

Water Trading

Border Rivers Interstate Water Market— Permanent Trades and Leases





Water trading

Water trading is the buying and selling of water, separate to the sale of land. Trading is voluntary, and prices are set by the market. The main types of water trading include:

- permanent trading including buying and selling, and moving water allocations to another location
- leasing of water allocations
- temporary trading or the seasonal assignment of water available under a water entitlement.

Trading enables water users to adapt quickly to changing circumstances—existing users can more easily secure water to expand their operations or sell water they do not need, and it creates opportunities to establish new businesses. The water market also facilitates the movement of water to more productive uses.

Interstate water trade

An interstate trade means that the water available under an entitlement in one state is extracted in another state. Specifically, a permanent interstate entitlement trade or lease occurs when a transfer or lease is recorded on the relevant water register in the ‘state of origin’, and the take of water under the entitlement is linked to works located in the ‘state of destination’.



Why trade interstate?

Interstate water trade in the Border Rivers catchment operates across the New South Wales–Queensland border. This provides extra opportunities and more flexibility for water users by introducing more buyers and sellers and more water products to the market. The ability to source water from different systems within the Border Rivers catchment also allows users to manage risks associated with varying water availability in any one area through better aligning their water portfolios with their business and water use needs.

Whenever water is traded temporarily, permanently or leased interstate it will retain its attributes and remain registered or issued in, and subject to the terms and conditions and management rules of the state of origin. In other words, it does not convert into a new form of water entitlement or product.

Under this arrangement, the water user always deals with the state water resource management agency and/or water service provider from where the entitlement or temporary trade approval originates—not in the state where the water is taken. Water bills and other charges are also issued from the state of origin.

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For example, a New South Wales water entitlement purchased by a water user in Queensland remains a New South Wales product that retains its existing attributes, despite the water being taken in Queensland—it is not converted into a Queensland product. Any requirements related to buying the water product are sought via New South Wales procedures—for example, registration of the dealing on the New South Wales Water Access Licence Register.

However, before taking or using any water, approvals for other authorities related to works and/or use may still be required in Queensland.

Terminology

The terminology used to describe water trading reflects the unique water systems managed by the two states. A ‘water allocation’ in Queensland is akin to a New South Wales ‘water access licence’. In New South Wales, a ‘water allocation’ is the volume of water credited to a water account.

Below is a table of water products and transactions and their generally equivalent interstate terms:

Queensland	New South Wales
Water allocation	Water access licence
Announced allocation	Available water determination
Lease	Term transfer
Subdivision	Subdivision
Amalgamation	Consolidation
Change	Change
Water allocations register	Water access licence register
Titles Registry Office	Land Titles Office
Supplemented water	Regulated water
Unsupplemented water	Supplementary water
Seasonal water assignment	Water allocation assignment
Announced allocation percentage	Available water determination
Resource operations plan	Water sharing plan
Water account	Water allocation account
Transfer	Transfer
Priority group	Category

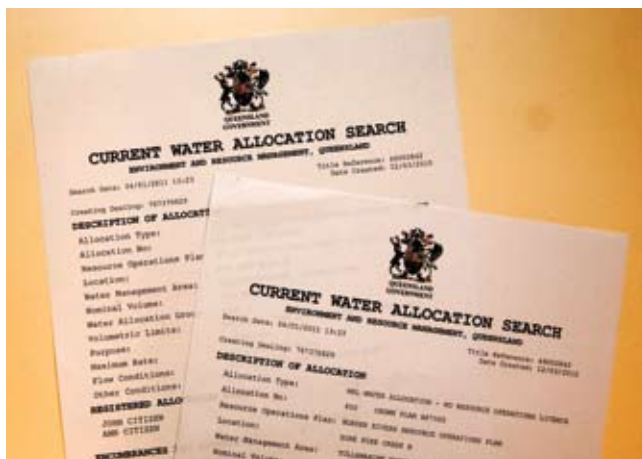
Overview of registration, approvals and trade rules

All dealings must be referred to the relevant authority in the state where the entitlement is registered—that is, the state of origin. All approvals and documents must be lodged for recording on the Queensland or New South Wales register of water entitlements before any permanent dealings can take effect.



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Transfers and leases of water entitlements do not require an application to a state water agency—the relevant titles documents (including any notification requirements outlined below) just need to be recorded on the water register in the state of origin. However, before registration on the state of origin water register, some water trade dealings such as changes of location, may require



an approval and/or notification of consent from the relevant state water agency where the product originates—either the Queensland Department of Environment and Resource Management (DERM) or the New South Wales Department of Environment, Climate Change and Water (DECCW)—and/or the relevant water service provider—either SunWater in Queensland or Statewater in New South Wales. These dealings are assessed against principles or rules contained in the relevant water plan. The water plans protect the environmental integrity of the system and maintain the reliability of existing entitlements.

Leases or term transfers

Water entitlements can be leased in a similar way to leases of land, allowing water users in the Border Rivers catchment to hold a wide portfolio of water products. In New South Wales, a lease is referred to as a ‘term transfer’. Under a lease, all of the benefits and responsibilities of holding the entitlement are transferred to the lessee for the duration of the lease.

Leases of interstate water entitlements do not require an application to the state of origin state water agency. The titles documents need to be recorded on the water register in the state of origin (together with any notification requirements outlined below). In New South Wales, a term transfer of a water entitlement must be for a period of more than six months; in Queensland, leases may be for any period.

Notification requirements for Queensland dealings

Irrespective of whether a prior approval is required from DERM for water dealings, there are further registration requirements, which vary depending on whether the allocation is for supplemented or unsupplemented supply.

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Supplemented supply—evidence of contract

Supplemented supply is water delivered from infrastructure such as dams and weirs. As part of registering a trade, holders (or proposed holders) of a supplemented water product must demonstrate that they have a contract with SunWater, the water service provider that stores, supplies and distributes the water under the entitlement. This notification requirement exists for all permanent dealings with a supplemented water entitlement, including transfers, leases, changes, subdivisions and amalgamations. This notice is obtained from, and completed by, SunWater.

Unsupplemented supply—notifications

Unsupplemented supply is natural streamflow that does not rely on water infrastructure. To transfer or lease an unsupplemented water product, proposed water holders/lessees must demonstrate that they have provided notification of the proposed dealing to DERM, who manages unsupplemented supply. More information is available on the DERM website at <www.derm.qld.gov.au>.

Water orders, water take, charges and metering

As water traded permanently, temporarily or leased interstate continues to operate under the conditions and management rules specified by the state of origin, all associated dealings always link back to that state.

In particular, water orders—for supplemented or regulated water—are placed with the relevant water service provider in the state of origin. Similarly, announcements—for unsupplemented or supplementary water entitlements, such as the start of water harvesting—will continue to be made by the state of origin.

The state of origin may include a service fee to water users to recoup the cost of metering invoices from the other state. For example, a water user in Queensland with a New South Wales entitlement from Pindari Dam submits water orders with Statewater. Statewater will bill the Queensland water user directly and may include a fee for reading the meter, which has been done under the rules and regulations and at the cost of the Queensland authority.

Use and works approvals

There may be requirements in the state of destination that are not directly related to the interstate trade itself, such as authorisations for water meters, pumps and land and water management plans. Water users must therefore contact relevant agencies in the state of destination to ensure that all necessary approvals are obtained.



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Carryovers for supplemented/regulated supply

Queensland and New South Wales have different arrangements for unused or carryover water from one year to the next. Buyers and lessees should check with the relevant water service provider in the state of origin regarding any applicable carry over arrangements.



Market price information

The commercial value of water products is determined by market conditions. Prices in the interstate water market will vary depending on several factors including local demand and supply considerations, and the value placed on each product's attributes by water users. Prices paid for water entitlements in Queensland are publicly available on the DERM website <www.derm.qld.gov.au>. Prices paid for water entitlements and water allocation assignments in New South Wales are publicly available on the DECCW website at <www.environment.nsw.gov.au>.

Searching the water entitlement registers

Anyone can search the Queensland Water Allocations Register and New South Wales Water Access Licence Register to obtain copies of water titles and any dealings lodged or registered. Search fees may apply.

Water brokerage services

Water brokers and exchanges play an important role in the market. Real estate and stock and station agents may offer water brokerage services. Water service providers may also offer online brokerage services and exchanges for some water trading markets. Online and other brokerage services and exchanges continue to expand over time.

Fair trading laws contain certain rights and obligations for brokers and exchange operators as well as water users when conducting business. These obligations are in addition to any contractual or other rights and obligations between water users, brokers and exchange operators.

Compliance

Water extraction without an appropriate authorisation can impact on the security of supply or reliability of other entitlements. Any unlawful extraction in either state is

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an offence in the state from where the water extraction occurs. Such offences will be investigated and a range of enforcement measures pursued.

Legal and financial considerations

Participants in the water market should obtain advice from appropriate professionals in relation to contractual, legal (e.g. wills) and financial matters (e.g. taxation and duties) that might arise as a result of water trading.

Further information

This brochure is an overview of trading arrangements in the Border Rivers catchment. For more detail on the processes and requirements related to trading water interstate, please refer to the following sources of information on each state's water trading framework.

Queensland contacts

Department of Environment and Resource Management

Business centres are open from 8.30 am to 4.30 pm (AEST), Monday to Friday, excluding public holidays. Please telephone or email the centre before you visit to confirm that the services or products that you require are available.

Goondiwindi office

42 Callandoon Street, Goondiwindi Qld 4390

Ph: 13 QGOV (13 74 68) Fax: (07) 4671 3163

Website: www.derm.qld.gov.au

Note: DERM staff **do not** provide legal advice. To protect your interests, or if you are unsure of your legal entitlements, please contact a solicitor or legal advisor.

SunWater

Ph: 13 15 89 Fax: (07) 3120 0249

Website: www.sunwater.com.au

Titles Registry Office

For enquiries on searches, document lodgement and registry requirements, please contact the Titles Registry on phone 13 QGOV (13 74 68) or (07) 3405 6900. The telephone enquiries service provides information on a range of conveyancing topics to:

- explain current charges and expected processing times
- explain and interpret register information
- answer any queries generally related to the functions and services provided by the Titles Registration business unit.

Disclaimer

This information brochure has been prepared to draw attention to the *Water Act 2000* in force as at 10 December 2010. While every effort has been made to ensure accuracy at the time of publication, the information presented here does not purport to be definitive or to constitute legal advice. This brochure is not designed to be a substitute for the Act and/or seeking legal advice. The Department of Environment and Resource Management does not accept responsibility for any loss or damage caused by actions based on information in this brochure.

New South Wales contacts

Department of Environment, Climate Change and Water

Contact the Water Dealings Officer at the local DECCW office on phone 1800 353 104 or email <wma.info@dnr.nsw.gov.au>. Refer to the individual information sheets on each type of dealing available at <www.water.nsw.gov.au> or from regional offices.

Land and Property Management Authority

General water dealings only take effect when registered by the Land and Property Management Authority.

Ph: (02) 9228 6713 Fax: (02) 9233 4357

Website: www.lands.nsw.gov.au/land_titles

Statewater

For general enquiries contact your Statewater Customer Service Officer on phone (02) 6841 2000, fax (02) 6884 2603 or email <statewater@statewater.com.au>.

For all enquiries relating to water usage, water orders, water transfers, water invoices and metering, please contact your Customer Service Officer within your customer service area or phone statewide 1300 662 077.

For bill enquiries: phone 1800 353 091 or email <billing@statewater.com.au>.

Goondiwindi office

42 Callandoon Street, Goondiwindi Qld 4390

Ph: (07) 4671 2338 Fax: (07) 4671 3915

Website: www.statewater.com.au