

Applying for a water licence under the Water Act 1912

In those water sources (rivers, lakes and groundwater aquifers) in NSW where water sharing plans have not been gazetted and commenced, the *Water Act 1912* still governs the issue of new water licences and the trade of water licences and allocations. The Water Act has different licensing procedures and application forms from the *Water Management Act 2000*.

In some water sources covered by the *Water Act 1912*, new water licences may still be granted. However, in other areas there is an embargo in place, particularly on water licences for irrigation and industry. In these areas you can only obtain licences from DWE for specific exempt purposes such as town water, stock and domestic supply, domestic hydro-electric schemes, snow-making or short term permits for road maintenance, hydro-static testing of pipelines, drought relief. To obtain an irrigation or industrial licence in an embargoed water source you need to purchase the licensed entitlement from an existing licence holder. Not all transfers can be approved, so you should contact your local DWE licensing officer before committing to a purchase (see the information sheet on *Water trading under the Water Act 1912*).

To find out whether a water source is covered by an operational water sharing plan or is subject to a licence embargo, ring your local DWE office. You can also use the water sharing plan maps on the DWE website to check if the water source is in a water sharing plan area. For more information on basic landholder rights and farms dam refer to DWE's information sheets on these topics.

Under the *Water Act 1912*, you must have a water licence or authority to:

1. Take water from a stream or river via a pump or other work

- for all purposes other than for basic landholder rights (stock and domestic use),
- when supplying more than one property or a non-riparian property with stock and domestic water. A riparian property has a river or stream running through it or forming part of its boundary.

2. Capture surface water

- from rainfall runoff in a farm dam with a storage capacity greater than the calculated Maximum Harvestable Right Dam Capacity for the property, or
- from river flow in a dam (any size) located on a river or stream.

3. Extract groundwater via any type of bore, well, spearpoint or groundwater interception scheme

- for all purposes including basic landholder rights.

The following outlines the steps involved in applying to DWE for a new *Water Act 1912* surface water or groundwater licence in an water source that is not embargoed or for a non-embargoed purpose.

Surface Water Licence or Joint Water Supply Authority

Step 1 – Complete and Submit the Application Form

- Check with DWE first that you are able to apply for a new water licence in the water source for your intended purpose.
- Obtain the Application for a surface water licence (under section 10 of the *Water Act 1912*) or the Application for an authority for a joint water supply scheme (under section 20 of the *Water Act 1912*) from DWE's website or from a DWE office.
- A licence can only be held by the 'lawful occupier' of the land. If the site of the water supply work (pump, dam etc) is not freehold, then you must attach proof that you have lawful right of occupation such as a lease or 'permissive occupancy' (an agreement to occupy the site of the work).
- For a licence, ensure that you fill in and attach:
 1. the full name of the applicant, whether an individual or a company
 2. the complete property address and postal address
 3. the location of the works (ie. a dam or pump) defined by the lot and deposited plan number of each work to be covered by the licence
 4. the purpose of the work (eg. stock and domestic, irrigation supply etc)
 5. the required plan of the property and proposed development
 6. the Environmental Impact Information Questionnaire (attached as Appendix 1 to the application form)
 7. Information to Accompany a Licence Application (attached as Appendix 2)
 8. the initial application fee.
- For a joint water supply scheme authority, ensure that you fill in or attach:
 1. the full name and address of the person to whom correspondence is to be addressed
 2. details of land of each occupier to be supplied with water - attach additional pages if necessary
 3. details of the water supply works, any irrigated crops and water required
 4. the particulars of arrangements between the members of the scheme
 5. signatures of all scheme members
 6. the required plans
 7. copy of certified agreement between joint water supply scheme members
 8. the Environmental Impact Information Questionnaire (attached as Appendix 1 to the application form)
 9. Information to Accompany a Licence Application (attached as Appendix 2)
 10. the initial application fee.
- Submit your completed form with the initial application fee (deposit) of \$30 to your local DWE office.

Step 2 – DWE Processes the Application

- Your application will be registered on DWE's Licensing Administration System.
- DWE will then advertise the application in the Government Gazette and a local newspaper. Any local occupier or statutory authority (ie. government department) that believes their interests may be affected can lodge an objection within 28 days of the advertisement stating the grounds of their objection.
- Notification of the application is made to the Native Title Service of NSW and to the Aboriginal Land Council.
- Officers from the DWE may contact you to clarify the nature and purpose of the proposed works. This may require a property inspection.
- Impacts on the sub-catchment and other water users will be assessed by DWE.

- If no objections are received and DWE decides your application can be approved, you will be advised of the period and conditions that are proposed for the licence. If you object to the proposed conditions, your application will be referred to a Local Land Board for a public inquiry.
- If DWE decides that your application for a licence should be refused, you may appeal to the Land and Environment Court.

Step 3 – Dealing with Objections

- If someone objects to your licence application, DWE will find out more about their concerns and try to resolve these wherever possible.
- If a resolution cannot be found and DWE is of the opinion that the licence should be granted with appropriate conditions, the application will be referred to the Local Land Board for a public inquiry.
- Any decision made by the Local Land Board may be appealed in the Land and Environment Court.

Step 4 – Issue of the Licence

- Once approved, DWE will notify you that you need to pay the balance of the licence fee (the initial \$30 application fee already paid is credited against this).
- DWE will then issue you with your licence and conditions. The term of a surface water licence is generally five years.

Applying for a groundwater licence

Complete the Application for a groundwater licence (under Part 5 of the *Water Act 1912*) and include a map showing the land and proposed development. Generally, the steps involved for a groundwater licence are the same as for surface water licences, with the following exceptions:

1. there is no application fee for 'stock and domestic' groundwater licences in non-artesian aquifers
2. DWE will determine whether the application should be advertised
3. applications for groundwater licences for irrigation, industrial or other commercial purposes attract the full application fee upfront of \$48 for an artesian bore and \$151 for a non-artesian bore
4. DWE may approve the licence after considering any objections received or refer the objections to a Land Board hearing.
5. The term of a groundwater licence is generally five years, although stock and domestic groundwater licences are usually issued in perpetuity.

Construction of a groundwater work cannot commence before a licence is granted. In the case of minor works, such a well or a spearpoint, this may be sunk by the licence holder, however, more major groundwater works, such as a bore, must be drilled by a licensed driller.

Where do I get more information?

Contact the water licensing officer at your local Department of Water and Energy office (contact details are on the website or phone 1800 353 104), or email information@dwe.nsw.gov.au

More information sheets on water management in NSW are available on our website www.dwe.nsw.gov.au