

## Information requirements under the *Water Supply (Critical Needs) Act 2019*

*This information is for public authorities. It explains the information authorities must supply when applying for the listing and authorisation of developments under the Water Supply (Critical Needs) Act 2019.*

### Context of the Act

The *Water Supply (Critical Needs) Act 2019* (the Act) provides a two-step process for accessing its temporary pathway to authorise critical water infrastructure developments:

- **Step one**—request to declare the town or locality water supply as critical and list developments for the critical town or locality water supply (note that this does not provide any authorisation in itself)
- **Step two**—if the town or locality is declared critical, public authorities can apply for an authorisation for the proposed development.

For listed towns, the Act also enables the minister to turn off or modify the *Water Management Act 2000* to enable or speed up the granting or amendment of water licences and approvals required for critical town water supplies.

### Step one—declaring and listing

#### Process for declaring towns or localities and listing developments

Public authorities need to submit a request to declare the town or locality water supply and associated water developments as critical for listing under Schedule 1 and 2 of the Act. Before submitting a request, local councils should first consult with the relevant departmental water utilities regional manager. WaterNSW should consult with the department's Water Supply Critical Needs gateway staff.

Public authorities should submit requests, including supporting documentation, to [landuse.enquiries@dpi.nsw.gov.au](mailto:landuse.enquiries@dpi.nsw.gov.au)

The department and relevant agencies will review the request against the following criteria:

1. The proponent is proposing to address a risk to water supply for a town or locality that has been identified by the department as critical.
2. Development(s) proposed by proponents can mitigate the failure of town water supply due to availability or water-quality issues, where supply is at high risk or greater due to drought.
3. The proponent can show that the proposed development is the most suitable solution to address the critical town water supply issue in a timely manner.
4. The proponent can show that another approval pathway would take too long, resulting in the project being delivered too late (or not at all), and that these approval pathway issues can be adequately dealt with by the Act.
5. The potential impacts of the development have been identified and assessed—taking account of the urgency of the development and the type and degree of risks—and are considered manageable.

After reviewing the request against the above criteria, the department will make a recommendation to the Minister for Water, Property and Housing about whether the town or locality should be declared and the development listed under the Act. The processes for listing and declaring require the minister to consult with the ministers responsible for the *Heritage Act 1977*, the *Fisheries Management Act 1994* and the *Environmental Planning and Assessment Act 1979*. The minister must also get the concurrence of the minister responsible for the *Biodiversity Conservation Act 2016*.

If this is given, the minister can seek approval from the Governor to make regulations to amend the Schedules of the Act. These steps are required by the Act and must be completed for any development to be legally authorised and implemented.

## Information needed to request the declaration of towns or localities under the Act

Public authorities need to submit the following information to the department about the supply of water to the town or locality as part of any request to declare the town or locality water supply under the Act:

1. the name of the local water utility
2. towns or localities (including population) supplied that have a critical need
3. information about the current water supply situation, including:
  - a. daily water demand (volume in ML) for towns or localities supplied that have a critical need and whether that demand is with or without water restrictions
  - b. the level of water restrictions currently in place, noting how long restrictions have been at that level
  - c. triggers for changing water level restrictions and the resulting impact on daily water demand
  - d. any existing or anticipated issues relating to the quality of water supply
  - e. current water supply sources, including the water level in storage or available for extraction from each of these water sources
  - f. for each water supply source, volumes currently being supplied, estimates of how many days of water supply remain and evidence to support how the estimates were calculated
  - g. any existing alternative supply options, if they are functioning (the necessary infrastructure is operational), and the level of water in storage or available for extraction from these sources
  - h. if the town or locality is on a regulated river, any options being explored to extend the supply of water in the system.
4. information about **all** strategies that have been implemented to date to alleviate the water supply need. For each strategy provide:
  - a. a brief description of the strategy
  - b. details about when the strategy was implemented
  - c. details about savings made from the strategy for the town water supply (in ML)
  - d. details about how long the strategy will remain in place.
5. Information about **all** options that are being or have been considered to alleviate the water supply need. For each option provide:
  - a. a brief description of the nature of the proposal

- b. details about how much water the option could supply (in total or in ML per day, as relevant)
- c. a timeframe for implementation: short term (less than 12 months), medium term (1–5 years), or long term (over 5 years).
- d. details about whether the option is to be explored further and the reason why/why not.

## Information required to request the listing of development(s) under the Act

Public authorities need to submit the following information to the department as part of any request to list a development under the Act:

1. information on the proposed development(s), including:
  - a. a description of the development that outlines how it will address the critical water supply need within the timeframe required
  - b. current planning constraints, including reasons why the Water Supply (Critical Needs) pathway is required instead of the usual planning pathway for the development
  - c. whether approvals outside the Water Supply (Critical Needs) Act, such as Commonwealth environmental approvals, will be required and whether issues around land access and ownership arrangements need to be resolved
  - d. how the proponent has identified and considered the potential impacts of the development and how these will be effectively mitigated
  - e. whether the development will be required once the Act expires—it is currently scheduled to expire on 21 November 2021—and, if so, how the proponent will seek authorisation of the development beyond the term of the Act.
2. information about the access to water that would be supplied as a result of development, if authorised, including:
  - a. the water source(s) the water will be taken from
  - b. any entitlements in the water source(s) held by the local water utility (provide details of water access licences and share component)
  - c. any need for the water entitlement to be increased
  - d. any works needed to be built to access or supply water
  - e. details about any existing works approval
  - f. any impacts of the proposed access to water that may require changes being made to the *Water Management Act 2000*, regulation or relevant water sharing plan.

## Step two—applying for authorisation

### Information needed to apply for authorisation under the Act

Once step one has been completed and the town or locality and development have been listed under the Act, the public authority (local council or WaterNSW) must seek authorisation for the development by submitting an application to the Planning Secretary.

The application must describe:

- the proposed development
- the land on which the proposed development will be implemented

- planned construction dates and delivery timeframes
- measures proposed to avoid, minimise or offset environmental, cultural or other impacts
- any other information requested by the Planning Secretary.

Public authorities can obtain an authorisation application form from the Department of Planning, Industry and Environment—Planning and Assessments by emailing [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au).

The completed application form should be forwarded to [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au) along with all supporting information.

The Planning Secretary will consult with other relevant public authorities on the development proposed in the application, before providing a consultation report to the Minister for Water, Property and Housing outlining any issues raised.

The minister will decide whether to authorise the development, including with any conditions. Before giving an authorisation, the minister must obtain the concurrence from the minister administering the *Biodiversity Conservation Act 2016*.

## More information

Public authorities can find more information about the process by contacting the relevant departmental water utilities regional manager.

They can also contact [landuse.enquiries@dpi.nsw.gov.au](mailto:landuse.enquiries@dpi.nsw.gov.au) for more information.

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