

Guide to secured interest registration by holders of replacement water access licences

Introduction

This guide is provided to assist you in completing the secured interest registration by holders of replacement water access licence(s) form.

The *Water Management Act 2000* provides that a person with a security interest in a 'prior' *Water Act 1912* will be taken to have an equivalent interest in the replacement water access licence (WALs). Note that a reference to a replacement WAL is also a reference to a replacement aquifer access licence(s) or supplementary water access licence(s).

This form is used to resolve registered security interests in the 'prior' licence(s). Once resolved, WaterNSW will instruct NSW Land Registry Services (NSW LRS) to add a notation to the title that allows dealings to be registered.

At all times in the form and in this Guide, a reference to a registered interest is limited to an interest registered on the Land Titles Register (*Real Property Act 1900*).

WaterNSW will also instruct NSW LRS to issue a Water Access Licence Certificate to the ranking security interest holder. In case of multiple interests with no agreed ranking, dealings may proceed without a certificate. NSW LRS applies additional measures to validate dealings in these WALs.

Special case: former surface authorities. Certificates may be issued for replacement WAL(s) held by former surface authorities where all parties (i.e. holders and registered security interests agree on who should hold it). NSW LRS applies additional measures to validate dealings in these WALs.

About these instructions

The *Secured Interest Registration by holders of replacement water access licences* form comprises of Sections A to E, which are divided into one or more questions. The questions are identified by a number on the left hand side of the page, for example, B4, which is question 4 in Section B. This guide provides explanations of terms and requirements to help you fill in the form. We recommend you read this carefully before completion. If you require further assistance, please contact your local WaterNSW office.

General instructions

Download an application form as a PDF document (or obtain a printed copy from your local WaterNSW office) and complete it in either in handwriting (using BLOCK capitals) or fill out using Adobe Acrobat Reader (Version 8 or above). The form must then be signed by all applicants, and submitted by fax, email (as a scanned attachment), post or lodged in person at your local office.

- If there is not enough space on the form for all your information, complete the answer on a separate sheet of paper and attach to the application form
- To avoid delays, ensure that you fully complete the form as all the information is necessary to process your application.

SECTION A: Applicant details

Section A identifies the prior water licence and its replacement WAL(s).

- A1** Enter the number of the *Water Act 1912* licence (the 'prior' licence) or, in the case of former bore licences, the property account number.
- A2-4** Enter the numbers of the WALs that replaced the *Water Act 1912* licence or property account specified in A1. Do not include any WALs with specific purpose categories such as 'Domestic and Stock' as security interests cannot be registered against these types of WALs.

SECTION B: Contact details

All correspondence in relation to this matter will be sent to the contact person.

- B4** Insert the name of the company that is acting as agent or contact for the applicants.
- B5** Insert ACN (Australian Company Number) of the company acting as agent or contact for the applicants.
- B6** Indicate what position the nominated contact holds in the applicant company, e.g. Managing Director, Chief Executive. This only applies to corporation applications.

SECTION C: Register a security interest in a replacement water access licence

Any parcel of land benefited by a 'prior' Water Act 1912 licence granted before the issue of a replacement water access licence (WAL) and has a registered mortgage means you will not be able to register any dealings in the replacement WAL until the holder of that interest has had the opportunity to have that interest registered against the replacement WAL. Section C provides those interest holders with the opportunity to register.

- C1** Details of the mortgage should be specified here, separate forms should be completed for each financial institution's interest.
- C2** Insert the numbers of the WALs that the security interest is to be registered against. Security interests cannot be registered against WALs with specific purpose categories such as 'Domestic and Stock'. Therefore specific purpose WALs should not be included.
- C3** The security interest holder must complete this part.
- C4** WAL holder must complete this part.

SECTION D: Security interest holder does NOT want to register security interest

Section D identifies those security interests that are NOT to be registered (i.e. the interest holder has been given the opportunity to register and they have declined).

- D1** Details of the security interest should be specified here. Separate forms should be completed for each security interest.
- D2** The security interest holder must complete this part.

SECTION E: Issue WAL Certificate

A WAL Certificate is evidence of ownership. NSW LRS will register a dealing where the relevant Certificate is produced. Use Section E to nominate the holder of the Certificate. Note that a certificate can only be issued if all registered security interests have had an opportunity to have their interest registered against the replacement WAL (refer Section C and D).

- E1** Name of the party to hold this Certificate.
- E2** Delivery address for the Certificate.
- E3** If relevant, specify the person to whom the Certificate should be addressed.
- E4-9** Security interest holder (specified in Section C or already registered on the WAL Register) to complete. In many cases this will be the same person or company that is to hold the Certificate.
- E10** Provision for other security interest holders (specified in Section C or already registered on the WAL Register) to authorise Certificate release.
- E11** To be completed by the WAL holder. Provision is made in E11-15 for a corporation or individual.
- E16-17** To be completed by remaining WAL holder(s). Note that all WAL holders must agree to the release of the Certificate.

Signatory of a Corporation

For applications made by a corporation: Executed for and on behalf of the applicant in accordance with section 127 of the *Corporations Act 2001* C'th (if a company) or by a duly authorised officer (for other types of corporation).

Submitting your form

This form must be completed and lodged with the Security Interest Administrator -
WaterNSW
1243 Bruxner Highway
Wollongbar NSW 2477

No fee applies.

Processing will be delayed if the form is incomplete or incorrect, as further information will be requested.

Registered at NSW LRS

If the security interests are resolved, WaterNSW will instruct NSW LRS to update the replacement water access licence(s) at no charge.

WaterNSW will also instruct NSW LRS to issue a WAL Certificate for the replacement WAL(s) where appropriate.

For more information

www.waternsw.com.au

Phone: 1300 662 077

Email: Customer.Helpdesk@waternsw.com.au

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (October 2017). However users are reminded of the need to ensure that the information upon which they rely on is up to date and to check currency with WaterNSW or with the user's independent adviser.

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