

Understanding your water access licence or approval conditions

Fact Sheet

This fact sheet is to assist landholders in understanding and complying with conditions in relation to licences and/or approvals.

The *Water Management Act 2000* (WMA) contributes to the sustainable management and equitable sharing of water from water sources in NSW. The WMA establishes a framework which shares water available for extraction through water access licences (WALs). Extraction and use of water are managed through water supply work approvals and water use approvals. Licences and approvals are granted subject to conditions which set out the holder's responsibilities and any restrictions.

What is a condition?

A condition sets out the way the WAL or approval must be exercised. It is an offence to contravene any condition of a WAL or approval. Conditions are listed on the WAL or approval under the headings of 'Plan' and 'Other'.

- **'Plan' conditions** are imposed to ensure the application of the rules specified in the relevant water sharing plan (WSP), the WMA, and the Water Management (General) Regulations 2000 (Regulations). For example, Plan conditions may include a specified timeframe for construction of a bore, or installation of approved metering equipment to record take of water from a water source. 'Plan' conditions are mandatory and apply immediately to the licence and/or approval. These are identified with the letter "M".
- **'Other' conditions** are generally specific to the site and are imposed to protect the local environment and ensure that not more than minimal harm will result from the proposed activity. 'Other' conditions proposed to apply to the licence and/or approval are discretionary on the part of WaterNSW. These are identified with the letter "D".

Why does my WAL/approval have conditions on it?

Conditions are applied to achieve the purposes of the WMA, which includes mitigating or minimising the impacts of a work or activity, including the taking of water. The holder of the WAL or approval is responsible for ensuring the conditions as outlined in the WAL or approval are complied with. Enforcement action may be taken by a regulatory authority such as the Natural Resources Access Regulator (NRAR).

Are conditions enforceable? If so, how?

Yes. It is an offence under the WMA to contravene a term or condition of a WAL or approval. NRAR is responsible for compliance with water law in NSW, including ensuring compliance with conditions on WALs and approvals.

Can a condition be changed or a new condition imposed after a WAL or approval is granted?

The conditions of a WAL or approval can change after the WAL/approval has been granted. For example, 'Plan' conditions may change as WSP's are reviewed and updated. Regulatory change such as metering reform may trigger a change to conditions on a WAL or an approval. However, before a new 'Other' condition can be imposed:

- the approval holder must be notified of the proposed condition .
- the approval holder must be given a reasonable opportunity to make submissions on the proposed condition .
- WaterNSW must take any submission into consideration.

If the decision changes in response to a submission, the WAL and/or approval holder will be advised in writing.

What if I disagree with a condition that has been applied to my WAL or approval?

Compliance with conditions of WALs and approvals is important to ensure that all water users (including local communities and the environment) have fair and equitable access to water, and that the environment is also protected.

'Plan' conditions give effect to the rules specified in the relevant WSP, the WMA and the Regulations. Draft WSPs are placed on exhibition and the public may lodge a submission in relation to proposed plan rules at that time. There is no review process for 'Plan' conditions and submissions cannot be made to change these conditions outside this process.

If a resolution cannot be reached with WaterNSW on the imposition of an 'Other' condition, the decision can be appealed to the NSW Land and Environment Court.

Need help?

If you need more information, please contact our Customer Service Centre on [1300 662 077](tel:1300662077), Monday to Friday between 8am-5pm or email Customer.Helpdesk@waterNSW.com.au

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