

## Application for a permit to occupy

This fact sheet explains how to apply for a permit to occupy, and how the Department of Environment and Resource Management (DERM) assesses applications under the *Land Act 1994*.

### When can a permit be issued?

A permit to occupy 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 less than 12 months.

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
- shore-based activities associated with oyster farms
- 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 (e.g. 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, DERM 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 property fence is to be used as a boundary fence for the permit to occupy, and it is not owned by the applicant, a written agreement detailing agreed conditions about the maintenance of the fence must be presented to DERM 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 DERM.

### 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 in the majority of cases a waterworks licence will be required.

A permit to occupy for a pump, bore or well will not be approved unless a waterworks licence has been obtained, or an application for the licence is under investigation, or evidence from the agency responsible for waterworks licences that a licence is not a requirement.

Contact a DERM business centre for detailed information on the requirements of obtaining a waterworks licence.

### Are permits issued for areas below the high-water mark?

A permit can be issued for areas that are below the 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 be consistent with the intent of any relevant State management plan.

### How to apply

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

- Part A *Contact and Land Details* form LA00 and Part B *Application for a permit to occupy* form LA03, with both parts A and B completed
- the prescribed application fee.

You can submit an application at any DERM business centre, however, 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 DERM business centres visit DERM's website <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>, or contact the department on 13 QGOV (13 74 68).

The form must be completed accurately otherwise it will be returned to you for completion, which will delay the process.

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

## Native title

As part of the assessment process, DERM 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 DERM has investigated all issues, including native title, it 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:

- 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 DERM within the timeframe specified or it will lapse.

## Issue of new tenure

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

## 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 or DERM may cancel a permit in accordance with the *Land Act 1994*.

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

## Further information

For more information on a permit to occupy contact a DERM business centre or visit DERM's website <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

September 2011  
L118

For general enquiries contact the  
Queensland Government call centre 13 QGOV (13 74 68)  
or visit [www.derm.qld.gov.au](http://www.derm.qld.gov.au)