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## TRANSFORMATION (EXTERNAL PERMANENT TRANSFER OF WATER ENTITLEMENT UNITS)

The parties apply for the transformation of the Water Entitlement Units specified in this application.

Unless the contrary intention appears, capitalised terms used but not defined in this application have the meanings given to them in the Water Entitlement Agreement and General Conditions.

### Seller

Name \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

Account Number \_\_\_\_\_

### Buyer

Name \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

**Buyer's Water Access Licence Number (WAL):** \_\_\_\_\_

**Note:** Application will not be accepted without a WAL number.

**Number of Water Entitlement units to be transformed:** \_\_\_\_\_

### Is the current season's Water Allocation to be transferred with the Water Entitlements?

**YES / NO**

**If 'YES':** ML to be transferred: \_\_\_\_\_

Please also:

- **include WMI's fee for External Temporary Water Trade (out)** (refer to Schedule of Charges (Administration) on WMI's website), and
- **complete the buyer's section of WaterNSW Application to Assign Surface Water Allocation** form (download from WaterNSW website)

The Seller consents to WMI providing information regarding this transaction to the following Agent:

Agent name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## Signing by the Seller

**Option A** - If the Seller is an individual or multiple individuals:

_____	_____	_____
Name	Signature	Date
_____	_____	_____
Name	Signature	Date
_____	_____	_____
Name	Signature	Date

**Option B** - \*If the Seller is a company with two directors or a director and a company secretary *or*  
\*If the Seller is a company with a sole director and sole company secretary:

Executed by the Seller in accordance with  
section 127 of the Corporations Act 2001:

_____	_____
*Name of director <i>or</i>	*Signature of director <i>or</i>
*Name of sole director and sole company secretary	*Signature of sole director and sole company secretary
_____	_____
*Name of director/company secretary	*Signature of director/company secretary
_____	
Date	<i>* Cross out those not applicable</i>

## Signing by the Buyer

**Option A** - If the Buyer is an individual or multiple individuals:

_____	_____	_____
Name	Signature	Date
_____	_____	_____
Name	Signature	Date
_____	_____	_____
Name	Signature	Date

**Option B** - \*If the Buyer is a company with two directors or a director and a company secretary *or*  
\*If the Buyer is a company with a sole director and sole company secretary

Executed by the Buyer in accordance with  
section 127 of the Corporations Act 2001:

_____	_____
*Name of director <i>or</i>	*Signature of director <i>or</i>
*Name of sole director and sole company secretary	*Signature of sole director and sole company secretary
_____	_____
*Name of director/company secretary	*Signature of director/company secretary
_____	
Date	<i>* Cross out those not applicable</i>

**ACCOMPANYING MATERIALS**

- 1 **Payment to WMI** of the application fee (specified in the Charges Schedule on WMI's website).
- 2 **Payment to WMI** of all fees and charges outstanding or payable in relation to the Seller's Delivery Entitlement and Water Entitlement. If you need assistance calculating all outstanding debts and other amounts payable, please contact WMI.
- 3 **Certificates** of the Seller in relation to Water Entitlement Units (or Form 8, Application for Replacement Certificates, and the fee specified in the Charges Schedule on WMI's web site).
- 4 **Statutory Declaration** (see page 5 of 5) signed by the Seller, which must be attached to this form.
- 5 **Consent from Encumbrance Holder** (Form 4) if any person other than the Seller holds a legal or equitable interest in the Water Entitlement Units being transformed.
- 6 **Application to assign share component/s between water access licences** pursuant to section 71Q of the Water Management Act, which can be obtained from the NSW Office of Water or at [www.water.nsw.gov.au](http://www.water.nsw.gov.au). The Buyer must correctly complete sections A4, B, C (WAL – share component to be increased) and F.
- 7 **Cheque payable to "WaterNSW"** for its transaction fee. Contact the WaterNSW or go to [www.water.nsw.gov.au](http://www.water.nsw.gov.au) to ascertain the current transaction fee.
- 8 **Cheque payable to "NSW Land Registry Service"** (LRS) for its registration fee. Contact LRS or go to [www.nswlrs.com.au](http://www.nswlrs.com.au) to ascertain the current registration fee.
- 9 **Security** in the form of a charge over Water Entitlement Units [*non-WMI*], a charge over an unencumbered water access licence, a bank guarantee, a cash deposit or another agreed form if, after the transformation, the Seller would either hold no Water Entitlement Units or would hold more than five Delivery Entitlement Units for every Water Entitlement Unit.<sup>1</sup>
- 10 **Forfeiture of Shares** (Form 6), and the materials which must accompany that form, if any of the Seller's Shares are to be forfeited. Transformation of Water Entitlement Units is not conditional on applying to forfeit corresponding Shares. However, you may breach your contractual obligations to WMI if you do not apply to forfeit corresponding Shares. If you are not sure whether you need to apply to forfeit corresponding Shares, please contact WMI.
- 11 **Surrender of Delivery Entitlement Units** (Form 5), and the materials which must accompany that form, if any Delivery Entitlement Units are to be surrendered. If the Seller does not submit a Form 5, then the Seller will retain all Delivery Entitlement Units.
- 12 **Transferring of Water Allocation: WMI fee for ' External Temporary Water Trade** (see Schedule of Charges (Administration) on WMI's website), and complete **Part 4 of the WaterNSW Application to Assign Surface Water Allocation** (download from WaterNSW website) if any Water Allocation is to be transferred. Otherwise, the Seller will retain all Water Allocation (including any allocated before any transformation of Water Entitlement Units is registered).

**GUIDANCE NOTES**

The following notes are provided as a guide only and do not have any legal effect. These notes cannot be relied on in substitution for, and do not affect the interpretation of, the Constitution of WMI, the Water Entitlement Agreement, the Water Delivery Agreement, the General Conditions, the WMI Transfer Rules, the WMI Transformation Rules or any other contract or rules that bind WMI and its customers.

- 1 If Water Entitlement Units or water access licences are held, or to be held, jointly by two or more persons, each person must be named as a party and each person must sign this application. The Seller's details must be identical to the details on their Water Entitlement Agreement.

<sup>1</sup> Subrule 10(3) of the Water Market Rules.

- 2** Transformation requires the approval of the Board.<sup>2</sup>
- 3** The transaction is subject to the Seller paying to WMI all fees and charges outstanding or payable in relation to the Seller's Delivery Entitlement and Water Entitlement.<sup>3</sup> This will include termination fees if any Delivery Entitlement Units are to be surrendered.
- 4** Transformation of Stock and Garden Water Entitlement Units cannot comply with the requirements of law.<sup>4</sup>
- 5** Assuming WaterNSW approves the dealing contemplated by the transformation, WMI will apply to register the dealing with NSW LRS.
- 6** If, after the transaction, a person would hold fewer than:
- (1) one Water Entitlement Unit for every two Shares (where no Delivery Entitlement Units are held); or
  - (2) one Water Entitlement Unit and one Delivery Entitlement Unit for every two Shares (where Delivery Entitlement Units are held);
- they would not be eligible to hold Shares.<sup>5</sup>
- 7** The transaction will take effect upon registration of the dealing by NSW LRS.<sup>6</sup>
- 8** If you are transferring Water Entitlement Units to more than one WAL, a separate application is required for each WAL. The original certificates for all of the Water Entitlement Units being transformed under all of the applications must be enclosed with the applications.

***Additional WMI Transfer Rule (applicable only when carryover is available)***

Despite anything to the contrary, WMI is under no obligation to allocate Water Allocation in a Year in respect of an Entitlement Owner's Water Entitlement Units to the extent that the aggregate of:

- 1** the Water Allocation carried over by the Entitlement Owner on 1 July of that Year; and
- 2** the Water Allocation allocated in that Year in respect of the Entitlement Owner's Water Entitlement Units;

would exceed one Megalitre multiplied by the number of Water Entitlement Units held by the Entitlement Owner.<sup>7</sup> A Transformation could, by reducing the number of Water Entitlement Units held by the Seller, cause this circumstance to arise.

<sup>2</sup> Clause 14.1 of the General Conditions.

<sup>3</sup> Paragraph 13(1)(b) and subparagraph 14(2)(b)(iii) of the Water Market Rules.

<sup>4</sup> Paragraph 14(2)(b) of the *Access Licence Dealing Principles Order 2004* (NSW).

<sup>5</sup> Rule 3.2 of the Constitution.

<sup>6</sup> Clause 9.2 of the WMI Transfer Rules.

<sup>7</sup> Clause 13.1.2 of the General Conditions.

**Commonwealth of Australia**  
**STATUTORY DECLARATION**  
*Statutory Declaration Act 1959*

**Note:**

If the applicant is an individual, the declarant must be the applicant.

If the applicant is multiple individuals, each individual must sign a separate statutory declaration.

If the applicant is a company, the declarant must be an authorised officer of the company.

I, \_\_\_\_\_  
*name of declarant*

of, \_\_\_\_\_  
*address of declarant*

**WMI Account:** \_\_\_\_\_ do solemnly and sincerely declare that the Seller in Form 2 - Transformation (form) to which this statutory declaration is attached has authority to transfer \_\_\_\_\_ **High Security Water Entitlements** and/or \_\_\_\_\_ **General Security Water Entitlements** described in the form, and the Seller has obtained written consent to the transfer from all persons who hold a legal or equitable interest in the Water Entitlement Units.

I make this declaration under the *Statutory Declarations Act 1959*. I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

Declared at \_\_\_\_\_ (place)

in the State of \_\_\_\_\_ on \_\_\_\_\_ (date)

\_\_\_\_\_  
**Signature of declarant**

**in the presence of:**

\_\_\_\_\_, a \_\_\_\_\_  
*Name of authorised witness* *Qualification of authorised witness*

\_\_\_\_\_  
*Signature of authorised witness*

**Note:**

This statutory declaration must be attached to the Form 3 Transformation (External Permanent Transfer of Water Entitlement Units) to which it relates.

Statutory declarations under the *Statutory Declarations Act 1959* may be made before the persons listed on the following page.

A Person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisoned for a term of 4 years – see section 11 of the *Statutory Declarations Act 1959*.

Chapter 2 of the Criminal Code applies to all offences against the *Statutory Declaration Act 1959* – see section 5A of the *Statutory Declarations Act 1959*.

**A statutory declaration under the Statutory Declarations Act 1959 may be made before-**

(1) A person who is currently licenced or registered under a law to practise in one of the following occupations.

Chiropractor	Dentist	Legal Practitioner
Medical Practitioner	Nurse	Optometrist
Patent Attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) A person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) A person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public  
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)  
Bailiff

Bank Officer with 5 or more continuous years of service

Chief Executive Officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Credit Union Officer with 5 or more years of continuous years of service

Employee of the Australian Trade Commission who is:

- a) In a country or place outside Australia; and
- b) Authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and
- c) Exercising his or her function in that place

Employee of the Commonwealth who is:

- a) In a country or place outside Australia; and
- b) Authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and
- c) Exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance Company Officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage Celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Force who is:

- a) An officer; or
- b) A non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service; or
- c) A warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- a) The Parliament of the Commonwealth; or
- b) The Parliament of a State; or
- c) A Territory legislature; or
- d) A local government authority of a State or territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*

Notary Public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- a) The Commonwealth or a Commonwealth authority; or
- b) A State or Territory or a State or Territory authority; or
- c) A local government authority;

With 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police Officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- a) The Commonwealth or a Commonwealth authority; or
- b) A State or Territory or a State or Territory authority

Sheriff

Sheriff's Officer

Teacher employed on a full-time basis at a school or tertiary education institution