

Overview of water management laws in Queensland

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The *Water Act 2000* (Qld) (the *Water Act*) provides a framework for the planning, allocation and use of surface water and groundwater in Queensland, including regulating major water impoundments (such as dams and weirs) and extraction through pumping for irrigation and other uses. The *Water Act* provides a system of interrelated plans, licences and permits for the regulation of in-stream (watercourses, lakes and springs) and overland water flow and groundwater. These include:

- **water resource plans** (WRP) – these are the most important plans for water management in Queensland. They are prepared through a consultative process generally on a catchment-by-catchment basis (ss38-58). Such plans seek to balance water allocations and environmental flows (s46). Water resource plans exist for many catchments in the State including the Fitzroy River and Burnett River (see <http://www.dnrm.qld.gov.au/water>);
- **water use plans** – these are prepared for areas at risk of land or water degradation (s60); and
- **resource operations plans** (ROP) – these provide practical operational details of the implementation of a water resource plan in an area (s95) over which resource operations licenses (s108) and water allocations (s122), water licences (s206) and water permits (s237) may be granted.

The *Water Act* also controls water use and activities that may impact on water resources. It:

- prohibits without a permit quarrying or placing fill in a watercourse, lake or spring (ss266, 814);
- regulates special works (such as water course diversion or reclamation works), dams, creation and management of irrigation areas and water supply and drainage;
- prohibits unapproved diversion of water and construction of facilities for supply, drainage or flood mitigation;
- regulates development in declared catchment areas that may impact on water quality in major water storages, in particular subdivision of land and sewage disposal;
- regulates development of ‘referable dams’; and
- provides for the regulation of water and sewerage services and the establishment of water authorities.

The *Water Act* is partially integrated into IDAS of the *Sustainable Planning Act 2009* (Qld) (SPA). For extraction of water from a watercourse and other matters regulated under the *Water Act*, other than for mining or petroleum extraction, a person requires:

- a **water entitlement**, water allocation, water licence or water permit. Applications for resource entitlements are assessed against relevant criteria in the *Water Act* and relevant water resource plan and resource operations plan (if any); and
- a **development permit** for use of water that is assessable development under the SPA.

The *Sustainable Planning Regulation* makes some development involving taking or interfering with water assessable or self-assessable development. This includes, amongst other things:

- all work in a watercourse, lake or spring that involves taking or interfering with water (e.g. a pump, gravity diversion, stream redirection, weir or dam); and
- all artesian bores anywhere in the State, no matter what their use.

An owner of land adjoining a watercourse, lake or spring may take water for stock or domestic purposes but this is subject to self-assessment under the SPA and *Water Act*.

Use of surface and groundwater for mining, and petroleum and coal seam gas (CSG) extraction is exempt development under SPA. These activities are regulated by the *Mineral Resources Act 1989* (Qld), *Petroleum and Gas (Production and Safety) Act 2004* (Qld) (PGPS Act) and *Environmental Protection Act 1994* (Qld). CSG companies have unlimited rights to extract groundwater under s185 of the PGPS Act.

In addition to these State-level laws, at a national level the *Water Act 2007* (Cth) also provides for the management of the water resources of the Murray-Darling Basin, including in South-Western Queensland. At this stage, the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) does not have a general trigger for water development or use but protects matters of national environmental significance (MNES). Since 2013 the list of MNES includes mining or CSG projects with a significant impact on a water resource. The refusal of the Traveston Crossing Dam in late 2009 shows that it can place important constraints on water infrastructure such as large dams.

Basic water rights

Government approval is required for most things constructed or installed to capture or extract surface or ground water, except in limited situations. In contrast, taking water ‘by hand’ is not generally regulated. No government approval is required to take water from any natural stream, river or lake:

- for personal use (e.g. drinking) if taken without pumps or construction of facilities;
- in an emergency situation such as for fighting a fire threatening to destroy a house;
- for camping purposes if taken without pumps or construction of facilities; and
- for watering travelling stock if taken without pumps or construction of facilities.

However, these basic water rights may be limited by notice during water shortages (ss20-22 of the *Water Act*). Water use may also be restricted if the water is polluted. Water use and supply for drinking, household and industrial uses in areas connected to the town water supply is largely controlled by local governments and may be subject to water restrictions and charges.

Water pollution

Water pollution is regulated principally under the *Environmental Protection Act 1994* (Qld).

Overview of fisheries management laws in Queensland

The *Fisheries Act 1994* (Qld) provides the State’s legislative framework for the regulation of fisheries, coastal areas that are important as fisheries habitat and marine plants. The Act provides a range of mechanisms aimed at the sustainable management of fisheries including management plans, quotas, offences, licences and declarations of closed seasons, closed waters and fisheries habitat areas. The *Fisheries Regulation 1995* (Qld) provides technical and geographic detail for these mechanisms. Management plans for major fisheries may be created under the Act. Some areas and fisheries are also regulated under the *Fisheries Management Act 1991* (Cth) (e.g. tuna) and fishing in the Torres Strait is regulated under the *Torres Strait Fisheries Act 1984* (Cth).

Commercial fishing requires a licence and is subject to special controls on fishing effort and equipment. For instance, under the *Fisheries (East Coast Trawl) Management Plan 1999* (Qld), closed seasons are specified and trawl nets must be fitted with specified turtle-excluder devices and other by-catch reduction devices. Controls on commercial fishing are beyond the scope here and the focus will be on rules for recreational fishing (i.e. where any fish or other things caught or harvested are for personal consumption and not intended to be sold). Detailed information on commercial fishing rules are available online (<https://www.daf.qld.gov.au/fisheries>).

Basic rules for recreational fishing

No licence is required for recreational fishing in Queensland tidal waters, but recreational fishers may have to obtain permits to fish in some dams. Recreational fishing is subject to a number of restrictions, including:

- **closed waters and protected areas** – some waters and areas are closed for conservation purposes or to protect fish stocks or fish habitat. These areas are designated in zoning plans under the *Great Barrier Reef Marine Park Act 1975* (Cth) and the *Marine Parks Act 2004* (Qld). For instance, ‘Green Zones’ in the Great Barrier Reef Marine Park are no-take zones where both commercial and recreational fishing are prohibited;
- **size limits** – there are minimum legal size limits and also some maximum legal size limits for some species;
- **bag limits** – these are the total number of fish of a species that a person may possess at any one time;
- **closed seasons** – no-one can take or possess some species (e.g. barramundi) during a closed season for them;
- **gear restrictions** – there are restrictions on certain gear types such as maximum net lengths;
- **leaving skin on fish** – to combat illegal fishing and to assist inspections by Boating and Fisheries officers, skin must not be removed from any fish (or fillets) on board a boat. Once fish are brought ashore, the skin may be removed, but the fish must not be taken back on board a boat;
- **crab meat** – again to combat illegal fishing, a person must not possess mud crabs or blue swimmer crabs with the carapace (shell) missing, unless for immediate consumption;
- **noxious fish** – it is illegal to possess or keep, hatch, rear, sell, consign or place in any container any noxious fish. Tilapia, carp and gambusia are some of the declared noxious fish. They must not be used as bait, either live or dead. All noxious fish when caught should be destroyed and must not be returned to the water;
- **protected species** – some marine species (e.g. dugongs) are fully protected and must not be taken;
- **protected sexes** – some sexes of certain species, notably female mud crabs and sand (blue-swimmer) crabs, are fully protected by law and may not be deliberately killed or kept;
- **miscellaneous prohibitions** – there are also a range of miscellaneous activities that are illegal throughout Queensland, for instance jaggling or foul-hooking fish, using explosives, poisons or electrical devices to take fish, and collecting of coral without lawful authority.