



***Handbook  
for large-  
scale  
hydro  
energy  
projects***

December 2018

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# Introduction

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The transition to a modern energy system in NSW is underway, with a diverse mix of technologies and changing energy demand driving innovation across the energy sector. The falling cost of wind and solar energy has led to growing private sector interest and a large pipeline of renewable energy projects throughout the state. Hydro energy and pumped hydro energy storage will play a key role in this transition, helping to ensure a secure, affordable and modern energy future for NSW.

Hydro energy harnesses the power of water flowing downwards through a river system, dedicated pipes or a dam spillway through a turbine to generate electricity. Pumped hydro energy storage draws on energy from the grid when it is plentiful – such as during the middle of the day when the sun is shining, solar is generating and energy demand is lower – to pump water from a lower reservoir such as a dam or disused mine void into an upper reservoir. This water is then released back to the lower reservoir through a turbine to generate electricity when electricity demand is high and prices reflect demand. Hydro energy and pumped hydro energy projects (referred to as ‘hydro energy projects’) complement variable output renewable energy generation such as wind and solar, with rapid, on-demand supply to even out the overall supply of electricity to the grid. This can help to ensure a reliable supply of energy for households and businesses.

As the energy market transition unfolds, private sector interest in hydro energy projects is growing. Hydro energy projects vary from the very large-scale Snowy Hydro Scheme to diverse mini-hydro systems on small rivers, creeks and reservoirs. Each new project will need to navigate a range of different considerations specific to its location and features in its development process.

This Handbook introduces the key areas that prospective large-scale hydro energy project proponents should be aware of when considering developing a hydro energy project in NSW. These include understanding:

1. The planning assessment process
2. The process of gaining access to land in NSW
3. The process of gaining access to water in NSW

In this Handbook, large-scale hydro energy projects refer to projects with a capital investment value (CIV) of \$30 million or more. This Handbook is not a complete guide, nor does it provide an exhaustive list of considerations for proponents. The NSW Department of Planning and Environment (the Department) recommends that proponents seek independent expert advice early in the development process, and contact the relevant government departments and agencies well before submitting applications for relevant approvals. The Department takes no responsibility for reliance on this Handbook and reserves the right to change information and processes, as needed.

## Relevant legislation

Hydro energy projects in NSW are subject to a range of NSW and Commonwealth laws, which are referenced throughout this Handbook. Some of the key Acts are listed below, and all must be read with their regulations and other related instruments, such as environmental planning instruments (EPIs). This list is not exhaustive, and proponents of hydro energy projects must seek their own independent planning, expert and legal advice.

<b><i>Environmental Planning and Assessment Act (1979) (NSW)</i></b>	The principal environmental planning legislation in NSW and the framework law that provides the broad scheme for planning decision-making. The Act provides for: <ul style="list-style-type: none"><li>(a) the making of EPIs that, amongst other things, determine at a high level the planning and environmental assessment requirements for particular types of development, and</li><li>(b) the rules for the development assessment process.</li></ul>
<b><i>Native Title Act 1993 (Cth), Aboriginal Land Rights Act 1983 (NSW), Crown Lands Act 1983 (NSW) and Crown Land Management Act 2016 (NSW)</i></b>	Regulate the management of Crown Land and make provision for Indigenous land rights and land tenure in NSW.
<b><i>Water Management Act 2000 (NSW) and Water Act 1912 (NSW)</i></b>	Regulate access to water in NSW.
<b><i>Water Act 2007 (Cth) and the Basin Plan 2012 (Cth) (as amended)</i></b>	Cover the extraction and use of water in the Murray-Darling Basin between the relevant states, South Australia, Victoria, NSW and Queensland. The Murray-Darling Basin Authority developed the Basin Plan, which has a primary objective to determine a sustainable limit of water extraction in the Basin.
<b><i>Biodiversity Conservation Act 2016 (NSW)</i></b>	Regulates and protects biodiversity, threatened species and ecological communities in NSW.
<b><i>Environmental Protection and Biodiversity Conservation Act 1999 (Cth)</i></b>	Protects matters of national environmental significance, promotes ecologically sustainable development, and promotes Indigenous knowledge of biodiversity.
<b><i>Fisheries Management Act 1994 (NSW)</i></b>	Protects aquatic habitats, threatened species of fish and marine vegetation and aquatic ecological communities in NSW; regulates works in waterways and the need to consider and retain fish passage.
<b><i>Dam Safety Act 1978 (NSW)</i></b>	Sets safety standards for reservoirs in NSW.

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<b><i>Protection of the Environment Operations Act 1997 (NSW)</i></b>	Regulates pollution of the environment and requires Environmental Protection Licences for certain activities in NSW.
<b><i>National Parks and Wildlife Act 1974 (NSW)</i></b>	Regulates management and access to national parks in NSW and, amongst other things, protects Aboriginal heritage areas and native species in national parks.
<b><i>Heritage Act 1977 (NSW)</i></b>	Protects State and local heritage items.

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# Planning assessment process

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Before consulting with the Department, proponents should work with their expert advisors to identify as many of their project's key features as possible, including the proponent, site, nature of the project and likely cost.

Private proponents of large-scale pumped hydro projects will generally need to obtain development consent under Part 4 of the EP&A Act through the State significant development (SSD) assessment process. Projects subject to the SSD assessment pathway are assessed by the Department and approved by either the Department or the Independent Planning Commission. If the proponent is a public authority the project may be carried out without consent under Part 5 of the EP&A Act as State significant infrastructure (SSI), which requires the approval of the Minister for Planning.

It is the proponent's responsibility to determine the scope and permissibility of the proposed project, as well as the relevant planning assessment pathway. The proponent should seek their own independent planning, legal and/or expert advice about these aspects as early as possible. For high-level and conceptual information about planning assessment pathways visit the Department's website at [www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems](http://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems).

## Development under the EP&A Act

In NSW the key legislation that regulates land use planning is the *Environmental Planning and Assessment Act 1979* (EP&A Act) (and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation)). The Minister responsible for administering the EP&A Act is the Minister for Planning. Other statutory documents that support this legislation are called environmental planning instruments (EPIs), which are legally binding and comprise:

- Local environmental plans (LEPs) which guide development at a local level (including setting out whether certain development is permissible with or without consent, or is prohibited), and
- State environmental planning policies (SEPPs) which deal with matters of State or regional environmental planning significance and, amongst other things, specify planning and development controls (and can identify whether a development is of State significance).

The key SEPPs potentially relating to hydro energy projects are *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) and *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP), however others may also apply.

When proposing to construct or modify a large-scale hydro project the following are key considerations arising from the EP&A Act:

- Who is the proponent?
- Where is the project located?
- What are the specific elements of the project's design?

These factors influence critical considerations including whether the project is permissible with or without consent and the specific planning pathway that the project must follow.

## Who is the proponent?

It is important to determine who the proponent of the potential project is, as this is one of the key factors that may influence the type of planning assessment pathway for the project.

Key questions relevant to this issue include:

- Who will carry out the development?
- Is the proponent a public authority?
- Who will apply for planning approval?
- If multiple entities are involved, are they private companies or public authorities?
- Is one entity carrying out the development on behalf of another?
- Who will own the infrastructure?
- Who will be responsible for the ongoing operation and maintenance of the project once complete?

## What is the purpose of the project and where will it be located?

The project purpose, its proposed location and any access required to other sites are also important considerations that may influence the planning assessment pathway. Proponents should obtain their own independent planning and/or legal advice on this aspect and be prepared to answer the following questions:

- What is the primary purpose of the development? Most large-scale hydro energy projects are likely to be for the purpose of electricity generation.
- Where will the project be sited?
- Is access to other land required for ancillary infrastructure like water pipes, transmission lines and access routes?
- What is the history of the site, and what is it currently being used for, including information on existing approvals and conditions?
- Does the proponent have access to this land? (See 'Security Access to Land' below for more information)

## What is the project design?

At the earliest stage of developing a hydro energy project, proponents should be able to confirm the following:

- What infrastructure will be required, including any underground and/or transmission infrastructure?
- What construction processes will be used?
- What are the different stages of the proposed development, including investigation, construction, operation and decommissioning?

The project may require several different approvals under various legislation. Proponents should seek their own independent advice about this aspect, as it is their responsibility to comply with all relevant legislation. For example, the preliminary or investigation phase for a hydro energy project may require

drilling and other disturbances to the land, which may involve different activities or works to those in the construction and operation phase of the project, and which may follow a different planning pathway.

## **Is the project permissible?**

The EP&A Act establishes a threefold classification of permissibility:

- development that may be carried out without the need for development consent,
- development that may not be carried out except with development consent; and
- development that is prohibited.

EPIs identify particular types of development according to the above classifications. Determining the permissibility of a project requires understanding how the applicable EPI(s) control development on each parcel of land on which development is proposed to be carried out, as well as understanding the purpose of the development. This is important as it dictates the planning assessment requirements, as well as influencing the approvals and requirements under other Acts that may be required.

## **What planning assessment pathway should be followed?**

The relevant planning pathway for a specific project would be determined through consideration of the provisions of the EP&A Act and the relevant EPIs applying to the project and/or land. This would also take into account the above factors such as the location of the project, its size and scale and the proponent undertaking the development.

Parts 4 and 5 of the EP&A Act provide for very different assessment frameworks and the rules and requirements vary immensely between these two parts.

Development that does not need consent may constitute an 'activity', in which case the development would be assessed and regulated under Part 5 of the EP&A Act. SSI projects are declared to be SSI by a SEPP and fall into this category. SSI projects are assessed under Division 5.2 of the EP&A Act and the Minister for Planning is the approval authority.

Development that needs consent is typically assessed under Part 4 of the EP&A Act. There are several types of development under this Part including complying, local, regional, designated or integrated development. In addition to these, certain types of development under Part 4 may be declared to be SSD by a SEPP. In certain cases, this may override development being prohibited by an LEP or other EPI. The Minister for Planning or the Independent Planning Commission (depending on the circumstances) is the consent authority for SSD.

If development is prohibited on the land, and is not also made permissible by a SEPP, it cannot be approved or carried out without amending the relevant EPI.

Many large-scale hydro energy projects in NSW are likely to be either SSI (if the proponent is a public authority) or SSD (due to the capital investment value for the development), depending on the circumstances outlined above.

## **Assessment steps for SSI and SSD**

The assessment pathway for SSI and SSD typically includes:

- the proponent applies for Secretary's environmental assessment requirements (SEARs), often accompanied by a preliminary environmental assessment (also referred to as a scoping report)
- the Planning Secretary issues the project SEARs
- preparation of an environmental impact statement (EIS) by the proponent or their consultant
- public exhibition (minimum exhibition period is 28 days)
- response by the proponent to the submissions made during exhibition, and
- assessment and determination of the proposal by the Department or the Independent Planning Commission.

The Minister may also decide that a review and public hearing by the Independent Planning Commission may be required for certain complex proposals.

## Does the project impact any Matters of National Environmental Significance?

If a project involves any actions that could have a significant impact on matters of National Environmental Significance, then it may also require approval under the Commonwealth's *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act). This is a separate approval but is integrated into the assessment process undertaken by the NSW Department of Planning. Further information on the need for approval under the EPBC Act may be found at the Commonwealth Department of the Environment Energy: [www.environment.gov.au](http://www.environment.gov.au).

## Considerations under the Fisheries Management Act

Projects may require works that impact on rivers, creeks, wetlands or other aquatic habitats and associated biodiversity. Proponents will be required to address many of these considerations through the planning assessment process, however should also engage expert advice to determine what other legislation may apply.

In relation to fisheries management, the Department of Primary Industries (DPI) Fisheries branch provides a 'toolkit' with information for proponents to consider when planning for such works, including required approvals and relevant policies and guidelines to guide the planning and construction processes: [www.dpi.nsw.gov.au/fishing/habitat/protecting-habitats/toolkit](http://www.dpi.nsw.gov.au/fishing/habitat/protecting-habitats/toolkit). It is recommended that proponents discuss their project early in the planning process with DPI Fisheries if they involve:

- Waterway crossings for access roads
- Dredging or placing material into a waterway or the banks of a waterway
- Pumping of water from a river, creek or other water source to the storage reservoir that may extract fish
- Pumping water back to a river, creek or other water source
- Works in key fish habitat or habitat of threatened aquatic species
- Works that may restrict the movement of fish within a waterway (temporarily or permanently)

## Further information

For further information on the planning assessment process visit:

- State significant development: [www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems/State-Significant-Development](http://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems/State-Significant-Development)
- State significant infrastructure: [www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems/State-Significant-Infrastructure](http://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems/State-Significant-Infrastructure)
- Other planning assessment pathways: [www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems](http://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Systems)

Or contact the Department of Planning and Environment by calling 1300 305 695 or via [www.planning.nsw.gov.au/Contact-Us](http://www.planning.nsw.gov.au/Contact-Us).

## Securing access to land

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Proponents may need access to land not only for the project site, but for associated water pipes or transmission lines. Land access can be secured by purchase, easement, lease, licence, or option depending on who currently owns the relevant land. Landholder consent is also likely to be a requirement for the development approval process.

If the relevant land is privately owned, access can be secured by direct commercial negotiations with the landholder. More consideration is needed if any part of the land required is:

- A national park
- Crown Land
- Land managed or owned by state-owned corporations such as WaterNSW and Forestry Corporation of NSW
- A disused private mining or industrial site.

In many cases, the use of the land will be changing, and proponents should also engage with the local community to secure social license for the project to operate and maximise benefits for both the project and the community. Proponents need to obtain their own independent advice about securing access to land.

### National parks

The *National Parks and Wildlife Act 1974* (NPW Act) contains requirements and places some restrictions on development in national parks. Proponents should obtain their own independent advice on any requirements or restrictions under the NPW Act if their project, or part of their project (including associated water pipes and transmission infrastructure), is to be carried out in a national park.

### Crown Land

Crown Land is land owned by the NSW Government, some of which is reserved for specific public uses such as schools, hospitals and public recreation. Much of Crown Land is subject to Native Title under the *Native Title Act 1993* (Cth) and potentially Aboriginal land claims under the *Aboriginal Land Rights Act 1983* (NSW).

To explore access to available Crown Land, proponents should contact the Lands and Water Division at the NSW Department of Industry (DOI Lands and Water) as early as possible: see [www.industry.nsw.gov.au/lands](http://www.industry.nsw.gov.au/lands).

Private proponents may wish to first explore alternatives to avoid carrying out development on Crown Land. DOI Lands and Water must authorise any infrastructure that crosses Crown Land and, for example, a proponent may be required to acquire an easement. Forested areas (State forests) and some other lands such as Crown timber lands are managed by Forestry Corporation of NSW under the *Forestry Act 2012* (NSW) or the *Plantations & Reafforestation Act 1999* (NSW).

## Land owned by State-owned corporations

State-owned corporations are often restricted in their use of land and assets by their governing legislation, and must give priority to their core assets and operations. It may be possible to develop a hydro energy project and associated infrastructure on land owned by a State-owned corporation such as WaterNSW and Forestry Corporation of NSW. Proponents should engage with them directly and early to determine what possibilities may exist for access to this type of land.

## Disused mining or industrial sites

Former mining and industrial sites often have potential for hydro energy projects. Mining sites in particular may have mining voids which could be reused as a water reservoir.

Disused sites will often have remediation or rehabilitation obligations arising from a mining lease under the *Mining Act 1992* and conditions of development consent under the EP&A Act. Proponents will need to consider who is liable for any existing remediation or rehabilitation obligations, which may include obligations such as backfilling (or partially backfilling) voids at the end of a project.

For more information on mining leases and the overlap of leases with sensitive environmental land see the NSW Sharing and Enabling Environmental Data (SEED) Portal at [www.seed.nsw.gov.au](http://www.seed.nsw.gov.au) and the NSW Department of Planning and Environment Common Ground website [www.commonground.nsw.gov.au](http://www.commonground.nsw.gov.au)

## Commonwealth Land

For developments on Commonwealth-owned land, it may be necessary to seek agreement with the Commonwealth Government to be able to access the land, in addition to seeking approval for the proposed development under the EPBC Act. For more information, contact the Department of Environment and Energy at [www.environment.gov.au](http://www.environment.gov.au).

## Securing access to water

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All pumped hydro energy storage proponents will likely need water to fill their project's reservoirs, initially and for any top-ups over the project's lifetime. Hydro energy projects without pumped storage may also need a water access licence (WAL) if their project involves diverting water from a waterway and therefore impacting on the amount of water available in the water source.

To access water, a proponent will need three things:

1. A WAL that entitles the holder to take water, from the water source
2. An entitlement in the WAL's water allocation account
3. Approval to construct required infrastructure to extract and use the water (SSD and SSI projects are exempt from this requirement)

Applications made in relation to WALs for certain large-scale projects and projects proposed by Government agencies are managed by DOI Lands and Water Division, in particular, by staff within the Natural Resources Access Regulator (NRAR) branch within that Division, see: [www.industry.nsw.gov.au/natural-resources-access-regulator](http://www.industry.nsw.gov.au/natural-resources-access-regulator).

For non-SSD projects, applications for a new zero-share WAL are managed by WaterNSW. All applications for dealings, including the transfer of entitlements (permanent dealings) and allocations (temporary dealings), are managed by WaterNSW, see: [www.waternsw.com.au/customer-service/water-licensing](http://www.waternsw.com.au/customer-service/water-licensing).

A water broker can help identify available WALs or allocations and facilitate any required water trading. A useful third-party list of accredited brokers can be found at [www.awba.org.au](http://www.awba.org.au). (Note: The Department does not endorse a particular broker listed on this site).

### Water in the Murray-Darling Basin

The Basin Plan is a Commonwealth instrument that governs the sustainable use and management of the waters of the Murray-Darling Basin by State and Commonwealth government agencies, regional authorities, industry and communities: see [www.mdba.gov.au/basin-plan](http://www.mdba.gov.au/basin-plan).

While the trading of water within the NSW Murray-Darling Basin area is managed by the NSW Government under State legislation, there are additional legislative requirements under the Basin Plan Water Trading Rules: [www.mdba.gov.au/managing-water/water-markets-trade/basin-plan-water-trading-rules](http://www.mdba.gov.au/managing-water/water-markets-trade/basin-plan-water-trading-rules).

### Key terms under the *Water Management Act 2000*

The *Water Management Act 2000* (WM Act) establishes the framework for the operation of water licensing in NSW. The WM Act defines many terms that are central to that framework, including the terms set out below.

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#### Water sharing plan

**The rules for sharing water between the environment and the needs of different types of water users, such as town supply, rural domestic supply, stock watering, industry and irrigation.**

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<b>Water source</b>	<p>The whole or any part of one or more rivers, lakes, aquifers, estuaries or other places where water occurs on or below the surface of the ground.</p> <p>Water source is also the term used to describe management units within water sharing plans. Water sources cover defined geographical areas. They may be further divided into Management Zones where different areas require more careful management.</p>
<b>Water access licence (WAL)</b>	<p>Confers an entitlement to a percentage share of available water in a water source under a water sharing plan (the 'share component' of the licence), and an entitlement to take water at a specified time and place (the 'extraction component'). A water access licence is generally a tradeable property right, and can have multiple joint owners.</p> <p>Some water access licences may only be used for a particular purpose – these are Specific Purpose Access Licences.</p>
<b>Water allocation</b>	<p>An allocation of a volume of water to a licence based on its share of the total volume of water available from a water source. This will vary from year to year based on factors such as dam storage levels, river flows and catchment conditions.</p>
<b>Water allocation account</b>	<p>An account attached to a water access licence into which all new or assigned allocations are recorded (like a bank account for water). Accounts are credited at the commencement of each water year (which commences on 1 July) with an allocation based on the share component of the water access licence. This account records the actual volume of water to which the licence holder is entitled yearly, either to use or to sell (allocate) to another user.</p>
<b>Dealing</b>	<p>A dealing on a water access licence refers to a range of activities in relation to the licence, such as transferring the licence, subdividing the licence, assignments of rights under the licence or amending the licence to nominate a specified water supply work. WaterNSW processes all dealings applications and will check whether the relevant requirements have been met for each application.</p>
<b>Allocation assignment</b>	<p>A sale ('assignment') of a licence's allocation of water to another user, for example if that allocation is surplus to the licence holder's needs in a particular year. The sale does not affect future allocations, which continue to accrue to the licence.</p>
<b>Dealing</b>	<p>For a licence holder to a range of activities in relation to the licence must (unless exempted by the WM Act from this requirement) nominate a specified water supply work' by which the water will be taken.</p>

## Securing a Water Access Licence

A WAL entitles its holder a right to a share (entitlement) of water within a water source within a water sharing plan area. For most water sources in NSW, the available shares and extraction rights are already fully allocated. This means hydro energy proponents may need to secure an entitlement from existing WAL holders.

To secure an appropriate WAL, the proponent may:

- Buy an existing WAL
- Rent an existing WAL, as a term transfer
- Apply for a new WAL with a zero-share component, and then purchase a water allocation to add to the WAL
- Bid for a newly released WAL from DOI Lands and Water under a controlled allocation order

Most WALs are issued with conditions relating to the relevant water sharing plan, such as the amount of water that can be extracted under the WAL per period, restrictions around the timing of water extraction and other conditions. Conditions differ for each individual WAL/approval and WAL/approvals holders are notified of conditions when the WAL/approval is granted. Conditions of existing WALs or approvals can be accessed from the NSW Water Register at [waterregister.waternsw.com.au/water-register-frame](http://waterregister.waternsw.com.au/water-register-frame).

It is important to ensure that the conditions of the WAL allow access to water for the purposes of a hydro energy project. Legal or expert advice will help proponents to understand the conditions and restrictions that limit a WAL's use.

### **Purchasing an existing Water Access Licence**

Hydro energy project proponents may be able to find and purchase an existing WAL, for the right water source and type of use, in the water market. As the new owner, the proponent would then be entitled to all future water allocations under the WAL.

The sale or transfer of a WAL is similar to the sale of land and may be achieved by direct negotiation or through a water broker. It is settled under a commercial contract. A dealing will then be required to effect the transfer of the WAL, and the transfer will be registered on the NSW Land Registry Services (LRS).

### **Term transfer of a Water Access Licence**

Rather than purchasing a WAL, a proponent may rent a WAL under a term transfer of six months or more. The licence owner does not change, but the transferee is responsible for the water taken, payment of fees and charges, and compliance with the terms and conditions of the WAL.

Again, like a property rental, this transfer may be achieved by direct negotiation or through a water broker, settled under a commercial contract, and registered through a dealing.

### **Applying for a new Water Access Licence with a zero-share component**

Rather than purchasing or renting a WAL with existing terms and conditions, a proponent may apply to WaterNSW or DOI Lands and Water (via the NRAR branch) for a new WAL with a zero-share component. The holder of a zero-share WAL is not entitled to draw from a water source until it buys shares (by way of permanent purchase of shares through a dealing under section 71Q of the WM Act) or an allocation

of water from another WAL's water allocation account (by way of a one-off assignment of water under section 71T of the WM Act) from another WAL holder.

A dealing will be required to give effect to the purchase or assignment. Dealings are processed by WaterNSW, which will then register the allocation on the new licence.

### **Bidding for a new Water Access Licence released under a controlled allocation order**

In some water sources, the total share of registered WALs is less than the extraction limit in its water sharing plan. From time to time DOI Lands and Water may make a controlled allocation order to create more entitlements in some water sources, allowing the purchase of that water. This is rare, as the allocation is at the discretion of the Minister, and at the date of publication the most recent order was on 5 May 2017. With most water sources already fully allocated, it is strongly recommended that proponents do not rely solely on securing water from controlled allocation orders.

### **Securing a sufficient water allocation**

If the WAL does not have enough water for the project in its water allocation account, the proponent will have to add a sufficient water allocation to the WAL.

A one-off increase of water can be added to the allocation account of an existing WAL or a new, zero-share water access WAL. This can be purchased and assigned from the allocation account of another WAL. This is a one-off purchase, and does not affect the future water entitlements and allocations of either WAL. More information about allocation assignments can be found at [www.waternsw.com.au/customer-service/water-licensing/dealings-and-trade/allocation-assignment](http://www.waternsw.com.au/customer-service/water-licensing/dealings-and-trade/allocation-assignment)

Alternatively, the proponent may secure one or more additional WALs to meet their needs, through one of the avenues outlined above.

### **Securing necessary approvals**

In addition to the right to access water, proponents must also have approval to build and use infrastructure to physically draw and use the water. To do so, the hydro energy proponent will need to apply for an approval from WaterNSW or DOI Lands and Water (through the NRAR branch) for water supply works. However, SSD and SSI projects may be exempt from this requirement pursuant to sections 4.41 and section 5.23 respectively of the EP&A Act.

### **Applying for relevant approvals relating to the take and use of water**

A water supply work refers to equipment or infrastructure (such as pumps, bores, spearpoints or wells) that is used to extract water under a WAL. These works must be approved by WaterNSW or DOI Land and Water (NRAR branch), depending on the work.

All WALs, unless exempt, should nominate a water supply work. If the proponent purchases or term transfers a WAL and intends to add or change the nominated works, they will need WaterNSW to approve the change through a dealing under section 71W of the WM Act.

For SSD projects, these approvals are generally not required if development consent has been granted. However, proponents should confirm approval needs with the Department and WaterNSW or DOI Lands and Water.

### **Projects using WaterNSW assets**

If the equipment or infrastructure to be used in a project is owned by WaterNSW or a third party, a contract will need to be entered into, to capture the terms and conditions around the access and use of the equipment or infrastructure. WaterNSW contracts for the use of their assets take into account other water supply needs for those assets, the quantity of water to be supplied, operation times, indemnities and payments.