



Application for a permit to occupy

This fact sheet explains the procedures for making and assessing an application for a permit to occupy. This information applies only to current land administered under the *Land Act 1994*.

What is a permit to occupy?

The Department of Natural Resources and Water (NRW) can issue a permit to occupy, which is permission to occupy or use a specified parcel of unallocated state land, reserve or road (including a stock route). It cannot be issued over freehold or leasehold land.

A permit to occupy is not an interest in the land (such as a lease) as it does not allow for exclusive possession of the land and cannot be transferred, sublet or mortgaged. If the permit is granted, the right to occupy applies only to the permit holder.

A short term permit is a permit to occupy issued for not more than twelve months.

When can a permit be issued?

A permit to occupy is issued for a specific purpose for minor or temporary matters including:

- grazing
- pump sites
- apiary sites
- an entrance ramp to a building site during construction
- advertising signs on roads
- investigation work on unallocated state land.

As a permit to occupy is for uses of a minor nature, no major structural improvements, other than boundary fencing, are allowed.

In addition, the reason for occupation must be one that can co-exist with the purpose for which the land has been set aside, for example, use as a road, stock route or reserve.

If a permit is granted over a part of a road, the area remains open for use as a road. If the permit is over a reserve, the land remains available for the particular community purpose it was reserved for.

If a permit is sought over a reserve with a trustee, NRW will consult with the trustee before deciding to issue a permit.

What if there is a dividing fence on the land?

A permit to occupy is not subject to the *Dividing Fences Act 1953*. Therefore, if an existing fence of a property is to be used as a boundary fence for the permit to occupy, and is not owned by the applicant, a written agreement detailing agreed conditions about the maintenance of the fence must be presented to NRW before a permit can be issued.

This agreement must be signed by the owner of the fence and the applicant before it is submitted to NRW.

Can permits be issued for pump, bore or well sites?

Where water is to be obtained from a stream or natural water hole and the associated pump is to be located on unallocated state land, it is necessary to obtain a permit to occupy and a Waterworks Licence.

A permit to occupy for a pump, bore or well will not be approved unless any necessary Waterworks Licence has been obtained, or an application for the licence is under investigation.

Your closest NRW office can advise you on how to obtain a Waterworks Licence.

Are permits issued for areas below high water mark?

A permit can be issued for areas that are below high-water mark if:

- it would not unduly affect safe navigation and sound development of the state's waterways and ports
- its impact on marine infrastructure has been considered
- it would not have a detrimental effect on coastal management
- it would be consistent with the intent of any relevant state management plan.



How to apply

To apply for a permit to occupy, you must submit the following:

- the permit to occupy application form, with both parts A and B completed
- the prescribed application fee.

Though you can submit an application at any NRW office, it is preferable to do so at the office nearest to which the land is located, where staff can also advise you of the correct application fee.

For a list of NRW offices and applications fees, see the NRW website <www.nrw.qld.gov.au> or contact the department.

Unless you complete all parts of the form accurately, it may be returned to you for completion, which will delay the process.

If you are unsure if your application is complete, contact your nearest NRW office to discuss the issue with staff before you lodge it.

Native title

As part of the assessment process, NRW will undertake a native title assessment of the land to determine if and how native title may need to be addressed.

Depending on the outcome of this assessment, the applicant (as a condition of the offer) may be required to satisfactorily address native title issues for the proposed tenure offered.

Notice of the decision

When it has investigated all issues, including native title, NRW will give applicants written notice of the decision.

Requirements of an offer

If the application for a permit to occupy is approved, the written offer sets out the conditions and requirements that must be met before the offer is considered to have been accepted.

These usually include the following:

- rent of the new permit
- conditions to which the new permit will be subject
- payment of all regulatory fees and charges.

The offer will also include a Notification of Acceptance form that must be completed and returned to NRW within the timeframe specified, or it will lapse.

Issue of new tenure

NRW will issue the new tenure in the applicant's name, when all the requirements and conditions of the offer have been satisfied.

Are there any other fees?

Local governments may choose to rate the permit to occupy. It is advisable to check the policy of the relevant local government in this regard.

Cancellation

The person to whom a permit has been issued, may surrender a permit, and NRW, can cancel a permit.

If a permit is cancelled or surrendered, any improvements to the area become the property of the state and no compensation is payable, however, the person to whom the permit was issued may be allowed to remove improvements.

More information

For more information on a permit to occupy contact the nearest NRW office.

*December 2007
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For further information phone 13 13 04