



Office
of Water

APPLICATION FOR THE PERMANENT TRANSFER OF GROUNDWATER RIGHTS

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**APPLICATION TO NSW OFFICE OF WATER, DEPARTMENT OF ENVIRONMENT,
CLIMATE CHANGE AND WATER
FOR THE PERMANENT TRANSFER OF GROUNDWATER RIGHTS**

Transferor* (herein called “Vendor”):

Full name(s).....

Address.....

Location of proposed transfer: Property name (if any).....

Lot/DP	Parish	County

•Attach schedule if insufficient room.

Property’s Base Allocation.....megalitres (herein called “ML”)/year

Bore Licences attaching to the above allocation.....

Proposed volume to be permanently transferred.....ML/year

Transferee* (herein called “Purchaser”):

Full name(s).....

Address.....

Property’s Base Allocation.....ML/year

Bore Licences attaching to the above allocation.....

Location of proposed transfer: Property name (if any).....

Lot/DP	Parish	County

•Attach schedule if insufficient room.

NOTE: If all allocation is transferred, all irrigation bores on the Vendor’s property must be abandoned, unequipped and sealed, and have their licences cancelled.

Dated this.....day of.....20.....

Signature(s).....Signature(s).....

of Transferor*.....of Transferee*.....

*The Common Seal of.....)

.....)

was affixed hereto by authority of the Board in the presence)

Director

of.....Secretary

*Attach sheet if insufficient room for applicants and/or signatures. In the case of a company, the company seal of the transferor is to be affixed and Director and Secretary to sign (or otherwise if Memorandum or Articles so require).

AGREEMENT FOR THE SALE OF GROUNDWATER RIGHTS

The particulars

- A. Vendor:
(Full name and address)
- B. Purchaser:
(Full name and address)
- C. Vendor's Solicitor:
(Address and DX)
- D. Purchaser's Solicitor:
(Address and DX)
- E. Vendor's Base allocation: ML/year
- F. Bore Licences attaching to the above allocation:
.....
- G. Purchaser's Bore Licence No(s):
- H. Vendor's capacity (e.g. Owner of land):
- I. Purchaser's capacity (e.g. Owner of land):
- J. Groundwater rights [Allocation sold ML]
- K. Total price (in words):
.....
 - (a) Total Price \$.....
 - (b) Deposit paid \$.....
 - (c) Balance owing \$.....
- L. The deposit is payable to:
- M. Date of making this agreement: day of 20.....

DECLARATION BY TRANSFEROR

**STATUTORY DECLARATION –
OATHS ACT, 1900, Ninth Schedule**

I/We
(Full name)

of
(Full address)

in the State of New South Wales, hereby solemnly and sincerely declare and affirm that:

1. I am / We are applicants as Transferor(s) in an Application for Approval of Transfer of Groundwater Rights (“The Application”).
2. Set out in the annexed Certificate of Title are:-
 - (a) the Title details to my/our land in respect of which the groundwater licence, or part thereof, which is proposed to be permanently transferred is presently held; and
 - (b) the names and addresses of any persons or parties holding (having) any registered or unregistered interest in respect of the said land.
3. I/We have the necessary authority to permanently transfer the groundwater right set out in the application.
4. True copies of all document(s) evidencing the contractual or other arrangements between the parties to the Application relevant to the Application are annexed hereto.

And I/We make this solemn declaration according to the law in this behalf made and subject to the punishment by law provided for any wilfully false statement in any such declaration.

TAKEN and declared at in the)
said State this day of)
..... before me -)

Justice of the Peace

.....
Signature(s) of declarants

CERTIFICATION AS TO SEARCHES

I have examined the searches made by

on

in respect of the following lands:

.....
.....
.....
.....
.....
.....

I hereby certify that the searches disclose that the following parties are registered proprietors and encumbrancees of the subject lands.

Name

Address

Owner:

Encumbrancee:

Dated this day of 20

..... Solicitor

AFFIRMATION BY ENCUMBRANCEE (S)

1. I/We
(Full name)
of
(Full address)
state that I/we have an interest as
in the following lands.

.....
.....
.....
.....

2. I/We understand that
("the applicant") has applied to the NSW Office of Water, Department of Environment,
Climate Change and Water (herein called "the Department"), for approval to permanently
transfer groundwater rights held under
Licence No
currently held in respect of those lands to
.....
of

3. I/We hereby affirm that the applicant is the appropriate person/corporation to make the
application and I/we make no objection to the application.

Dated this day of 20

.....
.....

Signature(s) of encumbrancee(s)

THE CONDITIONS OF SALE

Upon the making of this Agreement for Sale of Groundwater Rights (herein called “this Agreement”), the Vendor agrees to sell and the Purchaser agrees to purchase the groundwater rights as described in **J** of the Particulars for the price stated in **K** of the Particulars, and upon and subject to the following conditions:-

1. Deposit and Price

- (a) Upon or before the making of this Agreement, the sum stipulated as deposit in **K** of the Particulars shall be paid by the Purchaser in accordance with **L** of the Particulars and shall be held as stakeholder until completion when, and by virtue of which, the deposit shall vest in the Vendor and shall be accounted for by the Vendor upon receipt of an order from the Purchaser or the Purchaser’s Solicitor authorising such payment, which order shall be given on completion.
- (b) The deposit or any part thereof may be paid by cheque. If the deposit is not paid as provided in this Agreement, or if any cheque for the deposit is not honoured on presentation, the Purchaser shall immediately and without notice be in breach of an essential obligation under this Agreement.
- (c) The balance of the price as stated in **K** of the Particulars shall be paid as stipulated in the First Schedule.
- (d) If the Vendor has stipulated a Solicitor in **C** of the Particulars, any monies payable under this Agreement to the Vendor by the Purchaser or the Purchaser’s agent shall be paid to that Solicitor or as that Solicitor may direct in writing.

If a Solicitor is not so stipulated, any such monies shall be paid to the Vendor or as the Vendor may direct in writing.

2. Passing of Title

Title to the Groundwater Rights, the subject of this agreement, shall not pass until completion, which shall take place within fourteen (14) days of the Purchaser being notified by the Department that the Application for Permanent Transfer of Groundwater Rights lodged by the Vendor and Purchaser has been approved and the Department’s requirements for issue of a bore licence (as referred to in Clause 4) to the Purchaser have been satisfied.

3. Application for Approval of Permanent Transfer of Groundwater Rights

- (a) The Vendor and Purchaser acknowledge that it will be necessary for them to apply to the Department for approval of the Permanent Transfer of Groundwater Rights set out in **J** of the Particulars and in this regard the Vendor and Purchaser covenant that they will apply forthwith to the Department for that approval and will each use due diligence in supplying the information, evidence and consents required of each of them by the Department and in complying with all other requirements of the Department.
- (b) Payment of the application fee with the application shall be the responsibility of the Purchaser.
- (c) The Vendor acknowledges that the groundwater rights set out in **J** of the Particulars are to be permanently transferred in full.

4. Application for Licence

- (a) In this Agreement, “licence” means a bore licence issued under Part 5 of the *Water Act NSW 1912* or any renewals thereof.
- (b) The Vendor and Purchaser acknowledge that it will be necessary for the Purchaser to apply to the Department for a bore licence (where a licence does not exist) which authorises the use of the Groundwater Rights set out in **J** of the Particulars or includes the authorisation of the use of the Water Rights.
- (c) The Purchaser covenants:-
 - (i) to apply forthwith to the Department for a bore licence (where a bore licence does not exist) referred to in the previous paragraph;
 - (ii) to use due diligence in complying with the requirements of the Department in respect of the application; and
 - (iii) subject to clause 6(b). to use due diligence in pursuing that application (where applicable) in a hearing of a local land board.

5. Right to Transfer

The Vendor covenants that the Vendor:

- (a) is the holder of a bore licence which has attached to it sufficient groundwater rights to satisfy the Vendor’s obligations under this agreement; and
- (b) has obtained all necessary consents (except for the approval of the Department), including consents of mortgagees, lessors or lessees of the Vendor’s land, to enable the Vendor to effect the required permanent transfer of groundwater rights.

6. Default

- (a) Unless otherwise provided in this agreement, if either party defaults in the observance, or performance of any obligation under this Agreement, which is or the performance of which has become essential, the other party shall be entitled by notice in writing served on the defaulting party to terminate this Agreement and thereafter either:
- (i) to sue the defaulting party for breach of contract; or
 - (ii) in the case of the Purchaser being the defaulting party, the deposit paid shall be forfeited. If the Vendor is the defaulting party, the deposit and any other monies paid by the Purchaser pursuant to this Agreement, shall be refunded in full to the Purchaser and the Purchaser's cost and expenses shall be payable by the Vendor and shall be recoverable by the Purchaser as liquidated damages provided that proceedings for the recovery thereof shall be commenced within twelve (12) months of the termination of this Agreement.
- (b) If the Purchaser complies with Clause 4(c) but is not able to obtain an appropriate bore licence, or it is not economically practical for the Purchaser to pursue further the bore licence application owing to the anticipated cost of future compliance with the requirements of the Water Act including attendance at a local land board, either party shall be entitled by notice in writing served on the other party to terminate the contract and the Purchaser shall be entitled to a refund of the deposit and any other monies paid by the Purchaser pursuant to this Agreement. Neither party shall be liable to pay to the other party any sum for damages, costs or expenses if the contract is terminated under this Clause.

7. Service of Notices

- (a) Service of any notices or document under or relating to this Agreement shall be sufficiently served:
- (i) if delivered personally;
 - (ii) if left at the last known place of abode or business in or out of New South Wales of the person to be served;
 - (iii) if sent by post in an ordinary letter or a certified or registered letter addressed to the person to be served, by name, at that person's aforesaid place of abode or business, and if that letter is not returned through the post office undelivered; and such service shall be deemed to be made at the same time when the letter would be in the ordinary course delivered; or
 - (iv) if affected on the Solicitor for the party in any manner provided in Subclauses (ii) and (iii).
- (b) A notice given or document signed or served on behalf of any party by that party's Solicitor shall be deemed to have been given, signed or served by that party personally.

1. Interpretation

- (a) Words importing the singular number or plural number shall include the plural number and singular number respectively; and
- (b) Where any party consists of more than one person, the liability of such persons to the other person shall be joint and several.

FIRST SCHEDULE

The balance of purchase price shall be paid by bank cheque on completion

.....

SIGNED by the
Vendor in the
presence of Vendor

SIGNED by the
Purchaser in the
presence of Purchaser

Witness

Witness

Dated this day of 20

.....

NOTE: The Purchaser is liable to pay stamp duty on this Agreement within two (2) months of the date of the first execution and may incur fines if stamp duty is not paid within that period.