

New non-urban water metering framework in NSW | November 2021

In December 2018, the NSW Government introduced a new water metering framework for non-urban areas through amendments to the *Water Management Act 2000 (Act)* and *Water Management (General) Regulation 2018 (Regulation)*.¹

Before the amendments, metering requirements differed depending on which water sharing plan applied to an individual water supply work such as a pump. The purpose of the reforms is to implement consistent State-wide requirements for water metering equipment.

Staged rollout

The reforms are being enacted through a staged roll-out. Licence or approval holders captured by the new rules will need to ensure their metering equipment is compliant with the new rules before the staged rollout deadlines as follows:

What?	When?
New and replacement meters, faulty meters and inactive works	1 April 2019
Stage 1 – Pumps 500 mm and above for all surface water sources in NSW and some groundwater sources ²	1 December 2020
Stage 2 – remaining works that require a meter in Northern Inland regions	1 December 2021
Stage 3 – remaining works that require a meter in Southern Inland regions	1 December 2022
Stage 4 – remaining works that require a meter in Coastal regions ³	1 December 2023

¹ The NSW Government has also published the *NSW Non-Urban Water Metering Policy* (June 2020), which does not have any statutory force.

² NSW Great Artesian Basin Groundwater Sources • Northern Western Unregulated and Fractured Rock Water Sources • NSW Great Artesian Basin Shallow Groundwater Sources • NSW Murray–Darling Basin Fractured Rock Groundwater Sources • NSW Murray–Darling Basin Porous Rock Groundwater Sources.

³ Includes the Hunter Regulated River Water Source and Hunter Unregulated and Alluvial Water Sources.

What are the new rules?

In general, the new rules require metering equipment to be installed, used and properly maintained on water supply works. Licence or approval holders must meet certain requirements in order to comply. Meters must:

- be “pattern-approved”⁴
- have a data logging capacity that complies with certain specifications and enables the equipment to collect, record and store water take data at intervals of not more than one hour
- be installed by a duly qualified person (**DQP**)
- meet Australian Standard 474
- have a compatible local intelligence device (**LID**) with tamper-evident seals, and
- telemetry requirements for some meters, that is connection to the NSW Government’s data acquisition system.

Following installation, DQPs will need to provide initial certification of compliance to the Minister for Planning, Industry and Environment (**the Minister**). Ongoing maintenance and validation requirements apply.

There are also new reporting and record-keeping obligations for licence or approval holders associated with non-urban water metering, including:

- reporting faulty meters to the Minister within 24 hours, and
- recording and reporting volume of water take to the Minister (there are different requirements depending on whether telemetry is required).

Water NSW has published approved forms for this purpose on its website. In general, records are required to be kept for five years. The new rules are detailed and vary depending on the type/size of the water supply work involved. Further guidance materials can be found on the Water NSW and NSW Department of Planning, Industry and Environment websites.

What do the new rules apply to?

The new rules are imposed as a mandatory condition on all water supply work approvals (subject to exemptions contained in the Regulation). The mandatory condition also applies to licences and approvals where water is taken:

- for State significant development and State significant infrastructure under the *Environmental Planning and Assessment Act 1979*

⁴ Under the *National Measurement Regulations 1999* Cth in accordance with specified standards (unless the meter is installed in connection with an open channel).

- for prospecting or fossicking for minerals or petroleum under the *Mining Act 1992* or the *Petroleum (Onshore) Act 1991*, or
- pursuant to an entitlement under the *Water Act 1912*.

Exemptions

There are various exemptions from the new rules including where the work is:

- inactive (however the work must be “tagged” as inactive with Water NSW)
- the subject of an exemption granted by the Minister, which can only be granted in limited circumstances including if it is not possible for water taken using the work to be measured by metering equipment
- a pump for surface water and the licence/approval allows use of one pump of not more than 99 mm in size
- a groundwater bore and the licence/approval allows use of 1 water bore with a diameter of not more than 199 mm⁵
- solely used to take water pursuant to a basic landholder right (such as stock and domestic bores and harvestable rights dams)
- for an approved work, used only in circumstances where the holder of the approval is exempt from the requirement to hold a water access licence for the taking of water using that work
- solely used to take water under a floodplain harvesting (regulated river) access licence or a floodplain harvesting (unregulated river) access licence, or
- not nominated in a water access licence.

An exemption is also available in some cases if there are two or more pumps or groundwater bores that in total do not exceed certain diameter thresholds.

Note that some of the exemptions do not apply in certain circumstances including where the:

- relevant licence/approval previously had, or a new licence/approval is issued with, a condition requiring metering equipment to be installed, or
- work is authorised to take water from certain at-risk groundwater sources.⁶

⁵ Or, if the licence/approval does not specify the diameter, the water bore is not more than 199 mm.

⁶ See Schedule 9 of the Regulation for a list of water sources not captured by the exemptions to the rules.

On 30 September 2021, the NSW Government announced it intends to create a further exemption from metering requirements for some small licensed domestic and stock water users⁷ that would apply until 1 December 2024. This further exemption has not yet been enacted.

Enforcement

The Natural Resources Access Regulator (**NRAR**) is responsible for compliance and enforcement of water legislation in NSW including the new metering rules.

NRAR has undertaken a compliance audit for the Stage 1 rollout of the new rules (pumps 500 mm and above). It was found that "...45 per cent of affected pumps were still not fitted with an accurate meter – the owners of these pumps will now be subject to enforcement action" (NSW Government media release dated 13 July 2021).

NRAR has indicated that it will inspect water supply works the subject of the Stage 2 rollout (Northern Inland regions) next year. It will be important for licence and approval holders in those regions to be compliant with the new rules by 1 December 2021.

Recommendations

Due to the complexity of the new rules and their staged introduction, all licence and approval holders in non-urban areas should:

- review existing conditions of their licences and approvals and the new rules that have been or will be introduced to understand the applicable requirements
- confirm the rollout date that applies to their licences or approvals
- check any existing water meters are operational, accurate and compliant with the applicable requirements
- where new or replacement meters are needed, take steps to install meters that comply with the new requirements before the rollout date, and
- report any faults or inactive works to Water NSW.

Existing conditions extension

The NSW Government has also extended the deadline for some water users to comply with existing metering conditions on their licences or approvals. A standard condition⁸ requiring metering equipment to comply with Australian Standard 4747 was added to several licences or approvals⁹ shortly before the new rules were enacted (**Existing Condition**).

⁷ It is anticipated these exemptions will not apply to works on properties with other metered works.

⁸ Reference number MW2452-00001.

⁹ In the Lachlan, Murrumbidgee, Richmond, Hunter and Murray and Lower Darling regulated river water sources.

The deadline for compliance with the Existing Condition has been extended to 1 December 2021. However, there are some exceptions including if the work is a surface water pump 500 mm in size or greater, or if a new meter is installed or an existing meter replaced after 1 April 2019.

The new rules prevail over any existing metering conditions on licences/approvals to the extent of any inconsistency.

Please contact us if you have any questions about the new reforms. If needed, we can assist with review of your water licences and approvals and provide advice on the applicable metering requirements including any available exemptions, the date for compliance with the new rules and steps to achieve compliance.



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