allocation Bank Account is required, the people to sign as the owners will be the only people able to buy/sell water allocation. To authorise an agent to buy/sell water allocation on the owners' behalf, application form *Authorisation of an Agent* will need to be completed.

Question 8 – Water Share Owner(s) Water Broker

Please provide the name, signature, contact telephone number and party identification number if a water broker is coordinating the trade application. If the water broker has not received a party identification number, an identification number will be issued on receipt of this application. A letter regarding the approval, refusal or a requirement for more information will also be sent to the water broker (if applicable).

Published by the Victorian Government Department of Sustainability and Environment

Melbourne, August 2006

Also published on www.dse.vic.gov.au

This document was prepared in collaboration with Regional Development Victoria and the Werribee Plains Consultative Panel.

Images have been provided from Melbourne Water, Wyndham City Council, Moorabool Shire Council, VicUrban, Parks Victoria and Sharron Dickman.

© The State of Victoria Department of Sustainability and Environment 2006

This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968.

Authorised by the Victorian Government, 8 Nicholson Street, East Melbourne.

Printed by Impact Digital, 32 Syme Street, Brunswick.

Printed on recycled paper.

ISBN 978-1-74152-731-7 (Hardcopy)

ISBN 978-1-74152-737-6 (Internet)

For more information contact the DSE Customer Service Centre 136 186

Disclaimer

This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

7. Proposed Water Share Owner(s)

Please print name(s) in full and in capital letters. All proposed owners of the relevant water share must sign. If there are to be more than three owners or the owner is a company please ensure that Annexure 4 is also completed. All notices will be sent to the postal address of the first named person.

EITHER

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

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

OR

b) The water share is to be in **PORTIONS** held by tenants in common.

Please print name(s) in full and in capital letters below. If there are to be more than three portions or the owner is a company please ensure that Annexure 4 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		

8. Proposed Water Share Owners Water Broker (if Water Broker is coordinating the Application)

Given name(s)

Surname

--	--

Postal Address

--

Party ID

--	--	--	--	--	--	--	--	--	--

Phone Number

--

SAMPLE

Annexure 4

Water Act 1989

This is page of Approved Form 7

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.

Water Share Owners 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 in **PORTIONS** held by 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

Fifth portion Size of portion:

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

Dated

Annexure 4

To be Completed if Company is Proposed Water Share Owner

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

1. Name of Company

ABN

--	--

Postal Address

--

Dated

--	--	--

Portion Size (if applicable)

--

Given name(s)

Surname

Signature

Position

Given name(s)	Surname	Signature	Position

Dated

--	--	--

2. Name of Company

ABN

--	--

Postal Address

--

Dated

--	--	--

Portion Size (if applicable)

--

Given name(s)

Surname

Signature

Position

Given name(s)	Surname	Signature	Position

Dated

--	--	--

