

Water use approval exemptions

Water use approval

A water use approval allows you to use water on your land.

Examples of water uses that require approval are irrigation, town water supply, power generation and mining. You do not need a water use approval if an exemption applies.

You can find more information about water use approvals on the department's website at water.dpie.nsw.gov.au/licensing-and-trade/approvals.

Exemptions

The Water Management (General) Regulation 2018 (the Regulation) specifies a number of water use approval exemptions.

A summary of these exemptions is provided below. You should refer to the Regulation for a full description of these exemptions, including the circumstances when the exemption applies, and any restrictions or limitations.

Accessing a copy of the Regulation

NSW legislation is published online at www.legislation.nsw.gov.au. Look for the Water Management (General) Regulation 2018 within the In force > Statutory Instruments section under 'W'.

Find help

Rural landholders and industries

WaterNSW is your one-stop shop for licensing services, including approvals.

- Call 1300 662 077 during business hours
- Email Customer.Helpdesk@waternsw.com.au

Department of Planning and Environment customers

Contact the department for assistance.

- Call 1800 633 362 during business hours
- Email waterlicensing.servicedesk@dpie.nsw.gov.au

Summary of exemptions

Exemptions for landholders

Landholder means the owner or lawful occupier of a parcel of land, as defined in the *Water Management Act 2000*.

Table 1. Exemptions for landholders

Water use approval exemption	Regulation reference
Collection of water from roofs in rainwater tanks by landholder This exemption applies to the landholder of the property where a rainwater tank is located. This exemption applies to the use of water that is collected from a roof by a rainwater tank.	Clause 31(1) Clause 12 of Schedule 4 Clause 5 of Schedule 1
Landholders with dams for specific purposes This exemption applies to the landholder of the property where the water supply work is located. The water must be taken by a dam located on a minor stream as defined in the Regulation. This exemption applies to the use of water for one of the following purposes: - control or prevention of soil erosion - flood detention and mitigation - capture, containment and recirculation of drainage and/or effluent to prevent the contamination of a water source - specific environmental management purposes approved in writing.	Clause 34(1) Clause 12 of Schedule 4 Clause 1, 2, 3 and 4 of Schedule 1
Landholders with dams or excavations located on a river or lake This exemption applies to the landholder of the property where the water supply work is located. This exemption applies to the use of water: - by a dam or excavation, which is - located on a river or lake, and was - constructed under section 7 of the <i>Water Act 1912</i> before 1 January 2001. The water taken must only be used for domestic consumption and/or stock watering, or for purposes that do not require the extraction of water.	Clause 34(1) Clause 12 of Schedule 4 Clause 7 of Schedule 1
Landholders with works that impound water This exemption applies to the landholder of the property where the water supply work is located. This exemption applies to the use of water by a work that: - impounds water, and - was constructed before 1 January 1999, and	Clause 34(1) Clause 12 of Schedule 4 Clause 6 and 9 of Schedule 1

Water use approval exemption	Regulation reference
- is located: - on a minor stream as defined in the Regulation, or - within the Western Division in an area of land shown in the legend of a 1:100 000 topographic map issued by the Land Information Centre applying at 1 January 1999 as land subject to flooding or inundation, or lakes shown as 'perennial' or 'intermittent'. The water taken must only be used on the property where the work is located for domestic consumption and stock watering, or not result in the extraction of water.	
Landholders with works in lakes that are mainly dry This exemption applies to the landholder of the property where the water supply work is located. This exemption applies to the use of water by a work located within the Western Division in an area of land shown in the legend of a 1:100 000 topographic map issued by the Land Information Centre applying at 1 January 1999 as 'Lake Mainly Dry'.	Clause 34(1) Clause 12 of Schedule 4 Clause 8 of schedule 1
Domestic electricity generation by landholder This exemption applies to the landholder of a property. This exemption applies to the use of water to generate electricity for domestic consumption on the landholder's property. This exemption only applies if the: - water is returned to the same water source from which it was taken, and within 50 metres of the point at which it was taken, and - returned water is of the same quality as it was when it was taken in terms of chemical composition, temperature, sediment content and salinity.	Clause 34(1) Clause 8 of Schedule 4

Exemptions for public authorities

Public authority is defined in the *Water Management Act 2000*. Public authorities include public service agencies and local councils in NSW.

Table 2. Exemptions for public authorities

Water use approval exemption	Regulation reference
Road construction and maintenance by road authorities This exemption applies to road authorities within the meaning of the <i>Roads Act 1993</i>. This exemption applies to the use of water for road construction and road maintenance.	Clause 34(1) Clause 2 of Schedule 4
Construction and maintenance of rail infrastructure by transport authorities This exemption applies to <i>transport authorities</i> as defined in the Regulation. This exemption applies to the use of water for the construction or maintenance	Clause 34(1) Clause 3 of Schedule 4

Water use approval exemption	Regulation reference
of rail infrastructure facilities within the meaning of the <i>Transport Administration Act 1988</i>. This exemption only applies if the: - transport authority has considered the environmental impact of the activity in accordance with section 5.5 of the <i>Environmental Planning and Assessment Act 1979</i>, and is - satisfied that activity is not likely to significantly affect the environment.	
Dust suppression by public authorities This exemption applies to public authorities lawfully engaged in dust suppression activities. This exemption applies to the use of water for dust suppression.	Clause 34(1) Clause 5 of Schedule 4
Operation of hydro-electric power station This exemption applies to any person who is lawfully engaged in the operation of a hydro-electric power station in connection with a water supply work owned by WaterNSW or the Water Administration Ministerial Corporation. This exemption applies to the use of water for the purpose of generating hydro-electric power. This exemption only applies if the: - water is returned to the same water source it was taken, and - returned water is of the same quality as it was when taken.	Clause 34(1) Clause 11 of Schedule 4
Basic human water needs This exemption applies to the Water Administration Ministerial Corporation, but only if the Minister for Lands and Water is satisfied that the watering is urgently required for basic human water needs, and is in the public interest This exemption applies to the use of water in accordance with an approved watering program that specifies the amount of water proposed to be taken and the water source from which the water will be taken. This exemption ceases to apply four months after the date on which the watering program was approved, or a later date which the minister has approved in writing.	Clause 34(1) Clause 14 of Schedule 4
Environmental work construction This exemption applies to a public authority. This exemption applies to the use of water for the purpose of constructing a water supply work on waterfront land, and the work must have an environmental benefit. This exemption only applies if the work is in accordance with a program approved by the Minister for Lands and Water in writing that specifies the: - amount of water proposed to be taken, and - water source from which the water will be taken. The maximum volume of water which may be taken under this exemption is	Clause 34(1) Clause 15 of Schedule 4

Water use approval exemption	Regulation reference
0.5 megalitres in any water year (1 July — 30 June), or any lesser amount specified by the Minister.	

General exemptions

Table 3. General exemptions

Water use approval exemption	Regulation reference
Use of water for purpose authorised by development consent This exemption applies to any person. This exemption applies to the use of water for any purpose authorised by a development consent under the <i>Environmental Planning and Assessment Act 1979</i>. This exemption only applies if the: - development consent is in force, and - use of water is not for the purpose of power generation by a major utility.	Clause 35(a)
Domestic consumption and stock watering This exemption applies to any person. This exemption applies to the use of water for domestic consumption or stock watering. <i>Domestic consumption</i> and <i>stock watering</i> are defined in the <i>Water Management Act 2000</i>.	Clause 35(b)
Water carting for drought relief for domestic consumption and stock watering This exemption applies to any person who is lawfully engaged in the carriage of water for drought relief. This exemption applies to the use of water for drought relief, but only if the water is used for the purpose of domestic consumption, stock watering or both. <i>Domestic consumption</i> and <i>stock watering</i> are defined in the <i>Water Management Act 2000</i>.	Clause 34(1) Clause 4 of Schedule 4
Aboriginal cultural purposes This exemption applies to any person. This exemption applies to the use of water for an environmental purpose. This exemption only applies if the use of water is in accordance with a plan approved under section 8E(7) of the <i>Water Management Act 2000</i>. This plan is for the implementation of an adaptive environmental water condition applied to a water access licence.	Clause 35(d)
Hydrostatic testing of gas pipelines This exemption applies to any person who is lawfully engaged in the hydrostatic testing of a gas pipeline.	Clause 34(1) Clause 6 of Schedule 4

Water use approval exemption	Regulation reference
This exemption applies to the use of water for initial testing of a gas pipeline before it is put into service for the first time. The maximum volume of water that may be taken under this exemption is 7 megalitres.	
Emergency safety measures This exemption applies to any person. This exemption applies to the use of water for the purpose of complying with a direction given in an emergency under the <i>State Emergency Service Act 1989</i> or the <i>State Emergency and Rescue Management Act 1989</i>.	Clause 34(1) Clause 17 of Schedule 4
Emergency works This exemption applies to any person. This exemption applies to the use of groundwater or overland flow water for the purpose of carrying out emergency works in direct response to an emergency event. <i>Emergency works</i> and <i>emergency event</i> are defined in clause 3 of the Regulation. This exemption only applies if the person claiming the exemption provides certain information to the Natural Resources Access Regulator before (or soon after) commencing relevant works and within 14 days of completing the works, as outlined in Clause 34(5) of the Regulation. Please refer to information on the website of the Natural Resources Access Regulator in relation to the application and use of this exemption, including its scope, duration and associated requirements	Clause 34(5)
Establishment of sugar cane plantings This exemption applies to any person. This exemption applies to the taking of water to establish agricultural plantings of sugar cane. A sugar cane plant is established once it reaches a height of 50 centimetres. This exemption only applies if: - the water is taken from an artificial channel - the channel was constructed for the primary purpose of draining water from land on which sugar cane is grown - the channel does not have banks that are above ground level - the channel is located in an area to which the <i>Water Sharing Plan for the Clarence River Unregulated and Alluvial Water Sources 2016</i>, the <i>Water Sharing Plan for the Brunswick Unregulated and Alluvial Water Sources 2016</i>, the <i>Water Sharing Plan for the Tweed River Area Unregulated and Alluvial Water Sources 2010</i> or the <i>Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010</i> applies - any water supply work used to take the water is not fixed to the land	Clause 34(1) Clause 13 of Schedule 4

Water use approval exemption	Regulation reference
the volume of water taken does not exceed 0.05 megalitres per hectare of land on which sugar cane is being established in any continuous 12-month period.	