

2010/2011 Water Share Ballot

Rules and Procedures



Background Information

- There is a limit on the volume of water shares which can have the association with land in an irrigation area removed each year.
- The limit restricts the disassociation of water shares from each irrigation area to 4% of the total volume of water shares that were associated with land at the beginning of the water season.
- The limit is set at the beginning of the season.
- The 4% limit only applies to water shares associated with land in the six Goulburn-Murray Water (G-MW) areas and in the one combined Lower Murray Water (LMW) irrigation area.
- The 4% limit applies to water shares that have been disassociated by G-MW or LMW as a result of the sale of land or cancellation of the Water Use Licence or Water Use Registration, but still retain a delivery system in the relevant irrigation area.
- The 4% limit does not apply to water shares associated with land outside districts where water is delivered from regulated rivers
- There is a separate 4% limit for High and Low Reliability water shares in each irrigation area.
- In recent times the volume of applications lodged at the beginning of the new season which seek to remove the association with land in one or more irrigation areas has exceeded the 4% limits.
- The *Trading Rules for Declared Water Systems* make provisions for this situation and stipulate that a ballot may be held early in the season to ensure that all water share owners have an equal and fair and opportunity to have an application to transfer or dissociate their Water Shares considered.

General Rules

Lodgement of Applications for the ballot

1. The application acceptance period for the 2010/2011 ballot will run for three weeks commencing Monday 21 June 2010 and concluding at 4.00pm on Friday 9 July 2010.
2. Rules and procedures for participating in the ballot will be communicated via the G-MW website, newsletters, through media releases and at a forum for solicitors and trading advisors scheduled for May 2010.
3. Applications may be lodged in person at any of the G-MW operational Area offices, or G-MW's head office at 40 Casey Street Tatura, or by post to 40 Casey Street Tatura Vic 3616. Emailed or faxed applications will not be accepted.
4. For the purposes of the ballot all applications lodged during the ballot application period are deemed to have been received on the same day.

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5. To ensure the integrity of the processing order is maintained all applications submitted during this period will be held for the ballot (including applications which are exempt from or not subject to the 4% limit).
6. All applications to sell water shares to the Commonwealth Government lodged during the ballot acceptance period will be included in the ballot, for the purpose of setting a processing order, regardless of their exemption status.
7. Applications received will be date stamped upon receipt by mail or hand delivery to G-MW to verify they have been received during the ballot application period.
8. Upon receipt, applications submitted during the ballot acceptance period will be lodged in the Water Register and the G-MW Ballot system in preparation for the ballot.
9. Upon receipt, applicants and the lodging party (if nominated) will be sent a letter notifying them that the application has been received and is being held for the ballot. The letter will also include details of any outstanding charges relating to the water share.
10. Outstanding charges must be paid as a condition of approval of transfer, and so must be paid by the time that the application is processed after the ballot. Outstanding charges include charges levied and outstanding from 2009/10 and prior as well as charges levied (or scheduled to be levied) on 1 July 2010 for the 2010/2011 annual accounts.
11. Only one application per water share will be eligible for lodgement during the ballot acceptance period.
 - a. If more than one application is lodged and one of the applications is an Application to Vary a Water Share (Form 9), this will be the application lodged in the ballot and the other application(s) will be returned to the applicant.
 - b. If multiple Applications to Vary the same Water Share (Form 9) are lodged, a random process will determine which applications application is lodged in the ballot and the other application(s) will be returned to the applicant.
 - c. If none of the applications is an Application to Vary a Water Share (Form 9) and more than one application to Transfer or Divide and Transfer the same Water Share is lodged (Form 1 or 3) a random process will determine which application is lodged in the ballot and the other application(s) will be returned to the applicant.
12. Applications received during the ballot period will not be checked or verified on receipt. However at a minimum the application must be accompanied by the relevant application fee.

If this requirement is not met:

 - a. The applicant (and lodging party) will be contacted by phone (if a phone number is provided) or by mail to advise them that the application will not be included in the ballot until the application fee has been paid.

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- b. G-MW will keep a record of any attempts to communicate with applicants and note where applicants could not be contacted successfully by phone. G-MW takes no responsibility for failures by applicants to check or return phone messages left by G-MW or for delays in the delivery of mail sent to or from applicants or lodging parties.
- c. If the application fee remains unpaid by 4.00pm on Friday 9 July 2010, a note will be recorded in the ballot system stating that the application fee has not been paid and the application will be excluded from the ballot.
- d. In this case, the application will be returned to the applicant and any resubmission will be processed after all applications for the ballot have been finalised.

Conducting the ballot

- 13. The ballot for 2010/2011 will take place on Monday 12 July 2010 at G-MW's Tatura office.
- 14. Four individual ballots will be run by Goulburn-Murray Water for the following application types:
 - a. Applications for G-MW High Reliability Water Shares
 - b. Applications for G-MW Low Reliability Water Shares
 - c. Applications for LMW High Reliability Water Shares
 - d. Applications for LMW Low Reliability Water Shares
- 15. An independent auditor will oversee the operation of the ballot process and verify that all valid applications submitted for the ballot have been included and have been allocated a processing order number. An electronic balloting process, endorsed by an independent auditor, will randomly generate a processing order number for each application.
- 16. If the auditor is not satisfied the ballot process has been conducted fairly, the balloted order may be cleared and re-run. Once satisfied, the auditor will lock the ballot order in the ballot system.
- 17. A customer representative will be invited to observe the ballot process (but not the subsequent processing).
- 18. G-MW will issue a media release after the ballot has been finalised confirming the number of applications balloted and the volume of water shares submitted for the ballot. The ballot order will not be made publicly available.

Processing of applications after the ballot

- 19. When the ballot process has been verified by the auditor and the processing order established and locked, processing will commence in balloted order.

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20. Each application will be processed in the water register in balloted order. Normal processing procedures and trading rules will be followed by processing officer.
21. Processing officers will make a recommendation to the Approvals Officer that the application is either:
 - a. Approved
 - b. Refused, or
 - c. Placed 'With Applicant'
22. Where there is a recommendation to either approve or refuse an application, the recommendation will be endorsed by the Approvals Officer in balloted order also.
23. For applications with a recommendation for 'With Applicant' further action is required by the applicant before G-MW can make a recommendation to approve or refuse the application (refer item 26 - *With Applicant* below).
24. Where an application has been given a With Applicant status and the applicant has subsequently addressed all requirements and/or resubmitted the application, it will rejoin the processing order on the day it is returned, or the date G-MW is notified by the applicant or lodging party that the requirements have been met (in the case of payment of outstanding charges).

Under these circumstances the following rules will apply:

- a. If an application is resubmitted (or G-MW is notified that outstanding information or payment has been provided) by 12.00 noon on a given day, it will be processed before the processing of ballot applications on the following business day. Note that this does not mean that it will be approved by the Approvals Officer on the day after the resubmission is received - it may take some days for the application to reach the approval stage.
- b. If more than one 'With Applicant' application is resubmitted (or G-MW notified that requirements have been met) by 12.00 noon on any given day a random process will determine the order in which they are processed the following day. (Note: Applications may be placed With Applicant on more than one occasion if requirements are not met. On each occasion this procedure will be followed.)

Refusal of application

25. Applications which cannot be approved will be formally refused in the Water Register.
 - a. For applications which are refused, the application form (and associated documentation) will not be returned to applicants and cannot be re-lodged at a later date.
 - b. For applications submitted as part of the ballot and refused due to the 4% limit being exceeded, G-MW will refund the application fee to the applicant.
 - c. For applications refused due to other requirements not being met, no refund will be given.

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With Applicant

26. For applications which cannot be processed and are placed With Applicant, a letter will be sent to the applicant (and lodging party if one is nominated) detailing the application requirements which have not been met.
- In some cases the letter will be accompanied by the application form so that the applicant/lodging party can rectify the information, while in others (such as a request for payment of outstanding charges, the provision of additional documentation etc) the application will be retained by G-MW and a letter requesting payment or the additional information sent to the applicant (and lodging party if one is nominated).
 - The onus will be on applicants to notify and confirm with G-MW, and/or return their application to the address nominated on the With Applicant letter, as soon as they have met the outstanding requirements.
 - If the requirement relates to payment of outstanding charges, applicants must notify G-MW using the contact details nominated in the 'With Applicant' letter that they have made payment at a G-MW office or the Post Office and provide documented evidence of this in the form of a receipt or remittance advice.
 - If an application is placed With Applicant and requirements are not met within 30 days a reminder letter will be sent to the applicant (and lodging party). If after 60 days from the date the application was placed With Applicant, the requirements are not met the application will be expired.

Managing applications to transfer between LMW and G-MW

27. The procedures for managing applications lodged in the ballot to transfer water shares between LMW and G-MW will be as follows:
- Separate ballots will be run for LMW and G-MW
 - When the ballots are verified and locked by the auditor, G-MW and LMW will locate all 'between-authority' transfers that involve trade-out of a 4% area or trade-in to a 4% area.
 - The selling authority will process and approval these trades in the order established in its ballot, in order to fairly allocate trade-out opportunities.
 - When these applications reach approval stage, the buying authority will be notified by the selling authority ballot that an urgent approval/refusal is required to maintain the integrity of the ballot order.
 - The selling authority cannot approve any applications that are later in the ballot order than the between-authority transfer until the between-authority transfer has been approved or refused.
 - Outstanding charges relating to the water shares are payable to the selling authority in accordance with the selling authority's rules and procedures prior to the approval of the transfer.

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Payment of Water Share Fees as a condition of transfer

28. Water Share fees, once issued, are payable on or before the due date, or as a condition of approval of transfer. This means that they must be paid before a transfer can be approved.
29. Prior to the ballot, G-MW will publicise the requirement for payment of water share fees as a condition of transfer.
30. This communication will highlight that the payment of outstanding charges includes:
 - a. Any unpaid water share fees from years prior to 2010/2011.
 - b. The 2010/2011 water share fees issued in early July 2010.
31. Upon receipt of an application in the ballot period G-MW will issue a letter notifying each applicant (and lodging party if nominated) of the requirement to make payment of water share fees as a condition of transfer and detailing the estimated fees that will apply at the time the application is considered.
32. A blank remittance advice notice will be provided to applicants with this letter with instructions that it be returned with the payment, or in the case of payment made at a post office or area office, that it be faxed/posted or emailed to a specified number/ address.

Audit procedures

33. G-MW will appoint an independent auditor to be present to verify the operation of the ballot. The auditor will provide a report to G-MW which will be made available on G-MW's website.
34. G-MW and LMW will each arrange a post-ballot independent audit to verify how the ballot was implemented. The audit report will detail whether applications were approved in a way that ensured that the ballot order was followed. G-MW and LMW will each publish the audit report on its website when processing of applications is complete.

Dealing with the 4% Limit

35. The relevant 4% report will be generated from the Water Register website www.waterregister.vic.gov.au immediately prior to the approval or refusal of all applications processed after the ballot. This report will be produced and a copy saved into the water register with each transaction in the document handling system.
36. If and when the remaining volume under the 4% limit for a particular irrigation district prevents approval of an application, the 4% limit is said to be effectively 'reached'. Further applications will still be processed in balloted order and tested against the limit (except for applications which have been granted an exemption to the 4% limit - see section on exemptions to the 4%). Where the volume cannot be approved under the 4% limit the application will be refused.
37. When the limit has been effectively 'reached' and a subsequent application is refused, as approval would cause the limit to be exceeded, it may be possible for subsequent applications (for lesser volumes) lower in the processing order to be approved.

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38. Where the limit has been effectively 'reached', the remaining applications will be processed and refused in balloted order. During that process it is possible that an additional opportunity to trade out of the irrigation area may arise, because the 4% limit is a net limit. This can occur as a result of -
- a. Approval of a subsequent application to trade water shares into an irrigation area (i.e. trade from another irrigation area, or from a private diverter, into the irrigation area); or
 - b. The rejection by the Registrar of an application to record an earlier approved trade-out application.

Any such opportunity will become available to the applications that are about to be approved at the time the opportunity arises - this is solely determined by the balloted order of processing.

Exemptions to the 4%

39. Applications which have been exempted from the 4% by NVIRP (or any other approved program) must be accompanied by an Exemption Evidence Notice for the water shares specified. The document must have been issued by NVIRP or through other approved Commonwealth Government programs.
40. Ballot applications with an eligible exemption to the 4% limit will be subject to the following procedures:
- a. All applications will be included in the ballot, to set a processing order.
 - b. When an application is processed after the ballot, the exemption status will be verified in accordance with the relevant rules under the *Water Trading Rules for Declared Systems* and against records held in G-MW's customer database.
 - c. If an exemption is provided, but cannot be verified against G-MW's records, the application will be placed With Applicant and verification sought from the issuer of the exemption (NVIRP, Centerlink etc).
 - d. Applications which have a valid exemption from the 4% limit will be processed as exempt and will not be tested against the 4% limit. The category of the exemption which has been granted will be noted on the application in the Water Register.