

Land Victoria

Customer Information Bulletin

Victorian Water Register

On 1 July 2008, existing water entitlements held on land in irrigation districts in southern Victoria will be unbundled and separated into:

- a water share: high reliability or low reliability (where people have had access to sales water)
- a delivery share
- a water-use licence, or water-use registration for non-irrigators.

This is the second phase of the Victorian Government's reforms to secure Victoria's future water supplies and covers water entitlements in regulated systems managed by Southern Rural Water. Southern Rural Water is the trading name of the Gippsland and Southern Rural Water Corporation. This bulletin relates mainly to the Macalister, Werribee and Bacchus Marsh irrigation districts.

As advised previously, the unbundling of water entitlements separates water from land. A water share becomes an asset that can be traded and mortgaged. The new water entitlements are recorded in the Victorian Water Register which became operational on 1 July 2007 when northern Victorian water entitlements were unbundled. The register is shared by the Water Registrar, rural water authorities and the Office of Water in the Department of Sustainability and Environment.

For more information on the unbundling reforms and the role of the Water Registrar in the Victorian Water Register you should refer to *Customer Information Bulletin* numbers 103 (June 2007), 104 (July 2007) and 109 (January 2008).

Transitional arrangements (for Southern irrigation areas)

Land ownership from the Land Titles Register will be migrated into the Water Register. This data will include land dealings lodged and registered before 1 July 2008.

Settlement documents for land transactions must be lodged for registration at Land Victoria by the close of business (4pm) on Monday, 30 June 2008.

The lodged documents will then be registered (subject to them being assessed as correct) before 1 July 2008 and the changed Land Titles Register records will be included in the data being used to create the water register records.

Dealings lodged before Monday, 30 June 2008 (but not registered before 1 July): as soon as practicable following their registration, the information in the water register will be amended to accord with the changes to the land proprietorship records, and the provisions of Schedule 15 *Water Act 1989*.

After 1 July 2008, transactions in southern Victoria with a water share must be in accordance with the procedures under Part 3A of the *Water Act 1989*.

In particular, a transfer of water share must start with an application for approval to transfer a water share signed by the vendor and purchaser.

Edition 110 May 2008

Customer Information Bulletin on email

If you'd like to receive the *Customer Information Bulletin* electronically or to unsubscribe, send your request via email trs.enquiries@dse.vic.gov.au, telephone (03) 8636 2812, or fax (03) 8636 2250.

ISSN 1441 - 1504
PP 349181/01650

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Authorised by the Victorian
Government, Melbourne

Printed by Stream Solutions

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Department of Sustainability and
Environment 2008

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Application forms are available from Southern Rural Water.

These applications must include the relevant water share identification number – this information will be supplied to owners in letters from the Registrar delivered early July 2008.

Settlements that occur prior to 30 June 2008 (but where the land transaction is lodged after 4pm on the 30 June 2008): registration of the land transaction will not transfer the water share. The procedures outlined above for transferring a water share after 1 July 2008 will apply.

Mortgages in the Water Register

Schedule 12A to the *Water Act 1989* contains provisions relating to mortgages in the Water Register.

The transitional arrangements for unbundling water rights into water shares (in Schedule 15 to the *Water Act 1989*) include special provisions dealing with the consequences of unbundling on mortgages.

Mortgages over land in irrigation districts will be carried forward onto water shares on the conversion of pre-existing water rights and stock and domestic rights - provided the newly created share has a volume of at least five megalitres (Clause 24 of the Schedule). Also, no mortgages are extended to shares that are issued out of previous section 51 licences.

After 1 July, mortgages over water shares will have to be recorded in the Water Register separately to registration of mortgages over land in the Land Titles Register. After 1 July, if a mortgagee of a mortgage over a water share wants to ensure

a right of sale of that water share in the event of default by the mortgagor, the mortgagee should record a Mortgage of Water Share in the Water Register.

A mortgage can only be recorded over a whole, undivided water share.

A mortgage must not be recorded over a part or portion of a water share (refer to Schedule 12A Clause 1). Any application claiming to record a mortgage over a part or portion of a water share cannot be lodged for recording and will be refused and returned to the customer.

General reminders

Water share transaction fees

Transaction fees are payable to the Water Registrar. These fees are changed annually on 1 July.

Current fees can be obtained from the Water Register website at www.waterregister.vic.gov.au under 'About the Water Register'.

Forms and guides

Approved forms for lodging to record water share transactions with the Water Registrar, along with guides on completing these documents and the Registrar's requirements are available online at www.waterregister.vic.gov.au under 'Application forms'.

Executing documents

Any documents lodged for recording in the Water Register should be properly executed by companies and associations in accordance with *Corporations Act* and any other Act governing their operations.

Use of Annexure page

If there is insufficient space on a form, the approved Annexure page may be used and attached to the approved form. An approved Annexure page can only be used in a prefilled Transfer of Water Share form if there is insufficient space on the prefilled form for execution by the parties – no other details in the prefilled transfer can be altered or amended by addition.

Consent of Mortgagee

The consent of all mortgagees, or a discharge of any mortgage affecting a water share, must be produced for a transfer of water share to be recorded. If consent is not produced prior to the expiry of the approval of the transfer of the water share by the relevant water authority, the transfer will be rejected. If this happens and the parties wish to proceed with the transfer, they will need to make a fresh application to the water authority and pay relevant fees again.

Other information is available on the Water Register website at www.waterregister.vic.gov.au and from the DSE website at www.dse.vic.gov.au/unbundling.