



November 2010

## Water licensing frequently asked questions

### FAQ 1: Proclaimed areas and water licensing in Western Australia

This FAQ is one of a series from the Department of Water designed to help water users and property owners understand their rights and responsibilities in accessing and taking water under the *Rights in Water and Irrigation Act 1914*.

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

#### **1 Why does the department proclaim water resource areas?**

The Department of Water is Western Australia's government agency responsible for ensuring the state's water resources are planned, managed and developed to meet community requirements, now and in the future.

Through the proclamation of certain groundwater and surface water areas, the department can actively manage our water resources by:

- defining the volume of water available for licensing purposes from a particular resource
- issuing licences and permits under the *Rights in Water and Irrigation Act 1914* for various activities, such as the taking and use of water.

#### **2 Is my property located in a proclaimed water resource area?**

Most groundwater and surface water resources that are accessed by large or multiple users are proclaimed under the *Rights in Water and Irrigation Act 1914*.

To find out if your property is located within a proclaimed water resource area, please refer to the proclaimed areas map located on the Department of Water's website or contact your local Department of Water office.

To determine whether a licence or permit is required for your water use activities, please refer to FAQs 3 to 8.

### 3 My property is located in a proclaimed area, do I need to apply for a licence and/or permit?

A licence is not required if:

- you intend to take surface water for domestic and non-intensive stock water purposes (see *Riparian Rights* below).

#### ***Riparian Rights***

Under the *Rights in Water and Irrigation Act 1914*, '*Riparian Rights*', the owner or occupier of any land in direct contact with a watercourse or wetland can take water without a licence for:

- for domestic or non-intensive stock water.

Note: Permits are required under the *Rights in Water and Irrigation Act 1914* in proclaimed areas, regardless of whether a riparian right to take water exists.

Or

- you intend to undertake certain dewatering activities (please refer to '*Dewatering Exemption*' in FAQ 2 Water licensing and how you can apply for further information)

#### ***Exemption Order:***

Under the *Rights in Water and Irrigation Exemption and Repeal (Section 26C) Order 2010*, a licence to take water is not required to take groundwater in a proclaimed area (with the exception of Albany and Exmouth) from a non-artesian well (watertable aquifer) for the following activities:

- domestic and ordinary use (i.e. water for your house)
- fire fighting purposes
- watering of non-intensive stock
- lawns and gardens of up to 0.2 hectares.

A licence/permit is required if:

- you intend to use water for any purpose other than those listed above (covered under Riparian Rights, the Exemption Order or the Dewatering Exemption)
- you require water for intensive stock purposes
- you need to construct or alter a bore (well) in any area where a bore does not already exist (Note: licence exemptions for constructing or altering a bore may apply. For more information contact your local Department of Water office)

- you need to interfere with bed and banks of a proclaimed watercourse. For example, you are installing a pump or other structure to divert the flow of a proclaimed watercourse (including a dam). Refer to Supplementary information on bed and banks permit).

Note: There are certain areas where it is not possible to know beforehand whether artesian underground water would be intersected until the bore is drilled; therefore it is recommended that you seek advice from your local Department of Water office before constructing a bore.

For further information on how to apply for a licence and/or permit, please refer to FAQ 2: Water licensing and how you can apply.

#### **4 My property adjoins a river/watercourse in a proclaimed area. Do I need to apply for licence and/or permit?**

A licence is not required if:

- you intend to take surface water for domestic purposes, as stipulated under the *Rights in Water and Irrigation Act 'Riparian Rights'*.

Note: Landholders can take water from springs rising to the surface on their land and wetlands wholly on their land, provided the resource is not sensibly diminished.

A permit is required if:

- you intend to undertake any works that interfere with the bed or banks of a watercourse or wetland, such as installing a pump, building a dam, building a creek crossing or installing a boat ramp or jetty.

For further information on how to apply for a licence and/or permit, please refer to FAQ 2 *Water licensing and how you can apply*.

#### **5 I recently purchased a property. How do I know if it has a licence to take water?**

You should contact your local Department of Water office to determine if you need a licence.

If a licence is required, you should:

- Check if the property has a current licence and whether you are eligible to apply to transfer the licence into your name (refer to FAQ 4: *Transfers, trades and agreements*).

or

- apply for a new licence (refer to FAQ 2: *Water licensing and how you can apply*).

Note: If your water resource area has reached its allocation limit then your application for a new licence to take water (for water use activities other than for domestic purposes) may be refused, in which case you may need to find an alternative water source. You may seek to trade or lease water from another licence holder in your water resource area. For further information please refer to FAQ 4: *Transfers, trades and agreements*.

## **6 Is a Licence to Take Water required for dams that collect run-off from one property?**

The collection of run-off of water on your property will not require a licence to take water or a permit under the *Rights in Water and Irrigation Act 1914*, as long as the off-stream dam does not intercept the water table.

It is your responsibility to comply with any other Commonwealth, state or local laws that relate to the construction or taking of water in these instances.

## **7 My property is located outside a proclaimed area. Do I need to apply for a licence and/or permit?**

A licence/permit is required if:

- you intend to take water from an artesian aquifer. These aquifers are licensed throughout the state regardless of location
- in situations where the work required under a permit may interfere with the public road or reserve, the relevant approvals must be sought and provided by the authority responsible for the road or reserve.

If you are unsure if the aquifer you intend to take water from is artesian or non-artesian, or if a permit is required, please contact your local Department of Water office.

For further information on how to apply for a licence and/or permit, please refer to FAQ 2 *Water licensing and how you can apply*.

## **8 Do winter sprinkler bans apply to my water use activities?**

Both licensed and unlicensed water users may be subject to winter sprinkler bans for non-commercial areas of turf, lawns and gardens. Please refer to the winter sprinkler ban page on the department's website for further information.

## **9 Are there any other rights to water?**

- The right to take water for any purpose can be restricted by local by-laws.
- The department prepares water allocation plans to guide the allocation of water in proclaimed areas.
- In certain circumstances the department may issue directions that may restrict someone from taking or using water (refer to FAQ 5 *Directions, making submissions and complaints about the taking of water*).

- Where a landholder's use of surface water is impacted upon by another user in an unproclaimed area a landholder may use 'civil remedy' under common law where they wish to take action.

## 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](http://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's website or contact your local department office.