



# Referable dams and development permits

This fact sheet has been written to assist the understanding of the referable water dam development permit, why one is required and prerequisites for lodging an application.

## What is a development permit?

A development permit under the *Integrated Planning Act 1997* (IPA) is required for the construction of a new referable dam.

A development permit is also required for works that will increase the storage capacity of an existing referable dam by more than 10 per cent.

Under the IPA, development permits are required for development classified as assessable development.

A development permit allows assessable development to occur according to stated conditions. The permit attaches to the development site and binds the current owner of the land, future owners and any occupier of the land (e.g. tenant).

Visit <[www.ipa.qld.gov.au](http://www.ipa.qld.gov.au)> for more information.

## What is assessable development?

The IPA definition of development (in s.1.3.2) includes carrying out *operational work*.

Section 1.3.5 of IPA defines *operational work* to include:

*“undertaking operations of any kind and all things constructed or installed that allow taking, or interfering with, water (other than using a water truck to pump water) under the Water Act 2000”.*

This means constructing and operating a dam falls within the definition of development for the purposes of IPA.

However, not all development under IPA requires a development permit. Section 3.1.4 of IPA states permits are required for development classified as assessable development.

Schedule 8 of IPA lists the construction of a referable dam, (as defined in the *Water Act 2000*), or works that will increase the storage capacity of a referable dam by more than 10 per cent, as assessable development which requires a development permit.

Dam owners should obtain planning or legal advice if they are unsure whether particular works they wish to carry out constitute assessable development as outlined above.

## Why a development permit will be required

It is an offence under s.4.3.1 of the IPA to start constructing a referable dam or to start works that will increase the storage capacity of a referable dam by more than 10 per cent, without an effective development permit.

## Applying for a permit

Application forms for a development permit are available <[www.ipa.qld.gov.au](http://www.ipa.qld.gov.au)> and will need to be lodged with an assessment manager (see below). Applications will be processed using the Integrated Development Assessment System under the IPA.

## Prerequisites for lodging a development application

A development application for construction of a new referable dam or for works that will increase the storage capacity by more than 10 per cent, must be supported by evidence that the Department of Natural Resources and Water (NRW) has accepted a failure impact assessment for the dam.

A referable dam will have a category one or two failure impact rating after its construction. If the dam, after a failure impact assessment has been accepted by NRW, is not given a category one or two failure impact rating, the dam is not considered a referable dam at that time and does not require a development permit from a dam safety perspective. This does not mean, however, that it will not become

referable at some time in the future if development occurs downstream.

If the *Water Act 2000* requires a water entitlement to operate the dam, the development application must be supported by the department's consent to the application being made. The water entitlement required could be a water allocation, an interim water allocation or a water licence.

These requirements must be satisfied before a development application can be properly lodged.

Any works associated with referable dams must also be in accordance with the requirements or limitations imposed by any relevant moratorium notices published under the *Water Act 2000*.

## The role of NRW

NRW acts as the assessment manager, or a concurrence agency, for referable dam related development applications.

As an assessment manager or concurrence agency, the department:

- assesses the application against the *Water Act 2000* and other applicable laws and policies
- applies safety conditions to development permits that approve a referable dam's construction or works that will increase its storage capacity by more than 10 per cent
- exercises the power to refuse an application (in some cases).

Under s 3.5.30 of IPA any conditions imposed by the NRW must be:

- relevant to, but not an unreasonable imposition on, the referable dam's construction, alteration or use; or
- reasonably required in respect of the referable dam's construction, alteration or use.

## Finalising the development application

The assessment manager will make the final decision about the development application. A decision notice will be issued stating whether a development permit is approved. It will also state any conditions, including requirements of a concurrence agency.

A copy of the decision notice must be given to the applicant and to each referral agency for the application by the decision maker. A copy must also be given to the local government when it is not acting as the assessment manager.

The IPA allows appeals to the Planning and Environment Court against the assessment manager's decision and any conditions imposed by a concurrence agency.

## Further information

For more information about dam safety issues, call the Dam Safety Unit (Brisbane) on 07 3224 7215.

The *Water Act 2000*, *Integrated Planning Act 1997* and related regulations can be accessed from the Queensland Parliamentary Counsel website <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)>

