



November 2010

Water licensing frequently asked questions

FAQ 5: Directions, making submissions and complaints about the taking of water

This FAQ topic is one of a series from the Department of Water (the department), designed to help existing and potential water users understand their rights and responsibilities in accessing and managing water under the *Rights in Water and Irrigation Act 1914*.

Should you require further information please contact your local Department of Water office.

1 What is a direction?

A direction is a written notice given under the provisions of the *Rights in Water and Irrigation Act 1914*.

The department (on behalf of the Minister for Water) has the power to issue a direction to any person, irrespective of whether they hold a licence or permit in proclaimed or unproclaimed groundwater and surface water areas across the state (refer to FAQ 1: *Proclaimed areas and water licensing in Western Australia*).

2 When can the Department of Water issue a direction?

The department can issue a direction where it considers that:

- the taking or use of water is unauthorised
- water is being improperly used or wasted
- all reasonable steps to minimise degradation of the water resource are not being taken
- the use of water is having a harmful effect or is not being used to the best advantage
- the taking of water is interfering with or causing damage to someone else's water rights or land
- the taking of water should not, in the public interest, be permitted to continue
- the waters, bed or banks of a watercourse have been obstructed or interfered with by an unauthorised person

- the Minister has made an order declaring a water shortage, or a determination that water is likely to be insufficient to meet demand.

3 What can a direction do?

A direction provides the reason and the remedy required to manage impacts on the water resource or another person. It may be used to:

- order the repair, alteration closure, or partial closure of a bore or well
- regulate the amount of water, or the rate at which it may be taken, from a bore or well
- stop or limit the taking of water, or the purpose for which water is used
- impose conditions on the taking of water
- order any other actions the department considers necessary to prevent the unauthorised use of water or degradation of the water resource
- order the restoration of the bed or banks of a watercourse by a person convicted of an offence under the *Rights in Water and Irrigation Act 1914*.

4 What are my options if I receive a direction?

If you receive a direction you are required to comply with the terms and conditions of the direction. Failure to comply with a direction is an offence and may carry a maximum penalty of \$5000 and a daily penalty of up to \$500.

Under the *Rights in Water and Irrigation Act 1914*, you have a right to apply to the State Administrative Tribunal to request the review of any term, condition or restriction included in the direction. You have 28 days from the date you receive the direction to request that the decision be reviewed.

Note: A State Administrative Tribunal fee may apply when proceeding with your review application.

For further information please contact the State Administrative Tribunal:

State Administrative Tribunal

12 St Georges Terrace
PERTH WA 6000GPO Box U1991
PERTH WA 6845
Telephone: 08 9219 3111
Toll-free: 1300 306 017
Facsimile: 08 9325 5099
www.sat.justice.wa.gov.au

5 Why are water licence applications advertised and how do I make a submission?

The department may require a licence applicant to notify the public of their

proposed water activity by advertising their project in the 'West Australian' and a local newspaper (refer FAQ 2: *Water licensing and how you can apply*).

The requirement to advertise is based on the proposed amount of water to be taken or the potential for significant impact to occur to a water resource. This public notification provides an opportunity for any person to make a submission to the department outlining their opinions, objections and concerns regarding the project. The timeframe for making comments is stated in the advertisement.

When making a submission you should:

- state the nature of the objection or concern
- indicate how the application will directly (or indirectly) affect you
- suggest how your objection may be overcome
- indicate the level of monitoring and management that would provide you with an appropriate level of reassurance that your concerns will be addressed.

Following an assessment of all the submissions and relevant information, the department will then decide whether to grant or refuse the water licence application. The department will notify any person that made a submission of the department's decision.

In the case of large and complex applications, the department may compile a report on the range of issues raised and how these should be addressed. This report would be made available to the public and the applicant.

6 How do I make a complaint about the taking of water, or a bed and banks disturbance?

If you see any activity you believe to be unlawful taking of water, interference of bed or banks, or the construction of bores or dams, please report this to your local department office. Such complaints are managed within a register and where appropriate, investigation and action will occur. For further information, the department has prepared *Operational Policy 5.10 Managing breaches of the Rights in Water and Irrigation Act 1914 on watercourses in Western Australia*.

More information

This FAQ topic deals only with processes and approvals under the *Rights in Water and Irrigation Act 1914* refer <www.slp.wa.gov.au>.

Other legislation can apply to the activity you wish to undertake and it is your responsibility to ensure you have all the required approvals.

For further related FAQ topics please visit the Department of Water website - <www.water.wa.gov.au> *Doing business with us > Water licensing > FAQs* or contact your local department office.