

Licensing under the *Water Act 1912* & the *Water Management Act 2000*

What activities require licensing or approval?

In general, the extraction of water from rivers or aquifers for commercial use requires a water licence or other approval from the NSW Office of Water (NOW). In areas where water sharing plans are in force, the *Water Management Act 2000* (WMA) governs the issue of new water licences, trade of water licences and allocations. In areas without water sharing plans, water licensing and trading is still administered under the *Water Act 1912* (WA). Most existing WA licences are converted to water access licences and works approvals under the WMA when a water sharing plan commences.

For licensing purposes, the WMA separates the entitlement to use water from the entitlement to build water supply infrastructure. This is different to the WA, where a licence usually covers both the works to be constructed and the right to extract and use a certain volume of water.

What kind of licence or approval do I need?

If a **water sharing plan** applies to your farm, you will need a **water access licence (WAL)** that entitles you to *extract* a specified volume of water at a specific location.

The WAL is separate from the approvals associated with the *use* of the water and associated supply works, which are:

1. **water use approval** to use water on land for all purposes except for basic landholder rights, and
2. **water supply work approval** to construct and use **all** water supply works to:
 - extract water from a river (e.g. via a pump), unless you are taking water under a basic landholder right
 - extract water from a groundwater body (e.g. via a bore)
 - capture more rainwater run-off than your harvestable right (e.g. in a farm dam)
 - store water taken from a river or aquifer, in tanks or off-river storages
 - convey water to another location via irrigation channels
 - divert water away from an area, via banks or levees, includes floodplain banks
 - hold back water in a river, via a weir or in a dam other than under a harvestable right

Where a water supply work approval and a water use approval are both required for an individual property, these are combined into a single **combined** approval.

If there is no water sharing plan in your area, you will need a licence under the WA. Part 2 of the WA relates to water rights and works. A licence under Part 2 allows the holder to construct and



use the licensed works, and to take and use water captured or stored by those works for the purpose specified in the licence.

Part 8 of the WA applies to the construction of flood control works. Any work, such as a levee or embankment, that disrupts the flow of floodwaters requires a licence under Part 8.

How do I apply for a licence or approval?

NOW is responsible for assessing applications for licences or approvals. Before granting a licence under either the WA or the WMA, NOW is required to assess the environmental impacts of proposed irrigation development. The assessment is based on the whole development or activity, not just the actual work that is the subject of the application.

The applicant is responsible for providing NOW with all the information it needs to determine whether the licence should be granted. In addition to the application form and detailed proposal plan, NOW requires an impact assessment report prepared by suitably qualified person/s. The usual form of impact assessment is a Review of Environmental Factors.

What is a Review of Environmental Factors?

Information about the environmental impact of a proposed development is usually provided in a **Review of Environmental Factors (REF)**. A REF considers the impact of the proposal on various aspects of the environment, including:

- built and cultural heritage (European and Aboriginal)
- native flora and fauna
- threatened species
- soil resources and land degradation
- hydrological regimes such as flooding patterns
- ground and surface water
- provisions of other relevant legislation and policies, such as Floodplain Management Plans
- socio-economic issues
- impacts on other farms

A REF also considers alternatives to the proposal, and any mitigation measures that might be needed to prevent adverse environmental impact.

If the applicant does not provide all the required information, NOW may reject the application.

Need help with your application?

Western Land Planning (WLP) specialises in water licensing. It works for the irrigator, not the Department. It has a good working relationship with Departmental staff and knows and understands the Department's requirements. WLP can help prepare your application and REF to ensure all necessary information is provided, giving you the best chance of a favourable outcome. It can also liaise with the relevant Government departments and other specialist services on your behalf to help clarify and resolve any issues with your application. If you need advice on licensing, or assistance in preparing an application, WLP is happy to meet with you to discuss your requirements.

Need more information?

You can get more information about various types of water licences, fees and application forms from NSW Office of Water's website: www.water.nsw.gov.au

The *Water Management Act 2000*, the *Water Act 1912* and their regulations are available from NSW Legislation's website: www.legislation.nsw.gov.au