



## **Water Entitlement Reduction – Summary**

On the 1<sup>st</sup> July 2009 Murray Irrigation reduced the number of water entitlements held by approximately 17%. This reduction removes the transmission losses (conveyance) component from Murray Irrigation water entitlements.

The number of delivery entitlements on a landholding has also been reduced by the same number as the water entitlements on the landholding.

### ***Historical/Background Information***

In 1995, when Murray Irrigation was formed the permanent allocation on each landholding was increased for transmission losses and the company was issued with a single bulk water licence. At the time, issuing Murray Irrigation water entitlements inclusive of the transmission losses to members was considered the best way of protecting the transmission losses from changes to government policy.

In 2004, when the *Water Sharing Plan for the Murray and Lower Darling Regulated Rivers Water Sources 2003* (NSW) was finalised Murray Irrigation was subsequently issued with water access licences for conveyance, general security, high security (town), high security (irrigation) and supplementary water.

Prior to the reduction, the water entitlements Murray Irrigation issued to member customers contained a component for transmission losses, which represents the volume of water required to distribute annual allocation through the irrigation network to the point of delivery. The transmission losses made up approximately 17% of the water entitlements with the remaining 83%, in the case of Class C water entitlements holders, representing their share of Murray Irrigation's NSW general security water access licence.

Murray Irrigation shares represent a members' shares in Murray Irrigation Limited, the unlisted public company. Shares were issued in equal proportions to water entitlements in 1995 and are not altered by the water entitlements reduction.

### ***Before the reduction***

Recognising the existence of transmission losses, Murray Irrigation had a maximum announced allocation of 83% of entitlements and carryover was capped at 41% of entitlements. When a member made an external permanent transfer of water entitlements out of Murray Irrigation's area, the company retained 17% of the water entitlements.

### ***After the reduction***

Murray Irrigation's maximum announced allocation has increased from 83% to 100% for all water entitlements. The maximum announced allocation plus carryover will now generally be 110% for Class C water entitlements, the maximum allowed under the Water Sharing Plan. Carryover has been increased from 41% of entitlements to 50% of entitlements.

## ***Before and after comparison***

Comparing the new arrangements with arrangements before the reduction, at any point of time a member would;

- receive at least the same volume of water at the delivery point
- have at least the same volume of annual allocation available and the same volume that could be carried over
- have the same number of entitlements to sell in an external permanent transfer.

The table below is a comparison between the pre 1995 arrangements, arrangements from 1995 to 2008/09 and the arrangements from the 1<sup>st</sup> July 2009.

<b>Item</b>	<b>Pre 1995</b>	<b>1995 - 2008</b>	<b>1<sup>st</sup> July 2009</b>
Murray Irrigation Shares	0	1000	1000
Water Entitlements	830	1000	830
Delivery Entitlements	Not applicable	1000	830
Water Available @100% NSW general security	830ML	830ML	830ML
Maximum Carryover	Not applicable	410ML (41%)	415 ML (50%)*
Maximum Allocation & Carryover	Not applicable	900ML (90%)	913ML (110%)*

*\*The volume difference between 1<sup>st</sup> July and 1995 – 2008 is because of rounding and Murray Irrigation not using fractions for entitlements, megalitres or the announced allocation*

## **Why did Murray Irrigation proceed with this change without holding an Extraordinary General Meeting?**

Murray Irrigation has changed the Water Entitlements Contract, now called the Entitlements Contract, in order to adapt to the *Water Market Rules 2009* (Cth) and to avoid the unworkable and unfair situation where Murray Irrigation could not continue with its practice of retaining the 17% transmission losses component of a water entitlement when a member makes a permanent external transfer.

The Entitlements Contract is not part of Murray Irrigation's Constitution and the Board of Directors is empowered to change the Entitlements Contract, under clause 6(b) of the Constitution and clause 23 of the Entitlements Contract. The entitlements contract is a legally binding and enforceable contract between Murray Irrigation and the entitlements holder, which imposes obligations on Murray Irrigation to make available and deliver water to the Entitlement holder.

## ***The Water Market Rules 2009***

The Commonwealth Government has enacted the *Water Market Rules 2009* (Cth) (Rules), which are legislative instruments made under the *Water Act 2007* (Cth). The Rules apply to Murray Irrigation and other irrigation infrastructure operators in the Murray–Darling Basin, and were adopted by the Commonwealth Minister for Water based on the advice of the Australian Competition and Consumer Commission (ACCC).

The Rules permit water entitlements holders to transform (externally transfer) water entitlements held with Murray Irrigation into a water access licence with the NSW Government. Transformation is where a member or water entitlements holder cancels their Murray Irrigation water entitlements which are a contractual right, in return for a statutory NSW water access licence.

The making of the Rules by the Commonwealth Government in June 2009 created the situation where a Murray Irrigation water entitlements holder could convert **all** of their Murray Irrigation water entitlements (including the transmission losses component) to NSW general security water entitlements, therefore creating an inequitable situation which would place remaining irrigators in jeopardy.

This circumstance arose because:

- 1) Murray Irrigation water entitlements included a component for transmission losses; and
- 2) Murray Irrigation holds a separate licence for transmission losses (conveyance).

The ACCC were aware of the problems their rules presented for Murray Irrigation, and in their advice to the Minister recommended that Murray Irrigation re-issue water entitlements to remove the transmission losses component.

Murray Irrigation Directors agreed to proceed with the water entitlements reduction to avoid an unworkable and unfair situation arising for member customers as result of the Rules. Once the transition period set out in the Rules ended the company would have been unable to legally retain the 17% transmission losses component from an external permanent transfer. In effect individual members could have externally transferred (or transformed) more than their “share” of Murray Irrigation general security water access licence into a separate water access licence.

### ***Further information***

Murray Irrigation has written to all entitlements holders and advised them of the new number of water and delivery entitlements.

Murray Irrigation does not intend to produce new certificates; however it will produce a new certificate, at no cost, when either:

- a transaction takes place which requires production of a new certificate; or
- you or a registered encumbrancee next applies for a replacement certificate.

While original certificates may be in circulation which have incorrect information following the reduction, the information contained on Murray Irrigation's registers forms the primary record. Additionally Murray Irrigation requests that, prior to issuing a new certificate; the original certificate is returned and cancelled. Because of the reduction the requirement to advertise for a lost certificate will be waived.

If you have specific questions about the reduction please contact Matthew Watts Assistant Company Secretary on (T) 03 5898 3372.

For general information about entitlement transfers please contact the Share Register Officer on (T) 03 5898 3368 or (T) 03 5898 3367.