

Water Licences

The *Water Act 2000* (the Water Act) vests all rights to the use, flow and control of Queensland's water with the state government. The Department of Environment and Resource Management (the department) manages access to water through a system of water authorisations. This includes water licences, water permits (for short-term use), water allocations and interim water allocations.

This fact sheet explains the way the department manages access to water through water licences.

What is a water licence?

A water licence is an entitlement to take or interfere with water. It does not allow the physical construction of works such as dams, pumps and weirs to take or interfere with water. These works are authorised by development permits issued under the *Sustainable Planning Act 2009*.

Generally, a water licence is attached to land and the water taken or interfered with may be used only on the land to which the licence is attached.

A water licence that is not attached to land may be granted to the state, the water grid manager, a local government, a water authority, a resource operations licence (ROL) holder, an interim resource operations licence (IROL) holder, a petroleum tenure holder, or another entity prescribed by a regulation.

When and where a water licence is needed

Supplemented and unsupplemented water

Supplemented water (historically referred to as regulated water) comes from a water supply scheme managed under an IROL, ROL or other authority to operate infrastructure.

Unsupplemented water (historically referred to as 'unregulated water') does not come from a water supply scheme.

Generally a water licence is for unsupplemented water, however there are some cases where a licence is granted for an entitlement to supplemented water.

Surface water

Under the Water Act, a water licence is required for the taking or interfering with water in a watercourse, lake or spring for purposes such as:

- stock or domestic water on lands that do not adjoin a watercourse, lake or spring
- irrigation
- industrial use

- the impounding of water behind a storage structure
- the storage of water in excavations that are within or connected to a watercourse.

A water licence is not required when taking water from a watercourse, lake or spring for emergency public purposes or for fighting a fire threatening to destroy a house or dwelling.

The Water Act also authorises the taking of water without a water licence for domestic purposes and stock watering on the land adjacent to a watercourse, lake or spring.

Overland flow water

In some areas of the state, a water licence may be required for taking or interfering with overland flow. The areas where a licence is required for taking overland flow water are designated in water resource plans.

Overland flow water means water, including floodwater, flowing over land otherwise in a watercourse or lake:

- after having fallen as rain or in any other way or
- after rising to the surface naturally from underground.

Overland flow water does not include any of the following:

- water that has naturally infiltrated the soil in normal farming operations, including infiltration that has occurred in farming activity such as clearing, replanting and broad-acre ploughing
- tailwater from irrigation if the tailwater recycling meets best practice requirements
- water collected from roofs for rainwater tanks.

Underground water

A water licence is required for taking or interfering with artesian water anywhere in the state. Artesian water is underground water that, when tapped by a bore, flows naturally to the surface.

A water licence is required to take or interfere with subartesian water in subartesian areas declared under the Water Regulation 2002 or in areas defined in a water resource plan. Otherwise, subartesian water (underground water that has to be pumped to the surface) can generally be taken for non-intensive stock and domestic purposes without a licence.

Contact your local departmental office for licensing requirements for underground water in your area.

Who can apply for a water licence

The owner/s of contiguous parcels of land may apply for a single water licence for that land instead of separate water licences for each parcel of land. Contiguous lands are separate parcels of land that are touching or nearly touching. For example, land on either side of a road might be considered contiguous but land with an intervening parcel owned by someone else would not be contiguous.

A local government, water authority, an IROL/ROL holder or another entity prescribed by regulation may also apply for a water licence.

Applying for a licence

An application must be made in the approved form and must be accompanied by the required application fee. The application should include sufficient information to enable assessment. The department may request additional information it considers necessary for the application to be decided.

Public notice of a licence application

The Water Act requires public notice to be given about most water licence applications. The purpose of the public notice is to seek public input to the assessment.

Under the Water Act it is the applicant's responsibility to publish the notice, however the department will provide the notice as well as details of the newspaper/s in which the notice must be published. The department will also set the period within which the notice must be published. The cost of publishing the notice must be met by the applicant.

In order to verify the proper publication of the notice, the applicant must send a copy of the newspaper page to the department within 10 business days after publication.

The application will lapse if it has not been properly published within the required time.

Submissions

The notice will provide for submissions to be made about the application by interested persons. The minimum period for submissions is 30 business days.

Submissions are taken into consideration when the application is assessed. A submitter also secures the right to have the decision reviewed and, if necessary, to appeal the decision in the Land Court.

Processing time

The statutory processes associated with a water licence application and its determination can be extensive. Accordingly, applications should be submitted as early as possible.

The *Native Title Act 1993* (Cwlth) requires that native title representative bodies and native title claimants be notified

of certain applications to take or interfere with water. The department allows a period of 28 days for representative bodies and native title claimants to comment on an application.

A moratorium notice published by the minister under the Water Act can prevent an application from being dealt with.

Criteria for assessment

Assessment of an application for a water licence involves consideration of the following:

- information provided by the applicant and submitters
- existing water entitlements
- relevant water resource plans, resource operations plans and wild river declarations, which may stipulate if and how water licence applications should be dealt with in an area
- information on the effect on natural ecosystems
- physical integrity of the water source
- policies developed with the local community
- sustainable resource management strategies.

Any convictions the applicant has for water-related offences may also be considered during the assessment process.

Conditions on licences

A water licence is issued for a certain period and contains conditions that must be met by the licensee. These conditions could include:

- requirements to monitor how much water is taken
- threshold flow conditions that must be met before water can be taken
- the maximum rate at which water may be taken
- the maximum volume of water that can be taken in a period
- limitation of the locations from which water may be taken.

Right of review and appeal

Under the Water Act, the applicant for a water licence and persons who make a proper submission about an application have the right to seek an internal review of a decision and, if necessary, to appeal the review decision.

Details are provided on how to seek an internal review whenever an applicant or a submitter to an application is advised of a decision. The advice of an internal review decision contains information regarding the appeal process.

Licence transactions

Applications may be made to renew, reinstate, replace, transfer to a new owner of the land, amend, subdivide or amalgamate a water licence. Water licences may also be cancelled or surrendered.

An application to replace, amend, subdivide or amalgamate a water licence is dealt with as if the application is for a new water licence.

Application forms

Applications relating to water licences are required to be made in the approved form. These application forms are available from the department's website (see further information below) or from your local departmental office.

Public register

The Water Act requires the department to keep a copy of water licences available for inspection by the public. The register of water licences may be accessed at your local departmental office. A copy of the water licence may be obtained on payment of the cost of copying.

Offences

Offences under the Water Act that could lead to prosecution include:

- unauthorised taking or supplying of or interfering with water
- contravening a condition of a water licence
- tampering with a device used under the Water Act to measure the volume of water taken or the rate and time of taking of water.

Further information

For information regarding changes to water licence arrangements, refer to fact sheet W165—Changes to Water Licence Arrangements.

Fact sheets and further information can be found on the department's website at <www.derm.qld.gov.au>.

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For general enquiries contact the
Queensland Government call centre 13 74 68 (13 QGOV)
or visit www.derm.qld.gov.au