

Processing Water Extraction Licence Applications policy

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Disclaimer

This policy provides general guidance about the water extraction licence application and assessment process. The information in this policy does not constitute legal or other professional advice, and the information should not be relied on as a statement of the law. Licence holders or applicants should obtain professional advice if they have any specific concerns.

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1 Terms used

Terms which do not apply generally but are defined for use in this Policy are shown **bold** in the text.

Term	Definition
Act	Water Act 1992 (NT)
accepted application	an application that has been assessed by the department as containing / attaching all of the information necessary for assessment to begin.
applicable consumptive pool	The part of the consumptive pool that is available for any or all of the following beneficial uses defined in section 4(3) of the Act: agriculture; aquaculture; cultural; industry; mining activity; and petroleum activity.
Controller	means the Controller of Water Resources, a person appointed under section 18 of the Water Act 1992, with powers to carry out functions in administering the Act, the principal licensing and regulatory decision-maker in terms of the Act.
consumptive pool	The amount of water that is available to support all consumptive uses, including stock and domestic use as well as all licensed and unlicensed use. The consumptive pool is determined in a relevant water allocation plan or in accordance with the Northern Territory Water Allocation Planning Framework .
department or DENR	NT Department of Environment and Natural Resources
licence	a water extraction licence granted by the Controller: <ul style="list-style-type: none"> • under section 45 of the Act to take water from a waterway; or • under section 60 of the Act to take water from a bore.
lodged application	an application made to the department on the approved form. Only accepted applications are assessed once an NOI has been advertised.
maximum annual entitlement	maximum volume of water that may be taken in one period , which is listed on the licence and may vary from period to period (increase or decrease).
previously authorised water entitlement	A volume of water taken for mining or petroleum activity under an environment management plan or mining management plan where the activities commenced: <ol style="list-style-type: none"> before 30 June 2019, or after 30 June 2019 where the application was submitted prior to 30 June 2019 and approved without change.
NOI	Notice of Intention to make a water extraction licence decision in accordance with section 71B of the Act.
NT	Northern Territory.
NTWAP Framework	Northern Territory Water Allocation Planning Framework, available here .
period	A water accounting year listed on the licence. In the Top End, the water accounting year is 1 May until 30 April. In the Arid Zone, the water accounting year is 1 July to 30 June.
Regulations	Water Regulations 1992 (NT)
significant applications	Applications for water extraction licences that do not meet the criteria for simple proposals .

Term	Definition
simple proposals	<p>Applications for water extraction licences that are (all must apply):</p> <ul style="list-style-type: none"> • seeking less than 500 ML outside a water allocation plan area • seeking less than 10% of the general consumptive pool in a water allocation plan area • not within 1 km of a groundwater dependent ecosystem protection zone or wetland • not within a groundwater discharge protection area.
Strategic Aboriginal Water Reserve or SAWR	<p>Water reserved in terms of the Strategic Aboriginal Water Reserve Policy Framework which may be specified in a water allocation plan; and if not specified in a water allocation plan, is a matter for consideration by the Controller.</p>

2 Purpose

To provide clear and transparent guidance on the water licence application and assessment processes.

3 Objectives

To:

- clarify that a licence application must be complete before assessment commences (an **accepted application**).
- outline the processes that the department will follow in processing licence applications.
- differentiate between **simple proposals** and **significant applications** and the information requirements and assessment processes for each.
- clarify what changes constitute an amendment to a licence application and what changes require a new licence application to be submitted
- clarify the order in which licence applications will be assessed and in what timeframes
- provide a guide to the Water Act 1992 (the Act) section 90(1)(k) factors that will be considered by the Controller in determining licence applications.

4 Scope

This policy applies to applications:

- for new surface water and groundwater extraction licences under sections 45 and 60 of the Act, and
- to increase the **maximum annual entitlement** of an existing water extraction licence.

This policy does not apply to:

- trade applications, or
- applications for a water entitlement equal to or less than a **previously authorised water entitlement** for the beneficial uses of mining activity or petroleum activity. See the [Water extraction licensing - Mining and petroleum activity policy](#) for information on these applications.

5 Commencement

This policy commences 1 July 2020.

Upon commencement, this policy supersedes the NT Government's Prioritising Water Extraction Licence Applications Policy of 30 November 2018.

6 Context

This policy is intended to be read subject to the Act and Regulations.

6.1 Powers and functions under the Water Act 1992

The Act provides the overarching legislative framework for water resource management. Unless permitted by or under the Act, a person must not take or use surface water or groundwater, except in accordance with a licence granted under the Act.

The Controller of Water Resources (Controller) is the principal licensing and regulatory authority under the Act. The Controller has the power to grant water extraction licences under sections 45 and 60 of the Act. The Controller has the power to set the terms and conditions of a licence. Licences are granted subject to conditions, including setting a minimum and maximum volume of water that can be extracted by the licence holder in any **period**.

In making a decision on a water extraction licence application, the Controller must consider the relevant factors set out in section 90(1) of the Act (refer section 8.2).

7 Applications for water extraction licences

7.1 Before lodging an application

The department strongly recommends applicants contact the Water Resources Division – Water Licensing and Regulation Branch (water.licensing@nt.gov.au or on 08 8999 4455) if they propose to apply for a water extraction licence.

Applications may fit into one of two categories – **simple proposals** or **significant applications** (see definitions in 1 Terms Used). While discussions with the Water Licensing and Regulation Branch are recommended for any applications they are critically important to progress **significant applications**.

Significant applications will require more supporting information than **simple proposals** and have more complicated assessment requirements than **simple proposals**.

7.2 Lodging an application

Applications for new licences or an increase to an existing entitlement must be **lodged** in the approved form and include all information necessary for the Controller to make a decision about the application. The application form is available at waterresources.nt.gov.au/licenceapply and includes a checklist to assist in preparing the application.

Applicants must sign the declarations on the application form. These declarations require Applicants to:

1. acknowledge that the application (including supporting information) will be publicly available on the NT Government or department websites; and
2. apply if they wish to have commercially confidential information withheld from the public register.

The application form details how applications can be **lodged** with the department.

7.3 Acceptance of the application

When an application is **lodged**, confirmation of receipt will be provided by the department. This is not a confirmation that the application is **accepted**.

Within 10 business days from receiving the application, the department will assess whether the application is complete, that is contains all of the information necessary for assessment to begin.

- A. If the application is complete, the applicant will be notified that the application has been accepted, and it will progress to assessment. The applicant will be given a reference number for the **accepted application**. The date of acceptance of the application will be recorded for the purpose of ordering assessment (see section 8.1.1 for information about ordering applications).
- B. If the application is incomplete, the application will be returned with a brief explanation of the missing information. The applicant will also be advised that there will be no further action by the department to process the application. The applicant may resubmit an application with the required additional information. The resubmitted application will be treated as a new application in accordance with this policy.

7.4 Amending applications once accepted

Applications that have been **lodged** or **accepted** can be amended to:

- update the applicant's contact details;
- update the applicant's name, provided the legal entity is the same (for example, a name change due to marriage); or
- claim confidentiality regarding the information supplied to support the application.

An applicant should discuss any changes to an **accepted application** with the Water Licensing and Regulation Branch to understand the effect such changes may have on the application.

There are some details in an **accepted application** that cannot be changed. If these details change, the applicant will be required to withdraw the current application and **lodge** a new application with the amended details. Examples of the information that cannot be changed after the application is accepted are:

- the water resource;
- the beneficial use category;
- the applicant;
- the volume of water; or
- the land associated with the application.

Changes to the right to access the land where the water will be taken or used (for example sale of the land or a lease agreement) may affect whether the application can continue to assessment or will require a new application to be submitted. If an applicant is considering changing the legal arrangements for access to the land before the application is determined, the department recommends contacting the Water Licensing and Regulation Branch via email (water.licensing@nt.gov.au) to discuss what effect the changes will have on the application.

8 Processing applications

8.1 Preliminary procedures

8.1.1 Order of assessment

For each water resource, **accepted applications** will be assessed in chronological order from the recorded date of acceptance (not the date the application was **lodged**) (refer section 7.3A). This includes applications relating to the beneficial use of public water supply and applications relating to a Strategic Aboriginal Water Reserve (SAWR) (refer section 10).

Licence applications for the beneficial use of public water supply will be processed and ordered for assessment with applications for other beneficial uses; however, the Act (s90(1)(b)) requires the Controller to consider the future demand for domestic water when determining an application. Therefore, advice of later **accepted applications** for public water supply will be provided to the Controller when determining **accepted applications** ordered for assessment earlier.

8.1.2 Water availability

Water availability in a resource is subject to change based on a range of factors, including the: determination of other licensing applications; refined understanding of resource capacity; and changes in stock and domestic requirements. For this reason, the first step in processing an application is an initial verification of water availability in the relevant water resource.

Where the department is aware that a water resource is fully or over allocated according to the allocation rules in the [Northern Territory Water Allocation Planning Framework](#) or a relevant [water allocation plan](#), applicants will be given the opportunity to withdraw their applications prior to the application being advertised (see section 8.1.3 for information on advertising).

Applicants may choose to continue with an application for extraction from a water resource that is fully or over allocated, and the Controller will consider water availability when assessing the application.

If an application proceeds past the initial water availability assessment, a more comprehensive assessment of water availability is undertaken when determining the application (see section 8.2.5 for information on assessing water availability).

8.1.3 Publication of an NOI

The Controller is required to publish a Notice of Intention (NOI) to make a water extraction licence decision within 30 days of accepting an application. This provides the community, neighbours, industry and landholders with an opportunity to provide comment on an **accepted application**.

The cost of publishing the NOI must be paid by the applicant prior to the NOI being advertised in a newspaper. The department will let an applicant know when an **accepted application** is ready for public advertisement and will enclose an invoice for the cost of publishing the NOI. The invoice must be paid within 30 days.

Once confirmation of payment is received, the department will book the advertisement. If payment is not received within 30 days, the application will be returned to the applicant and the invoice will be cancelled by the department. In the event this occurs, the application is no longer an '**accepted application**'. If the applicant later wishes to proceed to obtain an approval to take water, a new application will be required to be **lodged**.

The opportunity for comment opens when an NOI is advertised and closes 30 days later. The Controller has the discretion to consider comments received after the comments period has closed.

8.1.4 Referral of applications

Significant applications will be referred to other areas of the department for comment or advice as required, and may also be referred to external agencies, such as other government departments or the Power and Water Corporation.

The Controller may refer applications that are **simple proposals** to other areas of the department or external agencies based on the particular circumstances of the application.

All applications will be considered on a case-by-case basis.

8.2 Assessment of the application

In deciding whether to grant an application for a water extraction licence, the Controller must consider the relevant factors set out in section 90(1) of the Act. The Controller's consideration of the relevant factors, and decision on the application, will be published in a Statement of Decision.

The following matters in this section provide guidance on the issues the Controller will consider when determining applications. They do not address all the factors in section 90(1); that is this is not an exhaustive list of all the information the Controller considers when determining an application. Nor will all of the matters be relevant for all applications. They describe and provide information on the matters that the department receives the most enquiries about.

8.2.1 The applicant's need for the water

Applicants must provide a proposed development plan, either in the application form or as an attachment to the form. The development plan must detail the water requirements for the various uses of the water for each **period** and how these water requirements were derived. The development plan should include a water balance, which also addresses drainage and run-off.

An agricultural development plan needs to state the proposed crop types, planting area and irrigation method for each crop for each **period**. The development plan also needs to include proposed irrigation infrastructure. The volume of water required to support the proposed crop areas and irrigation method will be considered based on the Department of Primary Industry and Resources' estimated crop water requirements. However, applicants may also provide their own crop water requirement estimates, in which case they should also state how they have calculated their water needs.

This information is considered by the Controller when determining whether the **maximum annual entitlement** for each **period** in the application is necessary to support the applicant's proposed development and, if appropriate, to change the maximum entitlement during the term of the licence to reflect the requirement for each **period** of the licence term.

8.2.2 Ability to extract the proposed volume of water

The Controller will consider how the applicant proposes to extract the water, which can influence the impact extraction has on other water users and the environment.

If proposing to extract groundwater, applicants must provide the registered bore number or the proposed bore's GPS location. Bores have varying pumping capacities. Groundwater applications should address the proposed pumping rates of the bore, and if necessary, the bore field design and location. The capacity of the bores and the bore field design will affect the impact the extraction will

have on localised groundwater levels and the area of impact, which will be considered by the Controller in determining the application. These matters may also be considered when determining what, if any, licence conditions may be required to manage any potential impacts of the extraction.

For surface water applications, the applicant needs to provide the proposed GPS location of any pumps, the pumping regime (how much water is proposed to be extracted each month) and the flow rate and operation schedule for the pumping infrastructure. The location of extraction may influence issues such as the time of year when water can be extracted and the volume of water that can be extracted each month, as well as requirements to stop extracting in certain circumstances.

8.2.3 Environmental and cultural impact

The Controller will consider the environmental impacts of water extraction and use associated with a particular site and development.

The volume of water in the **consumptive pool** is determined based on the protection of environmental and cultural values that rely on the water. However, determination of the **consumptive pool** does not take into account the potential environmental and cultural impact that may be caused by taking and using water for a particular application, including the location, extraction rate and regime, infrastructure or activities.

8.2.4 Environmental impact - risk

The Controller adopts a risk-based approach to assessing the environmental impacts of a particular application.

Significant applications may require:

- A. an assessment of the potential area that may be affected by the water extraction or use; and/or
- B. a baseline assessment of the condition of the water dependent environmental values within the area; and/or
- C. a proposed monitoring regime for the water resource and the environmental health; and/or
- D. an adaptive management plan to respond to changes in the water resource or environmental health.

Environmental and cultural impact information requirements for **significant applications** should be discussed with the Water Licensing and Regulation Branch prior to submitting an application.

The Controller reserves the right to request additional information on the environmental impact of applications that are not **significant applications**, based on the particular circumstances of the application, as all applications are considered on a case-by-case basis.

8.2.5 Water availability

Ground and surface water resources are highly variable across the NT and water availability is only one of the factors the Controller must consider when determining a licence application. Water availability is a complex assessment that takes into account the volume of water available for consumptive uses once the environmental and other public benefit requirements for the water resource have been met and competing demands for access to the water, and secure supply for priority uses such as public water supply as well as stock and domestic use have been determined.

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An initial assessment of water availability is undertaken during the preliminary procedures (see section 8.1.2 above). A more comprehensive assessment is undertaken by the Controller when making the decision.

In addition, when considering water availability, the Controller considers the availability of water to support development across the water resource. This includes availability for potential eligible Aboriginal land as determined by the Act and the [SAWR Policy Framework](#), as well as other landholders with access to the water resource.

The Controller may consider a number of measures when assessing water availability for an individual application, including:

- A. the water available in the **consumptive pool** for the beneficial use
- B. the volume of water needed to support the stages of the development plan;
- C. modelling of impacts as a result of the proposed extraction;
- D. current monitoring data for the water resource; and/or
- E. the proportion of the water resource that the land corresponds to.

Proportional assessment

For aquifers for which a water allocation plan is not in place, the Controller may consider the proportion of the water resource that the land represents (in terms of the proportion that spatially overlies the resource) and the percentages outlined in Table 1 below will apply.

Table 1. Proportional assessment calculation for land overlying small-scale aquifers outside of a water allocation plan area

Area of land with direct access to water resource as a percentage of all land with access to the water resource	Percentage of the applicable consumptive pool*
0% (no access to the resource)	No allocation
Less than 10%	10%
More than 10%	Corresponding to the actual percentage of land

*The **applicable consumptive pool** is the **consumptive pool** that is available for any or all of the following beneficial uses defined in section 4(3) of the Act: agriculture; aquaculture; cultural; industry; mining activity; and petroleum activity. The [NT Water Allocation Planning Framework](#) applies in determining the **consumptive pool**.

All applications to take water are considered on case-by-case basis and any relevant water allocation plan is a factor the Controller will take into account.

Weighting of factors

Note that the assessment of water availability is only one factor the Controller must consider; therefore, the Controller's decision on the application, including the appropriate **maximum annual entitlement**, will reflect consideration of all relevant factors, not only water availability.

8.2.6 Licence conditions

Licences granted under sections 45 and 60 of the Act will have standard terms and conditions to enable the effective management of water resources. Conditions are divided into categories relating to extraction, use, monitoring and reporting, and trade. There will also be general conditions that relate to administrative matters. Some licences will include special conditions that address unique aspects of the proposal.

8.3 Timeframes for decisions

The Controller aims to make a decision on applications within 60 days from the date an NOI is advertised (see section 8.1.3), this corresponds to 30 days from the comments period closing. However, this timeframe will depend on the number of **lodged applications** and the complexity of the assessment. The department aims to have applications finalised within six months of the application being accepted.

The timeframe for processing an application also depends on how quickly the invoice for the NOI is paid. Applicants have 30 days to pay the invoice for publication of the NOI. The NOI is published on the next available date after payment; therefore, the sooner the invoice is paid, the sooner assessment can start. If payment is not received within 30 days of the date of the invoice, the application will be returned and no decision will be made on the application.

The Statement of Decision will be provided to the applicant and a Notice of Decision will be published in the same newspaper as the Notice of Intention within 30 days of the Controller making the decision. These documents will also be publicly available on the [Water Licensing Portal](#) following publication of the Notice of Decision.

9 Right to review

Section 30 of the Act allows a review of a decision made by the Controller. Applications for review must be made within 30 days of the notification of the Controller's decision.

The form and process for seeking a review is available at: nt.gov.au/waterdecision.

10 Applications for Strategic Aboriginal Water Reserves

Applications for a licence to access a Strategic Aboriginal Water Reserve (**SAWR**) will be processed and assessed as outlined in sections 8.1.3 to 8.2.6 of this policy and in terms of the [Strategic Aboriginal Water Reserve Policy Framework](#).

Applications to access an SAWR will be ordered for assessment in the same way as other applications to facilitate a streamlined and orderly processing of applications. However, the water entitlement allocated under a SAWR licence has a separate, identified **consumptive pool**. Therefore, the processing of other licence applications will not affect the water availability in the SAWR. Likewise, determination of the SAWR application will not affect water availability for other consumptive use applications.

More information about the SAWR, and additional information that is required to support an SAWR application, is available from the [Strategic Aboriginal Water Reserve Policy Framework web page](#).

11 Related documents

[Water Act 1992 \(NT\)](#)

[Water Regulations 1992 \(NT\)](#)

[NT Water Allocation Planning Framework](#)

[Strategic Aboriginal Water Reserve Policy Framework](#)

Relevant [water allocation plans](#)

[Water extraction licensing - Mining and petroleum activity policy](#)

[Water Licensing Portal](#)