



WATER MANAGEMENT UNDER THE NRM ACT — AN OVERVIEW

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The *Natural Resources Management Act 2004* (the Act) provides for a number of different mechanisms for managing water resources:

- ◆ rights to water
- ◆ prescription and water allocation planning (introducing a licensing regime)
- ◆ temporary caps on water use
- ◆ controls on activities that can affect water.

What rights do I have to water as a landholder?

Rights and responsibilities of landholders to take water are set out in the Act.

Rights that were in the past often referred to as ‘riparian’ or ‘common law’ have been abolished and replaced with these statutory rights.

In summary a person may take and use water on their land for domestic and stock purposes without restriction, unless the resource has been prescribed and explicit provisions require stock and domestic water to be licensed.¹ For most prescribed resources across the State, stock and domestic uses do not require a licence. A person may also take water for other purposes but must not interfere with another person’s similar rights or, if it is water in a watercourse or lake, with another person’s enjoyment of the amenity provided by the resource.²

Where a resource is not prescribed and a landholder believes that their rights to

water have been affected by the actions of another person, their only recourse is to take action in the Environment, Resources and Development Court.

What is prescription of a water resource?

Prescription is a water management tool under the Act that is used, when required, to ensure the resource is used sustainably and shared appropriately between different users. It is the most intensive management tool available.

Most water users in a prescribed area must have a licence to extract and use water. The licence is a personal property right that can be transferred to another person, with the Minister’s approval, by sale, lease or will.

Prescription provides security to water users and aims for a balance between social, economic and environmental needs for water.



Image: C.Wilson



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What is water allocation planning?

If the water resource of an area is prescribed, the Act requires that a water allocation plan be prepared by the relevant natural resources management board for that area. Once completed, water allocation plans are adopted by the Minister and become Government policy. Water can be allocated and used only in accordance with the water allocation plan.

What about a temporary cap on additional water extraction?

A temporary cap on water extraction can be established by the Minister issuing a notice of prohibition or restriction.³ A notice can be issued only if the Minister determines that certain conditions set out in the Act are being met.

These controls are generally applied to entire areas and can be in place for up to two years. They do not prevent existing users from continuing to take water at their existing rate. They do prevent new water users from accessing the water resource and existing water users from taking more than their existing rate, for the period of the notice.

These temporary caps are intended to allow time to better understand the water resources of an area,

how much water is being taken and the sustainability of the water resource.

What are water affecting activities?

The Act sets out a number of activities that are considered to be 'water affecting'. They include activities such as construction of wells, dams, weirs and levees, extraction of gravel or sand, or dumping material into watercourses. A permit is required to undertake any of these water affecting activities.

Landholders are required to get a permit for construction of wells anywhere across the State and for certain other activities in prescribed areas as well as in the Mount Lofty Ranges watershed.

Elsewhere, water-affecting activities can be controlled only if specified by a regulation or if the regional NRM plan, or a water allocation plan, requires these controls and sets out the criteria for issuing permits. Permits are issued by the relevant authority (as set out in the Act) and this is generally either the Minister or the regional NRM board.

References

1. Section 124(5) of the NRM Act
2. Section 124 of the NRM Act
3. Section 132 of the NRM Act

For more detailed information on prescription, water allocation planning and water-affecting activities, please see the second fact sheet in this series, Water Management under the NRM Act – Prescription and Water Allocation Plans.

Fact Sheet 26 issued by the Department of Water, Land and Biodiversity Conservation and the department's website also have additional information (e.g. www.dwlbc.sa.gov.au/water/1overview/prescription.html and www.dwlbc.sa.gov.au/water/allocation_plans/index.html).



Image: C. Wilson

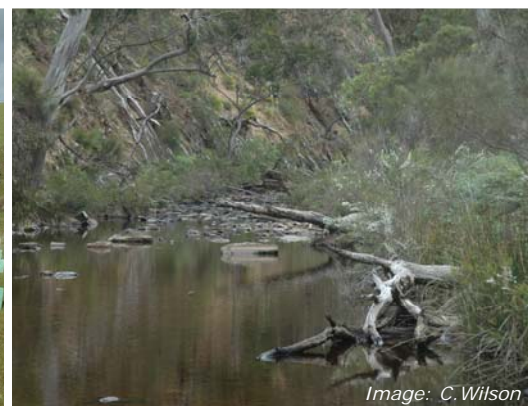


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