

Guide to the components of a water access licence certificate

This fact sheet provides a guide to interpreting key components shown on a water access licence certificate.

1. Water Access Licence (WAL) number

This is the key identifier of a water access licence. This number should be quoted in any correspondence or enquiries about a licence and in all licence dealings and is required to search the Water Access Licence Register.

2. Edition and date

The date specifies when the water access licence certificate was issued. A new edition of a water access licence certificate is generated when a new licence certificate is issued (usually when changes are made because of a dealing). Some dealings (such as a subdivision) require a new licence to be created.

3. Tenure type

The reference to “tenure” on a water access licence certificate indicates the duration of the licence. An access licence ceases to be in force on the date that the cancellation of the licence is recorded in the Access Register.

- A “**continuing**” water access licence is issued in perpetuity, which means it does not need to be renewed. It is typically used for a commercial purpose (such as irrigation or industrial use). “Continuing” water access licences include supplementary water access licences issued for regulated rivers.
- A **specific purpose** water access licence (eg for town water or domestic and stock purposes) must be cancelled when the purpose for which the licence was issued ceases.

Irrespective of the tenure type, a water access licence can be suspended or cancelled if there is a breach of the licence conditions or other non-compliance.

4. Holders

A water access licence may be ‘held’ by one or more persons (a person can be either an individual or a legal entity such as a corporation).

Where there are multiple holders of a water access licence, each holder has a holding in the licence and is known as a ‘co-holder’.

A co-holding in a licence is similar to the ownership of a landholding by multiple parties, where any one of those parties is not entitled to a particular part of the block or a particular part of a building located on the block.

A holder(s) of a holding may sell their holding to another party without the consent of the other co-holders of the licence.

However, a co-holder requires the consent of all holders to undertake any dealing which subdivides the licence; changes the share component; alters the location where water is taken under the licence; or assigns water allocations.

The volume of water that may be taken under a water access licence by a particular co-holder from time to time is governed by private agreement between the licence holders.

All licence holders are required to comply with the conditions of their water access licence.

There are three tenancy arrangements available for water access licences held by more than one holder:

- **Tenants in common in equal shares.**
- **Tenants in common in unequal shares** (where the holders specify the holding portions as a fraction of the whole water access licence, e.g 1/3 and 2/3 holding).
- **Joint tenants** (where each co-holder jointly holds an equal share of the whole licence or a holding).

A key difference between the arrangements is that if a tenant in common dies, that holding remains intact and passes to the beneficiary of the deceased's estate.

However, if a *joint tenant dies*, the entire licence or holding passes to the surviving joint tenant/s.

5. Encumbrances

Security interests

Like land, a water access licence can be used as security for a loan. Security interests, such as mortgages, can be registered against the licence. The security interest holder/s have certain rights under the *Water Management Act 2000* to ensure their interests are protected.

More information on security interests, as well as an on-line security interest conversion tool, is available at About Licences.

Term transfer

Similar to a rental agreement, a licence or a co-holding in a licence may be transferred to another person for a period of time. The holder of the licence does not change and a term transfer is registered against a water access licence or a co-holding in a licence.

During the period for which a term transfer has effect, the term transferee is taken to be the holder (to the exclusion of the actual holder) for the following purposes:

- taking of water
- payment of fees and charges
- compliance with the terms and conditions – the term transferee is responsible for any breaches of the Act or the licence
- applying to change the nominated water supply works or assign water allocations.

Apart from changing the nominated water supply works or the assignment of water allocations, the licence holder remains the only person who can apply for other dealings. However, the term transferee must consent to certain dealings, including those dealings which affect the entitlements in the licence.

Term transfers apply for a fixed period. The minimum period is six months. There is no maximum period.

6. Notations

Notations on a water access licence may include:

- Dealings may not be registered.

This notation will apply if the holder of the water access licence has not been verified or there are unresolved security interests.

- Licence certificate not issued. Dealings may be registered.

In the case of a water access licence for a joint water supply scheme, where holders and prior licence security interests have been resolved, the parties may elect to undertake dealings with their water access licence without a certificate.

- Unregistered dealings.

Any dealings which have been lodged at NSW Land Registry Services (NSW LRS) but not registered at the time of a search will be listed in the notations.

7. Access licence details

Category

Water access licence categories help define the priorities between different access licences, the conditions that apply to them and, in the case of specific purpose category licences, define how water may be used.

Licence categories include regulated river (high security), regulated river (general security), unregulated river, aquifer access licences, supplementary water access licences, domestic and stock, and local water utility access licences.

Specific purpose category licences, such as local water utility, domestic and stock and Aboriginal cultural access licences, provide higher priority access to water than licences for most commercial purposes.

Share component

The share component is the licence holder's entitlement to a given number of shares in the available water that may be sustainably extracted in the specified water source.

The type of water access licence held affects how the share component is expressed. The share component of:

- continuing water access licences is expressed as a unit share of the water available in the water source (water availability may vary from year to year)
- specific purpose water access licences is expressed in megalitres.

The actual quantity of water available to be extracted in any year depends on the Available Water Determination (AWD). Separate AWDs are generally made for each category of licence in a water source. However, AWDs can also be made for individual licences. The online [NSW Water Register](#) includes a public register of AWDs.

Extraction component

The extraction component designates the part of the water source (or zone) where water may be taken.

It may also set limits on the times, rates or circumstances of extraction. In some cases these limits can be a right to a share of the available flow on a particular day (unregulated rivers), or a share of the delivery capacity in a channel (regulated rivers).

Note: Conditions on the licence and on the approval for the nominated water supply work may include additional constraints on how water is to be extracted.

Nominated works

This shows the approval number for the water supply work (pumps, bores, etc) authorised to take water under the licence. Water may generally only be taken under the licence via these nominated works.

Conditions

All water access licences are subject to conditions which are determined by the *Water Management Act 2000* and the relevant water sharing plan. A licence may also be subject to other conditions determined by the Minister.

Licence conditions are not currently included on the Water Access Licence Register and therefore do not appear on the licence certificate or in a water access licence search.

The online [NSW Water Register](#) includes a public register of licence conditions.

8. Notes

The WaterNSW reference number for the water access licence and, where relevant, the previous *Water Act 1912* licence number are shown for information and to assist in searches.

More information

WaterNSW

Phone: 1300 662 077

Email: Customer.Helpdesk@waternsw.com.au

www.waternsw.com.au for information on water access and trade, approvals and applications.

Online NSW Water Register for up to date information on approvals and other consents and activities under the *Water Management Act 2000*.

NSW Land Registry Services (NSW LRS)

Phone: 1300 052 637

Go to www.nswlrs.com.au for downloadable forms and a list of fees for dealings such as transfers, mortgages and term transfers. Under 'Land Titles' there is an option to search the Water Access Licence Register.

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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