

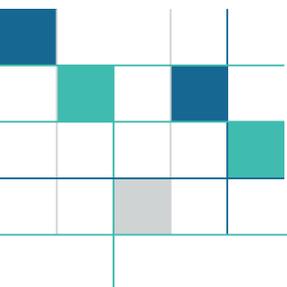
Procedure

Water licences and permits

Application, assessment, and management requirements under the
Rights in Water and Irrigation Act 1914

October 2019

(Plain English version, December 2020)



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October 2019

(Plain English version, December 2020)

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Purpose

The Department of Water and Environmental Regulation (the department) manages Western Australia's water resources on behalf of the Minister for Water (the Minister). We do this according to approved delegations under the *Water Agencies (Powers) Act 1984*.

The *Procedure: water licences and permits* (procedure) outlines how we assess applications and manage a water licence and/or permit under the *Rights in Water and Irrigation Act 1914* (RIWI Act) and the Rights in Water and Irrigation Regulations 2000 (RIWI Regulations).

This procedure aligns with our customer service charter. For more information on how we manage relationships with external stakeholders, see our [customer service charter](#).

Scope

The procedure applies to the following applications:

- licence to take water (section 5C licence) to:
 - take underground water or surface water (Schedule 1, clause 4 of the RIWI Act)
 - renew a licence to take water (Schedule 1, clause 22 of the RIWI Act)
 - amend a licence to take water (Schedule 1, clause 23 of the RIWI Act)
 - approve an agreement to take water (Schedule 1, clause 32 of the RIWI Act)
 - approve to transfer a section 5C licence or water entitlement (Schedule 1, clause 32 of the RIWI Act).
- licence to construct or alter a well (section 26D licence) to:
 - construct, enlarge, deepen or alter an artesian well, or non-artesian well in a proclaimed area (section 26D of the RIWI Act)
 - amend a licence to construct, enlarge, deepen or alter an artesian well (section 26F of the RIWI Act).
- permit to interfere with the bed or banks of a watercourse (section 11, 17 or 21A permit):
 - section 11 permit to obstruct or interfere with a watercourse or wetland, or its bed or banks, in areas proclaimed under section 6 of the RIWI Act, or in irrigation districts (regulation 4 of the RIWI Regulations) via a road or reserve
 - section 17 permit to obstruct, destroy or interfere with waters, or the bed or banks of any watercourse or wetland, in areas proclaimed under section 6 of the RIWI Act, or in irrigation districts (regulation 4 of the RIWI Regulations)



-
- section 21A permit to obstruct or interfere with a watercourse or wetland, or its bed or banks, in a non-proclaimed area for the purpose of accessing other rights to water (regulation 4 of the RIWI Regulations)
 - to amend a section 11, 17 or 21A permit (regulation 11 of the RIWI Regulations).



Stages of assessment

The assessment process has five key stages:

- Stage 1: Pre-application
- Stage 2: Validation
- Stage 3: Assessment
- Stage 4: Decision review
- Stage 5: Water licence and permit management

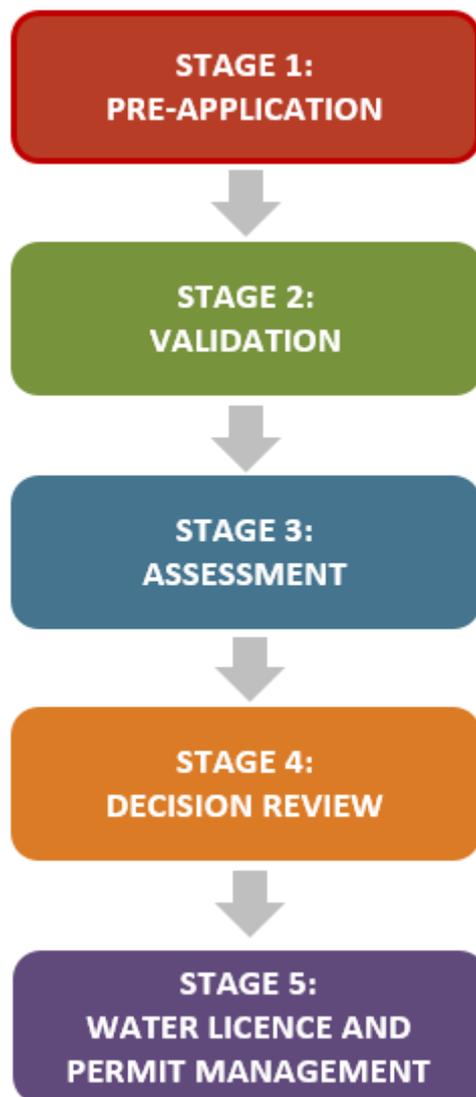


Figure 1. Stages of assessment



Stage 1: Pre-application

The flowchart below summarises the procedure for Stage 1: Pre-application.

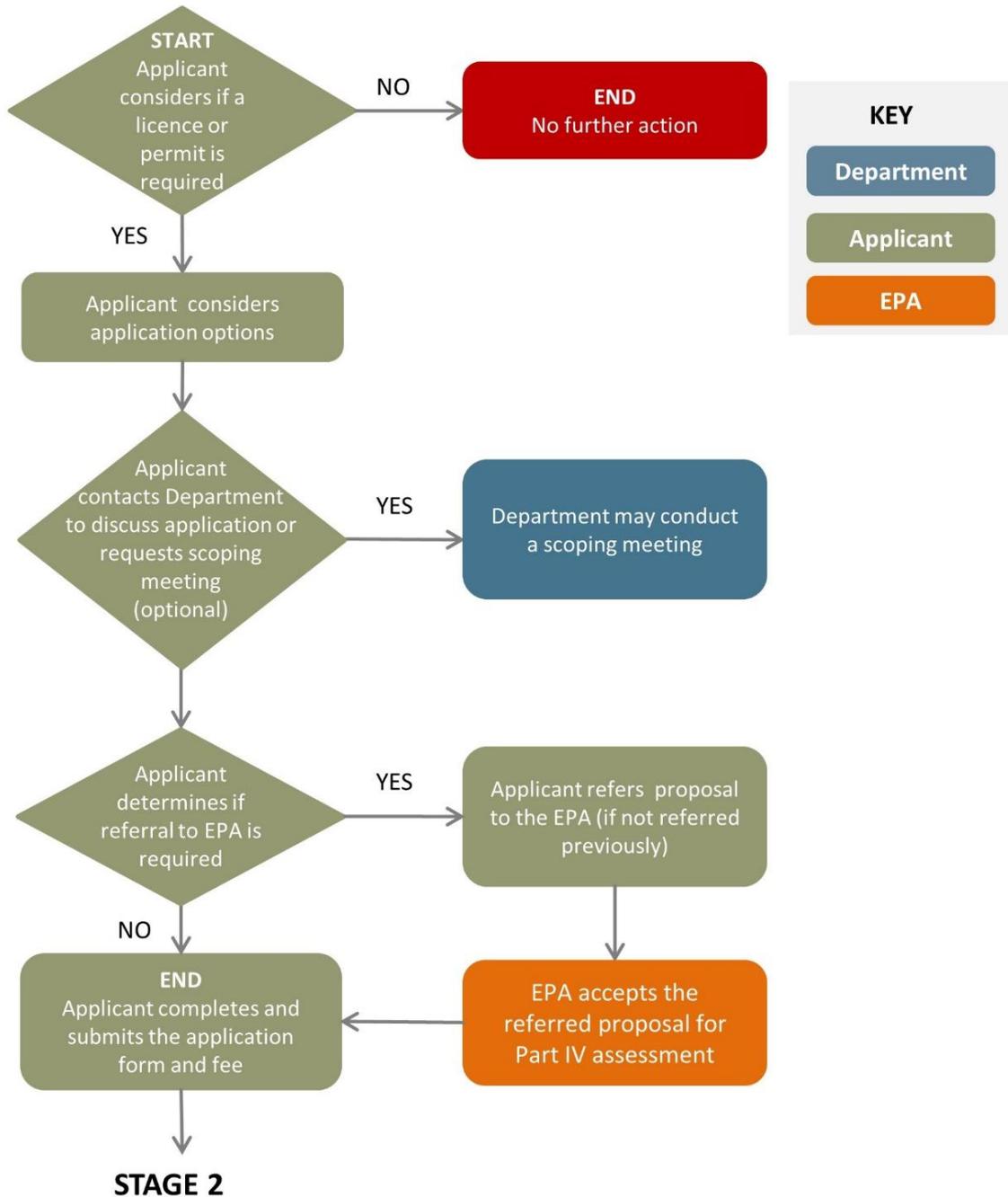


Figure 2. Stage 1: Pre-application process flowchart



1.1 Applicant considers if they need a water licence or permit

(s.5C, 11, 17, 21A, 26D RIWI Act)

Stage 1: Pre-application begins when an applicant considers whether they need a water licence or permit for their proposed water use activity.

The RIWI Act states that a person must have a water licence or permit to:

- take water from a watercourse, well and/or underground source in a proclaimed groundwater or surface water area, or as otherwise prescribed by regulations (section 5C)
- construct or alter a well, including bores and soaks (section 26D)
- interfere with the waters, bed or banks of a watercourse on crown land; or any watercourse, race, drain, dam, reservoir or disused watercourse, race or drain on freehold land, or land granted or demised by the Crown (sections 11, 17 and 21A).

A person commits an offence under the RIWI Act if they perform any of the above actions without a relevant authorising water licence or permit (or an exemption).

The RIWI Act also details circumstances when a person does not need a water licence or permit.

Applicants who want to undertake any of the above activities must determine if they need a water licence or permit.

Those who are unsure if they require a water licence or permit should [contact us](#) for further information.

When applicants wish to access water via a surface water spring, they should send us an application. We will assess their application to confirm if a water licence or permit is required.

1.2 Applicant considers application options (for a licence to take water)

We encourage applicants who intend to apply for a water licence to use our online [Water Register](#). This will identify the relevant water resource area and determine if water is available for their proposed activity. In areas where no water is available, we encourage applicants to consider alternative options to apply for water. For more information, see our [Policy: water entitlement transactions for Western Australia](#).

1.3 Applicant contacts us to discuss application options or requests a scoping meeting (optional)

Applicants who want more information on application options should [contact us](#) to discuss their proposal in further detail.



They may also request to have a scoping meeting with us before they submit their application if:

- they consider their proposed activity is complex and/or major
- they consider their proposed activity has the potential to cause a significant impact on the environment, other users or public health
- they would like to discuss how to avoid or mitigate the impacts of their proposal
- they would like to discuss what information they should supply to support their application and/or assessment.

Scoping meetings help applicants understand our application requirements and allow us to get to know the specifics of the proposed activity. This may save the applicant time and money because it may expedite the application process.

Coordinating multiple applications across the department

In addition to the RIWI Act and the RIWI Regulations, we also regulate the state's environmental resources under Part V of the *Environmental Protection Act 1986* (EP Act) (primarily prescribed premises and native vegetation clearing). We also support the Environmental Protection Authority (EPA) to regulate matters covered under Part IV of the EP Act.

We provide a 'one stop shop' for applicants who may require licences or permits across multiple environmental and water regulatory functions.

Where it appears the applicant may need multiple licences or permits, we may hold joint scoping meetings with the applicant and representatives from all our relevant regulatory areas.

1.4 Applicant determines if referral to the EPA is required

(s.37B, 38 EP Act)

Before an applicant submits their water licence or permit application, they should determine whether the proposed activity is a 'significant proposal'. If so, they should consult with the EPA about whether to refer it for formal assessment under Part IV of the EP Act (section 38(1)). A significant proposal is one that is likely, if implemented, to have a significant effect on the environment (section 37B).

Applicants should know that our Chief Executive Officer (CEO) (or their delegate) will not decide on any application that has been referred to and/or accepted by the EPA for assessment under Part IV (section 41(2) of the EP Act), until the EPA has made its determination. However, we will assess all water licences concurrently with the EPA assessment, so licences can be finalised when the EPA process concludes. Our final decision on these applications must align with the EPA's determination.

For more information on the EPA's processes, and what factors might make a proposal 'significant', see the [EPA's website](#).



1.5 Applicant completes and submits application form and fee

(Sch 1 cl 4 RIWI Act; r.4, 33 RIWI Regulations)

When the applicant determines they need a water licence or permit, they must complete and submit the appropriate application form for the proposed activity (Schedule 1 clause 4 of the RIWI Act; regulations 4 and 33 of the RIWI Regulations).

We prefer applicants to send their applications electronically via the our [Water Online](#) licensing system on our website.

Applicants may, however, download the hard copy application forms from [our website](#) and print them or obtain them directly from one of the [department's offices](#). Applicants may email, post or deliver their complete applications.

We will not accept any applications that use the incorrect form. Applicants must complete all mandatory fields in the correct application form. If they do not, they will not be able to submit the form through the Water Online licensing system. We will return any hard copy forms that are incomplete.

Application fee

(Sch 1 cl 4 RIWI Act; r.4, 33 RIWI Regulations)

Applicants must pay the prescribed application fees when they submit a water transaction application (Schedule 1 clause 4(1)(d) of the RIWI Act; regulations 4(1)(c) and 33(2)(d) of the RIWI Regulations). This applies to transfer, trade and agreement applications. [Our website](#) tells applicants what fees they must pay.

Applicants should know that we calculate the fees that apply to the mining and public water supply sectors after we receive their application and during the Stage 3: Assessment process. See Section 3.1 for more information.

To find out about the different application fees, see the [water licensing fees](#) page on our website.



Stage 2: Validation

The flowchart below summarises the procedure for Stage 2: Validation.

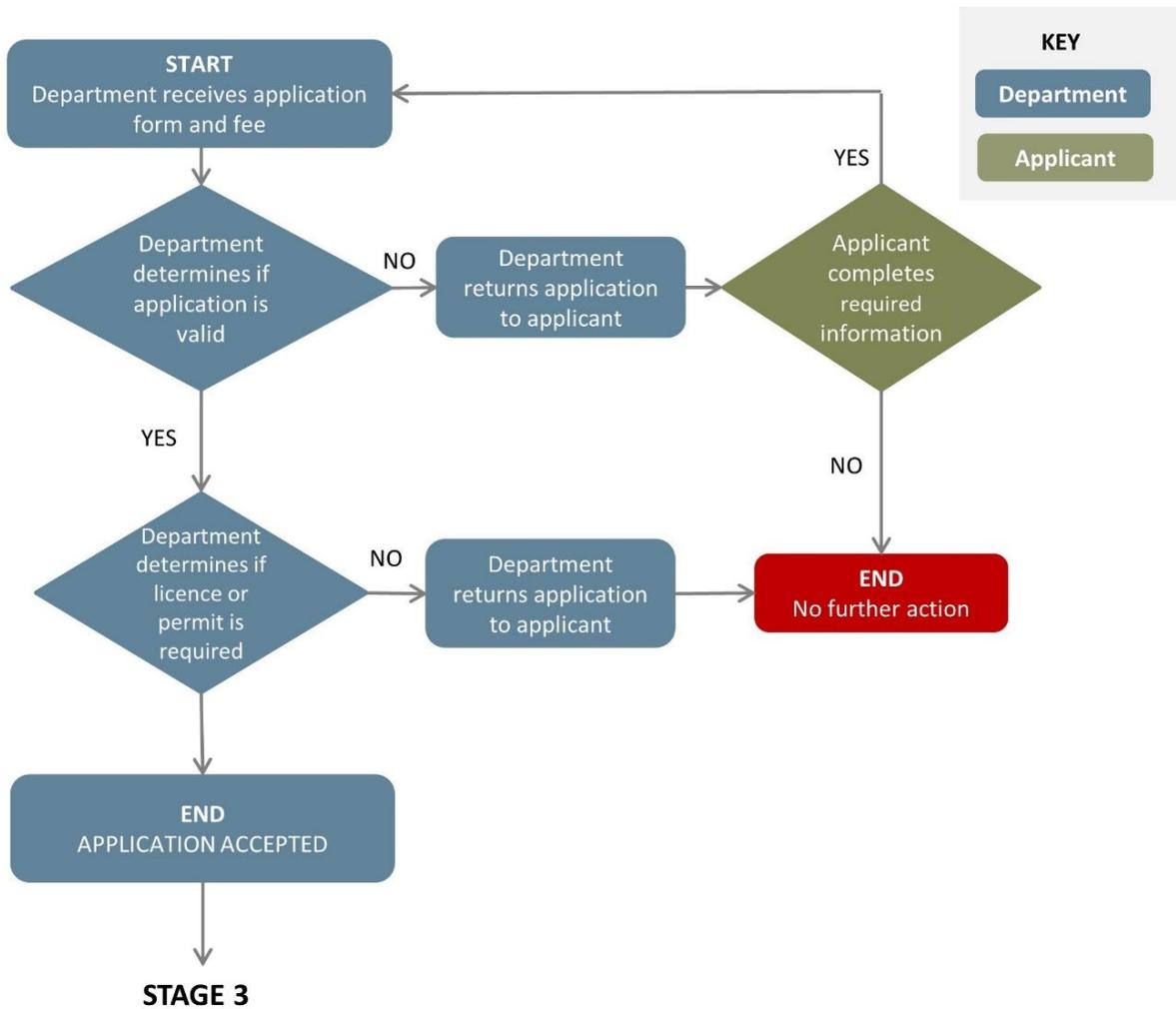


Figure 3. Stage 2: Validation process flowchart



2.1 Department receives application

Stage 2: Validation begins when we receive the application form with the prescribed fee (if applicable).

2.2 Department determines if application is valid

(Sch 1 cl 3, 4, 22, 23 RIWI Act)

We review the application form to ensure it is valid, has all the information we need and has a suitable standard for assessment.

We will decide the application is 'valid' if the applicant has:

- given us enough written proof to demonstrate they are eligible to hold the water licence or permit
- used the correct application form
- filled out all the mandatory fields on the application form
- paid the prescribed fee(s) (if applicable).

We will return the application if any of this information is missing. We will tell them what information they need to supply or fee they must pay to make it a valid application. Applicants must submit a new application with the additional information. We will consider this to be a new application and place it in the assessment queue accordingly.

Applicants should know that water availability may change between the time the original application and the new one is submitted. In areas where water availability is reaching its sustainable limits, water may no longer be available for licensing. In these cases, the applicant would have to consider other application options (see Section 1.2).

2.3 Department determines if applicant needs a water licence or permit

We will review the application to determine if the applicant needs a water licence or permit.

If we decide the applicant does not need a water licence or permit, we will return the application form and fee (if applicable) to the applicant with an explanation. This is the end of the assessment process.

If we determine the applicant does need a water licence or permit, we will move the application to the next stage of the process. This is when we begin our Stage 3: Assessment.



Stage 3: Assessment

The flowchart below summarises the procedure for Stage 3: Assessment.

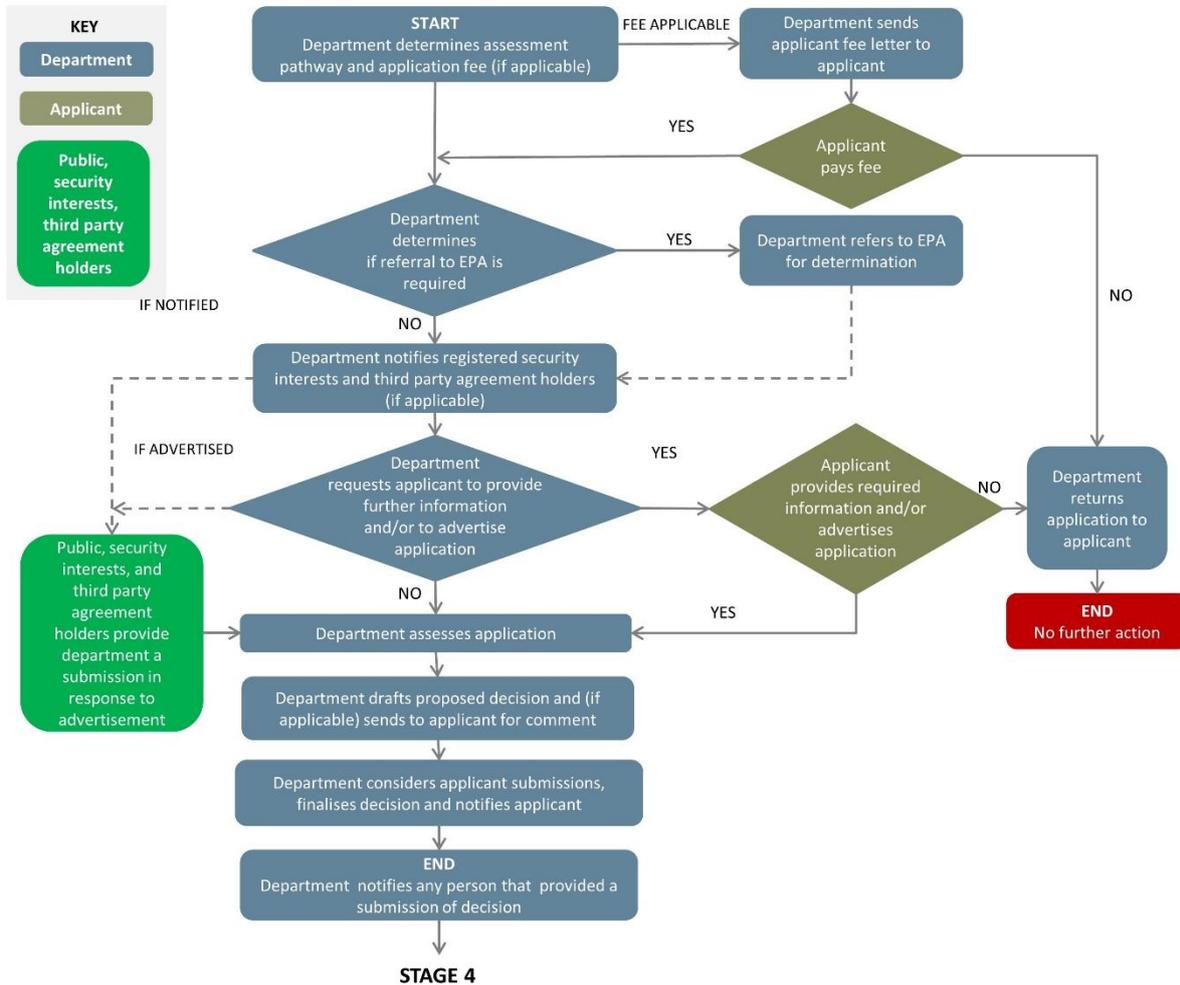


Figure 4. Stage 3: Assessment process flowchart



3.1 Department determines the assessment pathway and application fee (if applicable)

Stage 3: Assessment begins when we tell the applicant that we have accepted their application for assessment.

We then determine the application's assessment pathway and application fee (if applicable).

We use a risk-based approach to assess water licence and permit applications. We first conduct a desktop assessment to decide how potential risks to water resources, the surrounding environment and other water users influence the assessment pathway.

We take the following factors into account when we determine the assessment pathway:

- The volume of water available within the water resource management area, when either:
 - limited water is available within the requested area
 - the requested water volume is significant compared with the water available within the water resource (i.e. the applicant is requesting more than 50 per cent of the resource's available water).
- The size and type of the application, including the likely level of impact on local environmental values or other water users, should we grant the water allocation.
- The possible need for a contingency plan for the proposed water use activities, especially where the available water resource information is very limited, and the project relies on the water supply.
- Whether the applicant is a licensed water service provider.
- Whether the project requires both surface water and groundwater.
- Whether the project requires multiple wells or well fields.

Application fee

(Pt 7 RIWI Regulations)

Applications from the mining and public water supply sectors will have to pay an application fee (Part 7 of the RIWI Regulations). We base the fees on the assessment level, which depends on the type of application, the volume of water the applicant is seeking and the water resource's allocation status. We will calculate this fee and send the applicant an invoice. The applicant must pay the fee before we can continue the application process.

To find out about the different application fees, see the [water licensing fees](#) page on our website.



3.2 Department determines if referral to the EPA is needed

(s.38(5), 41 EP Act)

We must refer significant proposals to the EPA (section 38(5) of the EP Act) where either the applicant or third parties have not been previously done so (see section 1.4 above).

We may process the application concurrently with the EPA's assessment, or put the application on hold while the EPA completes its assessment. We will determine this on a case-by-case basis.

Applicants should know that our Chief Executive Officer (CEO) (or their delegate) will not make a decision on any application that has been referred to and/or accepted by the EPA for assessment under Part IV (section 41(2) of the EP Act), until the EPA has made its determination. Our final decision on these applications must align with the EPA's determination.

For more information on the EPA's processes, and what factors might make a proposal 'significant', see the [EPA's website](#).

3.3 Department determines if further information and advertising is required

We do an initial assessment of the application to determine if it has enough information for us to make a decision, and whether the applicant will need to advertise publicly. We will advise the applicant of these requirements at the same time.

Requests for more information

(Sch 1 cl 4(2), 32(2) RIWI Act; r.4(2) RIWI Regulations)

We will notify the applicant if we need more information and give them a timeframe to provide it (Schedule 1 clauses 4(2) and 32(2) of the RIWI Act; regulation 4(2) of the RIWI Regulations).

The nature of this information will differ between applications, but may include the following:

- bore completion information
- hydrogeological reports
- surveyor's certificate of dam volume
- operating strategy
- development timetables.

Our *Policy: Timely submission of required further information* provides further guidance on what information we may request and the timeframes applicants must follow. Applicants should also refer to the following policies, available on [our website](#):



- *Operational policy 5.12: Hydrogeological reporting associated with a groundwater well licence*
- *Policy: Use of operating strategies in the water licensing process.*

If the applicant does not provide the information we request within the specified timeframe, we may return their application and not proceed with the assessment. If, however, the applicant has not been able to provide the information within the specified timeframe for genuine reasons, they should notify us. We will consider any requests to extend the timeframe on a case-by-case basis.

If the applicant resubmits their application at a later date, we will process it as a new application. Applicants should know that the available water may have changed since they submitted their original application. For example, water may no longer be available in areas where allocation is reaching its sustainable limits. In this situation, the applicant would need to consider other application options (see Section 1.2 above).

Advertising

(Sch 1 cl 5 RIWI Act; r.5, 23 RIWI Regulations)

If we decide the proposed water use activity may cause sufficient impact to a water resource, the applicant must advertise their application for public comment (Schedule 1 clause 5 of the RIWI Act; regulations 5 and 23 of the RIWI Regulations).

We will notify applicants if they must advertise their application in the following circumstances:

- for a licence to take water, or to amend an existing licence to increase a water entitlement, where the application relates to an underground water source and:
 - under a proposed licence the applicant seeks to take more than 100,000 kilolitres per year, or
 - under an amended licence the applicant wants to increase the amount of water by more than 100,000 kilolitres per year, or
 - we decide that an application, if granted, will be of sufficient impact to a water resource as to warrant public notification
- for applications relating to a water course or wetland, unless:
 - any relevant plan approved under Part III Division 3D Subdivision 2 of the RIWI Act specifies that advertising of licences of this description is not required, or
 - we decide that an application, if granted, will not be of sufficient impact to a water resource as to warrant public notification.

Note though that the RIWI Act does not require applicants to advertise applications for a section 26D licence.



3.4 Applicant advertises the application

(r.5, 23(2), 23(4) RIWI Regulations)

When we say the applicant must advertise, they should place their advertisement both in a statewide daily newspaper (e.g. *The West Australian* newspaper) and a local newspaper relevant to the application (regulations 5(2) and 23(2) of the RIWI Regulations).

Our notification letter tells applicants what details to put in their advertisement (regulations 5(3) and 23(4) of the RIWI Regulations).

The advertisement describes how members of the public can make written submissions about the proposal for the department to consider (regulations 5(3e) and 23(4)(d) of the RIWI Regulations).

If the applicant does not advertise within the time we specify, we will return the application to the applicant.

Response to advertising notices

(r.7(4), 23(5) RIWI Regulations)

We will:

- consider all relevant public submissions before we make a final decision on an application (regulations 7(4) and 23(5) of the RIWI Regulations)
- notify anyone who makes a submission about the application's outcome.

See Section 3.10 for more information.

3.5 Department notifies security interests and third-party agreement holders

(s.5C, 26GZO; Sch 1 cl 19, 20, 30, 34 RIWI Act)

The RIWI Act specifies when we must notify registered security interests and third-party agreement holders about certain events.

A security interest holder is a party who has told us they have an interest in a section 5C water licence. This may be to secure payment of a debt or other financial obligation, or the performance of any other obligation and a notification of this interest has been placed on the licence. For example, a bank may hold a security interest in a section 5C licence to take water.

We must notify a security interest holder when the water licence holder applies to:

- amend an existing water licence
- transfer an existing water licence
- trade a water entitlement
- enter into an agreement (under clause 30 of the RIWI Act).



We cannot approve applications to transfer, trade or enter into an agreement until the security interest holder provides their consent (Schedule 1 clause 34 of the RIWI Act).

A third-party agreement holder is someone who has agreed with a section 5C water licence holder to take water under their licence for a limited period (not exceeding the licence expiry date), and we have approved the agreement (Schedule 1 clause 30 of the RIWI Act).

We must notify a third-party agreement holder when the water licence holder applies to:

- transfer the water licence
- amend the water licence
- surrender the water licence.

We cannot approve these applications until the third-party agreement holder provides their consent (Schedule 1 clause 20 of the RIWI Act).

3.6 Department assesses the application

(Sch 1 cl 7, 22, 8 RIWI Act; r. 7, 8, 35, 36(1) RIWI Regulations)

We will review the following information as part of our assessment:

- the application form
- all supporting information the applicant gives us
- any submissions from the public, if applicable
- any submissions from registered security interests and/or third-party agreement holders, if applicable
- our own assessment tools (e.g. Geographic Information System database, aerial imagery, hydrogeographical information).

We will then assess the application with consideration of:

- all matters we consider relevant, including whether the proposed water use activity (Schedule 1 clause 7(2) of the RIWI Act; regulation 7(2) and 35(2) of the RIWI Regulations):
 - is in the public interest
 - is ecologically sustainable
 - is environmentally acceptable
 - could prejudice current and future needs for water
 - could have a detrimental effect on another person
 - could be fulfilled by another source (for licence applications)
 - could be done in another way (for permit applications)
 - is in-keeping with relevant:



- local practices
- local by-laws
- water allocation plan for the area
- previous decisions of the Minister
- is consistent with:
 - land use planning decisions
 - the requirements and policies of other government agencies
 - any intergovernmental agreement or arrangement.
- whether the applicant:
 - has been convicted of an offence under the RIWI Act (Schedule 1 clause 7(3) of the RIWI Act; regulation 7(5) or 35(5) of the RIWI Regulations)
 - has the resources to carry out the activities to which the application relates (Schedule 1 clause 7(4) of the RIWI Act; regulation 7(6), 35(6) of the RIWI Regulations); and/or
 - will not be willing or able to comply with the proposed licence or permit terms, conditions and restrictions (Schedule 1 clause 8 of the RIWI Act; regulation 8(1), 36(1) of the RIWI Regulations).
- submissions we receive in response to the application (Schedule 1 clause 6(4) of RIWI Act; regulation 7(4), 23(5) and 35(4) of the RIWI Regulations)
- relevant departmental policies, guidelines and procedures.

Renewal applications - additional considerations

As well as the factors listed above, we will consider these questions when assessing renewal applications:

- Does the original water licence contain a term that specifies it is non-renewable?
- Has the water licence holder complied with the water licence's terms, conditions or restrictions?

3.7 Undertakings

(Sch 1 cl 3, 9 RIWI Act; r. 36 RIWI Regulations)

Applicants must demonstrate that they are eligible to hold a water licence or permit, including legal access to the property where the water activity will take place (Schedule 1, clause 3 of the RIWI Act). Applicants that do not yet have legal access to the property may be eligible for an undertaking. This means we give them a specific timeframe to demonstrate their eligibility for a water licence or permit (Schedule 1, clause 9 of the RIWI Act; regulation 36 of the RIWI Regulations).

If the applicant does not provide this information within the timeframe we specify in the undertaking, we will not grant the water licence or permit. The applicant can ask



for a time extension to their undertaking, if they submit their request before the undertaking expires. We will consider these requests on a case-by-case basis.

To find out more about the undertaking process, and the timeframes for giving us the information we need, see the *Policy: Giving an undertaking to grant a water licence or permit*, available on [our website](#).

3.8 Department drafts proposed decision and sends to applicant for comment (if applicable)

(Sch 1 cl 6, 22(3), 23(2), 26(4) RIWI Act; r. 6, 14(4), 34 RIWI Regulations)

When we have finished our assessment of the application, we will make our proposed decision.

Department sends proposed decision to applicant (if applicable)

If our proposed decision is to grant the water licence or permit consistent with the application, the application will proceed to Section 3.9.

If our proposed decision is not consistent with the application, we will notify the applicant (Schedule 1 clauses 6(2) and 26(4) of the RIWI Act; regulations 6, 14(4), and 34 of the RIWI Regulations). This applies to the following proposed decisions:

- to grant or undertake to grant a water licence or permit not consistent with the application
- to refuse to grant a water licence or permit.

The notification letter will specify a timeframe for the applicant to either:

- contact and/or arrange a meeting with us to discuss the proposed decision
- respond to the proposed decision (Schedule 1 clauses 6(3), 22(3), 23(2) of the RIWI Act; regulation 6(3) and 34(3) of the RIWI Regulations).

3.9 Department considers submissions, finalises decision, and notifies applicant

(s.26GG RIWI Act; Sch 1 cl 6(3), 6(4), 9(2), 10, 22(3), 23(3), 26(6) RIWI Act; r. 6(3), 6(4), 9, 14(6), 34(3), 37 RIWI Regulations)

We will consider the applicant's submission before making a final decision (Schedule 1 clauses 6(4) and 26(6) of the RIWI Act; regulations 6(4), 14(6), and 35(4) of the RIWI Regulations).

If the applicant does not respond within the specified timeframe, we will assume they do not object and then proceed to the final decision.

We cannot finalise a water transaction application subject to stamp duty until the applicant shows they have paid it. To find out more, see our guideline, *Regulatory standard 001 – Stamp duty requirements for water licensing*, on [our website](#).



We cannot finalise an application with an undertaking unless the applicant gives us the information we need within the timeframe we specify in the undertaking.

If the applicant does not provide the information within the timeframe, we will not grant the water licence or permit. The applicant can ask for a time extension to their undertaking, if they submit their request before the undertaking expires. We will consider these requests on a case-by-case basis.

We will take the following actions depending on our final decision (Schedule 1 clause 10 of the RIWI Act; regulations 9 and 37 of the RIWI Regulations).

Granted consistent with the application

We will:

- notify the applicant (and any third-party agreement holders) about our final decision
- give the applicant the 'in force' water licence or permit detailing the authorised water use activity.

Granted inconsistent with the application

We will:

- notify the applicant (and any third-party agreement holders) about our final decision
- give the applicant the 'in force' water licence or permit detailing the authorised water use activity
- give the reasons for our decision.

Refused

We will:

- notify the applicant (and any third-party agreement holders) about our final decision
- give the reasons for our decision.

Once we have made a reviewable decision (section 26GG of the RIWI Act), we will also tell the applicant, licence holder and applicable third-party agreement holder that they can ask the State Administrative Tribunal (SAT) to review the decision. They must do this within the lodgement timeframe (28 calendar days). See Stage 4: Decision review for further information.



3.10 Department notifies people who made a submission about the decision

(Sch 1 cl 10 RIWI Act; r. 9 RIWI Regulations)

We will notify anyone who sent us a submission in response to a publicly advertised application about our final decision (Schedule 1 clause 10(1)(b) of the RIWI Act; regulation 9(1)(b) of the RIWI Regulations).



Stage 4: Decision review

The flowchart below summarises the procedure for Stage 4: Decision review.

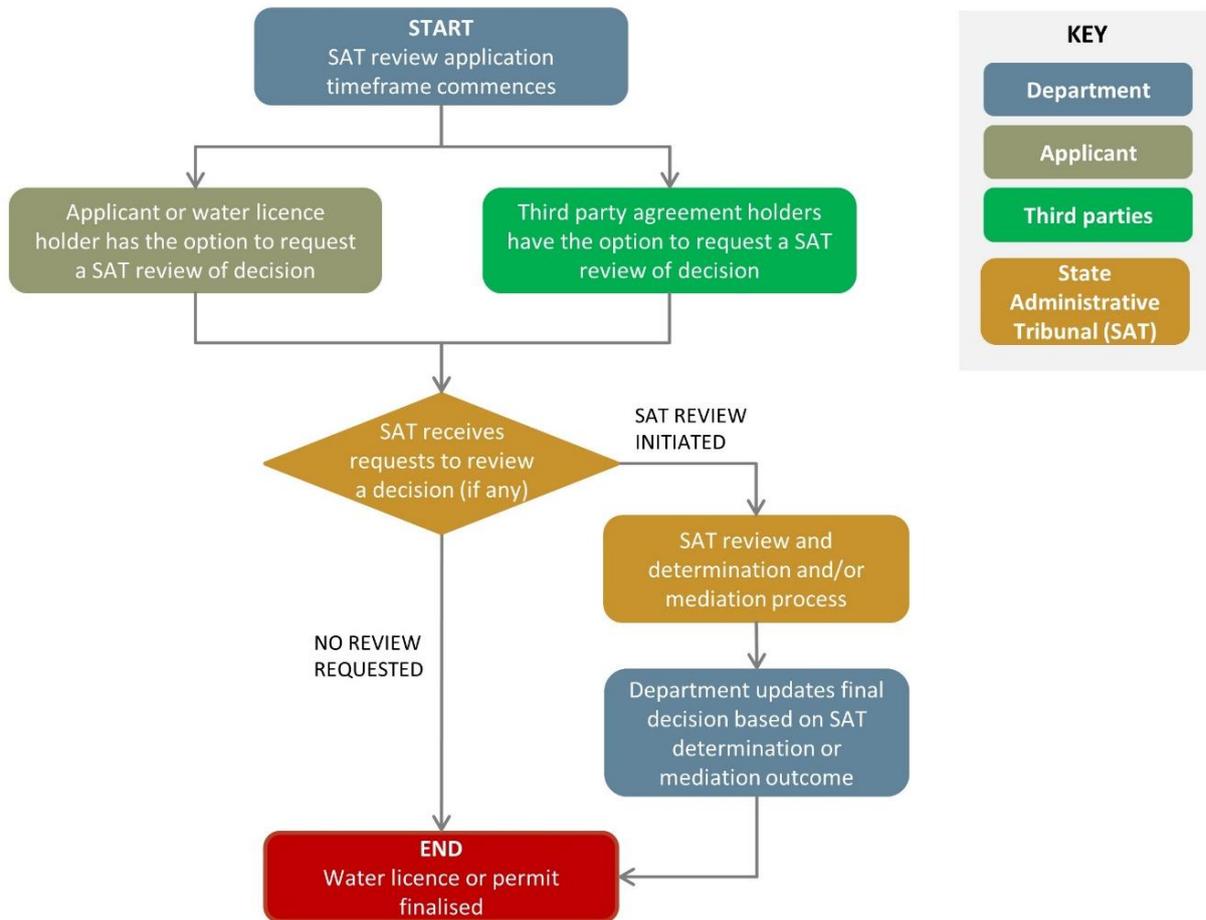


Figure 5. Stage 4: Decision review process flowchart



4.1 Applicant, water licence holder, and third-party agreement holders (as applicable) determine whether to request a SAT review

(s.26GG, 26GI RIWI Act)

A Stage 4: Decision review begins when the applicant or water licence holder receives our final decision notification letter.

The applicant, water licence holder or third-party agreement holder then determines whether to request a State Administrative Tribunal (SAT) review of our final decision (sections 26GG, 26GI of the RIWI Act). They may request a review because we:

- refused to grant an application
- refused to renew a water licence
- amended a water licence duration
- made certain terms, conditions or restrictions for a water licence
- amended a water licence's terms, condition or restrictions
- made an undertaking to grant a water licence, including the duration, terms, conditions or restrictions
- suspended or cancelled a water licence
- refused to approve the transfer of a water licence, entitlement or agreement.

Note that:

- other interested parties do not have any review rights, and cannot request a SAT review of the our decision
- there are no rights to request a review of decisions for water permits (sections 11, 17, 21A of the RIWI Act).

4.2 SAT review process (when requested)

If an applicant lodges an application with SAT for a review, the SAT will schedule a directions hearing between both parties (and their representatives) to identify the dispute and plan how the review will proceed. This may include mediation meetings to encourage both parties to resolve the dispute before going to a full SAT hearing. We will advise the SAT if a mediation agreement is reached.

If the applicant and the department are unable to resolve the issue during mediation, the SAT will make a determination. See the [SAT website for more information on the review process](#).

4.3 Department updates final decision based on the SAT determination or mediation outcome (if applicable)

If the dispute escalates to a full hearing, both parties will present their case to the SAT. The SAT will then consider the matter and deliver its decision and orders to



both parties. If required, we will then implement SAT's decision and orders accordingly.

Similarly, if we are able to reach a mediation agreement with the relevant parties before the SAT delivers its final decision, and the SAT endorses it, we will implement that agreement.



Stage 5: Water licence and permit management

See Figure 6 for the management options for the instrument holder and the department.

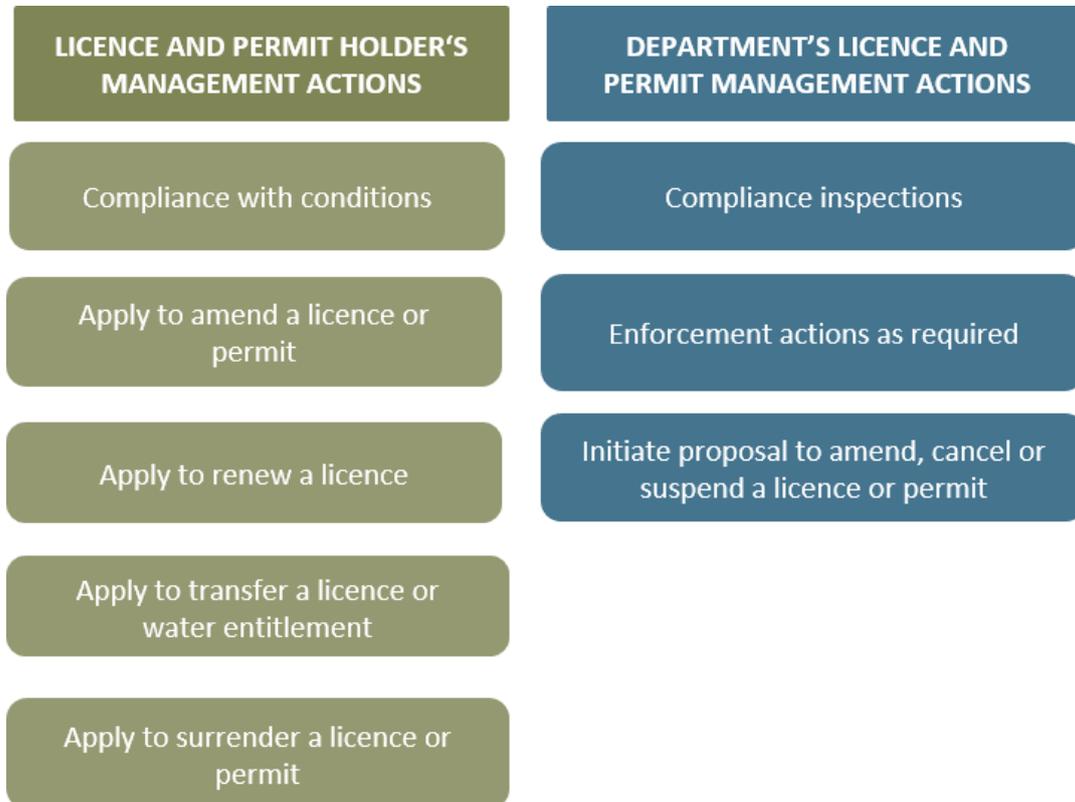


Figure 6. Stage 5: Instrument management activities

Stage 5 Water licence and permit management begins once the applicant has our final decision (see section 3.9 above) and all review procedures are complete (see Stage 4: Decision review).

5.1 Compliance with conditions

(Sch 1 cl 15, 16 RIWI Act)

Water licence and permit holders must comply with the conditions of their licence and/or permit (Schedule 1, clauses 15 and 16 of the RIWI Act). These may include:

- pre-activity requirements
- operational requirements
- post-activity requirements.



Pre-activity requirements

(s.26E, Sch 1 cl 15, 46 RIWI Act; r 38, 39, 41C RIWI Regulations)

Water licence or permit holders must comply with any conditions we put on their licence or permit before they can take water or start works. They may have to give us water use information such as:

- geophysical logs
- hydrogeological reports
- bore logs.

Water licence or permit holders must submit their bore logs within one month of completing well construction or deepening (section 26E of the RIWI Act, regulation 38 of the RIWI Regulations).

The RIWI Regulations also specify that certain water licence and permit holders must undertake metering activities (regulation 41C). This means they must:

- install a meter on each water draw point
- provide the installation details within 30 calendar days of the installation
- record meter readings each month and give us a copy of the readings each year.

We may approve alternative forms of measurement, such as for in-stream dams (where metering may not be practical) or in situations where the licensed water take requires more comprehensive monitoring (most likely in addition to metering). We will assess this on a case-by-case basis. For alternative forms of measurement approved for surface water we may approve dam surveys, installation of staff gauges or pressure probes, or water-level monitoring.

Operational requirements

(Sch 1 cl 15, 16, 46 RIWI Act; r. 41C RIWI Regulations)

Water licence and permit holders must comply with the conditions on their water licence and/or permit during the time it is valid (including any attachments where applicable, such as an operating strategy or a monitoring or management plan) (Schedule 1 clauses 15 and 16 of the RIWI Act).

From time to time water licence and permit holders may have to give us water use information, which may include:

- well-construction details (section 26E of the RIWI Act; regulation 38 and 39 of the RIWI Regulations)
- meter readings (Schedule 1 clause 46 of the RIWI Act; regulation 41C of the RIWI Regulations)
- monitoring reports.



We use this information to support our water resource management and future planning decisions.

We review water use information to:

- ensure the water licence holder is using water within their approved entitlement
- ensure the water use activity is not negatively affecting the water resource
- determine whether the water licence or permit requires any amendments.

5.2 Department undertakes compliance inspections

We will check that the water licence and/or permit holder is complying with their conditions and may conduct aerial and onsite compliance inspections.

5.3 Department undertakes enforcement actions as required

We will investigate further and take enforcement action if:

- the water licence and/or permit holder does not provide us the information we need within the time stated as a condition on their licence or permit
- we identify that the water licence and/or permit holder is not complying with the conditions.

To find out more, see our compliance and enforcement policy on [our website](#).

5.4 Water licence or permit holder applies to amend their water licence or permit

(s.26F(3), Sch 1 cl 23 RIWI Act; r. 11, 40 RIWI Regulations)

Water licence and permit holders may apply to amend their water licence or permit during the time it is valid (section 26F(3), Schedule 1 clause 23 of the RIWI Act; regulation 11 of the RIWI Regulations).

Amendment applications follow the same process as outlined in stages 1–4 above.

An amendment may include updating the:

- water use activity
- location of water use activity
- water entitlement
- water licence or permit terms, conditions or restrictions (including associated operating strategy, if applicable).

When we receive an application to amend a water licence and permit, we will notify any relevant third-party agreement holders and security interest holders. See section 3.4 above for more information.



5.5 Water licence holder applies to renew their water licence

(s.5C, Sch 1 cl 22 RIWI Act; r.21 RIWI Regulations)

The following information applies to water licences to take water from a watercourse, well and/or an underground source (section 5C of the RIWI Act).

Applications to renew a water licence will follow the same process as outlined in stages 1–4 above.

A water licence is an important legal document. It is the licence holder's responsibility to keep it up to date.

Water licence holders who wish to continue the water use activity authorised in their licence must apply to renew the licence before it expires (Schedule 1 clause 22 of the RIWI Act; regulation 21 of the RIWI Regulations).

If a water licence holder submits a renewal application before the licence expires, their licensed water entitlement is retained. This means they can continue to operate under their licence until we make our final decision on the renewal application.

If a water licence expires, the water entitlement returns to the water resource. If the former licence holder wants to continue the water use activity, they must submit a new application. Applicants for a new licence should know that we may not grant a water licence if no water is available for licensing at the time they submit their application. A decision to issue a water licence in a fully allocated resource will be at our discretion.

5.6 Water licence holder applies to transfer their water licence or water entitlement

(Sch 1 cl 29, 30 RIWI Act)

A water licence holder may apply to either permanently transfer their water licence or temporarily transfer it to another person within the same water resource subarea/aquifer. To find out more, see our *Policy: Water entitlement transactions for Western Australia* on [our website](#).

Water transfer applications follow the same process as outlined in stages 1–4 above.

Certain water transactions may be subject to stamp duty. To find out more, see our guideline, *Regulatory standard 001 – Stamp duty requirements for water licensing*, on [our website](#).

5.7 Water licence holder applies to surrender their water licence

(s.26GZO, Sch 1 cl 20, 27 RIWI Act; r. 15 RIWI Regulations)

A water licence holder may apply to surrender their licence (Schedule 1 clause 27 of the RIWI Act, regulation 15 of the RIWI Regulations) if they no longer require it.



Where the licence has a registered security interest (section 26GZO of the RIWI Act) or third-party notation (Schedule 1 clause 20 of the RIWI Act), we will write to those parties. We will not approve a request to surrender a licence (for a section 5C licence to take water) until the security interest holder or third-party agreement holder (as applicable) provides written consent.

5.8 Department initiates proposal to amend, cancel or suspend water licence or permit

(Sch 1 cl 24, 25, 26 RIWI Act; r.12, 13, 14, 27 RIWI Regulations)

Amendments

(Sch 1 cl 24, 26 RIWI Act; r.12, 14 RIWI Regulations)

We may propose to amend an existing water licence (Schedule 1 clause 24 of the RIWI Act) to vary its:

- duration
- annual water entitlement
- water use activities
- terms, conditions or restrictions (including an associated operating strategy, if applicable).

We may also amend a permit under regulation 12 to vary its:

- duration
- terms, conditions or restrictions.

We will tell the water licence or permit holder (Schedule 1 clause 26(4) of the RIWI Act; regulation 14(4) of the RIWI Regulations) and third-party agreement holder about the proposed amendment (where relevant).

We will consider the submissions of the water licence or permit holder and third-party agreement holder before we make our final decision (Schedule 1 clause 26(6) of the RIWI Act; regulation 14(6) of the RIWI Regulations).

Cancellation/suspension

(Sch 1 cl 25, 26 RIWI Act; r.13, 14, 27 RIWI Regulations)

We may propose to either:

- suspend a water licence or permit for a fixed or indefinite period (Schedule 1 clause 25 of the RIWI Act; regulations 13(a), 27 of the RIWI Regulations)
- cancel a water licence or permit (Schedule 1 clause 25 of the RIWI Act; regulations 13(1)(b), 27 of the RIWI Regulations).

We will tell the water licence or permit holder about our proposed action (Schedule 1 clause 26(4) of the RIWI Act; regulation 14(4)(a) of the RIWI Regulations).



We will consider any submissions from the water licence or permit holder before we make our final decision (Schedule 1 clause 26(6) of the RIWI Act; regulation 14(6) of the RIWI Regulations).



Timeframes

We calculate our assessment timeframes on the first business day after we receive an application. Timeframes are not statutory; however, they provide efficiency targets for us and some degree of certainty for applicants.

Our target timeframes to complete an assessment of a water licence or permit application reflects the associated risk. We aim to complete 80 per cent of assessments within the following timeframes:

- low-risk applications – 65 business days
- medium-risk applications – 75 business days
- high-risk applications – 95 business days.

Stop the clock

Sometimes we place an application on hold. This period – known as ‘stop the clock’ – does not count towards our target timeframes.

We will ‘stop the clock’ on the assessment timeframes if we are waiting for:

- the applicant to send further information in response to a written request from us
- the applicant’s response to draft documents, or to a notice of our proposed decision
- responses from other decision-making authorities, including other government agencies.

We consider the assessment timeframe to have ended once we have finalised our decision.

Sometimes we need to make an overall decision on proceeding applications within a particular water resource area, which may influence the assessment timeframes of individual applications. This mainly applies in areas where the water available for licensing is approaching its sustainable limit and the applicant is applying for a new water licence or to amend their existing licence to increase their water entitlement.

See Figure 7 for a summary of key milestones within the stages of assessment. The timeframes are indicative only and depend on the application’s complexity.



Target assessment timeframes

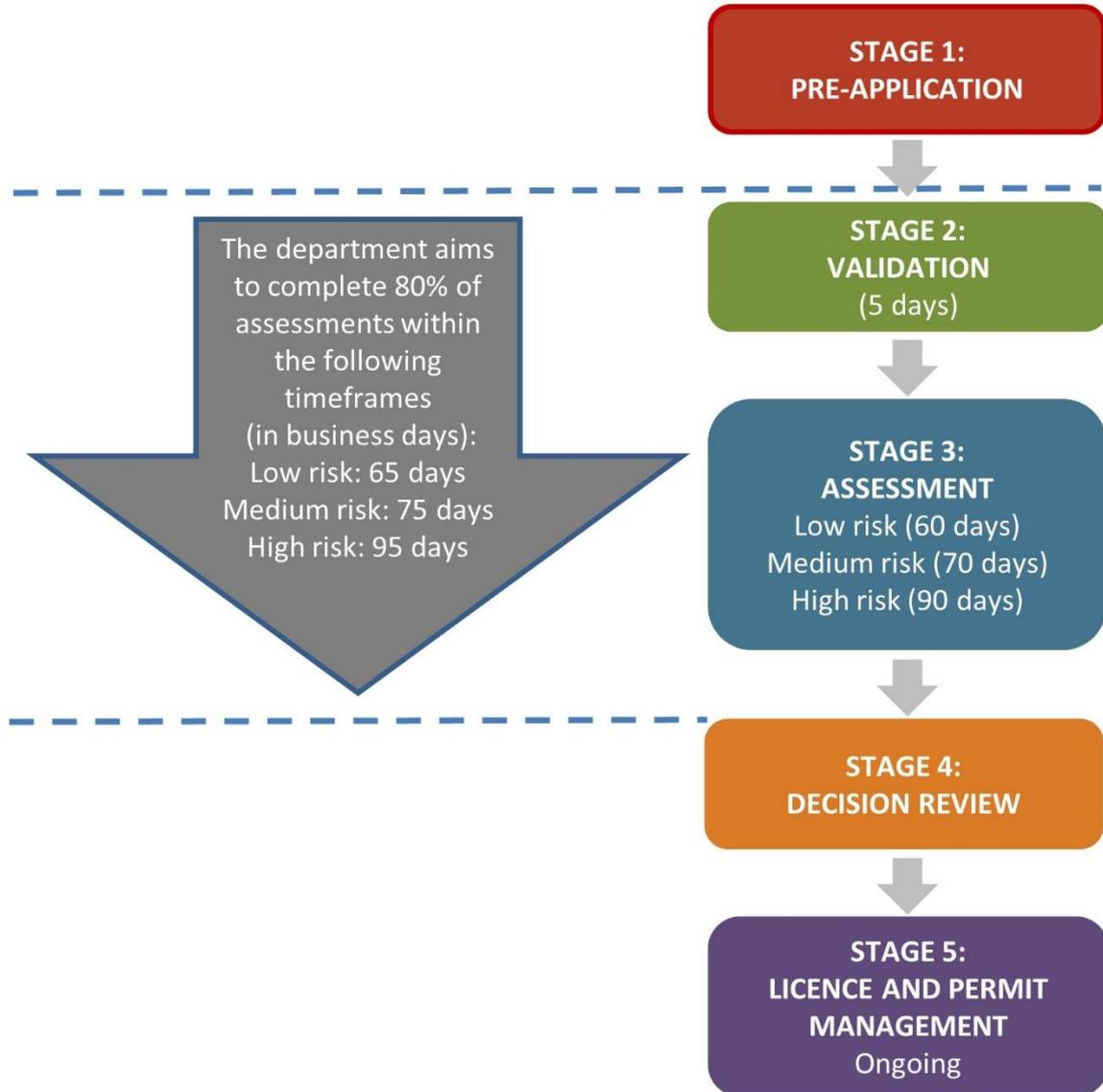


Figure 7. Target assessment timeframes



Delegations

The department manages the state's water resources on behalf of the Minister for Water. We do this according to the approved delegations of authority.

The Minister for Water has delegated the authority to exercise certain powers to the department's Chief Executive Officer (Director General) through an instrument of delegation.

A second instrument of delegation from the Chief Executive Officer to the department's officers conforms to the Minister's delegations and sets out the restrictions and/or conditions on the exercise of powers to specified categories of delegates.

References to the 'department' and 'we/us/our' within this procedure refers to the department's Director General and/or their authorised delegate.

Document implementation

This procedure comes into effect on the day it is published. We will assess any applications we receive after its publication in accordance with its contents.



Related documents

Western Australian legislation
<i>Environmental Protection Act 1986</i>
<i>Interpretations Act 1984</i>
<i>Rights in Water and Irrigation Act 1914</i>
<i>Rights in Water and Irrigation Regulations 2000</i>
<i>Water Agencies (Powers) Act 1984</i>

Department documents
<i>Compliance and enforcement policy</i>
<i>Policy: Giving an undertaking to grant a water licence or permit</i>
<i>Policy: Timely submission of required further information</i>
<i>Policy: Use of operating strategies in the water licensing process</i>
<i>Policy: Water entitlement transactions for Western Australia</i>
<i>Policy: Use of operating strategies in the water licensing process</i>
<i>Operational policy 5.12 – Hydrogeological reporting associated with a groundwater well licence</i>
<i>Regulatory standard 001 – Stamp duty requirements for water licensing</i>



Glossary

The following are some of the important words and expressions used in this document and/or the RIWI Act or RIWI Regulations.

Term	Definition
artesian aquifer	A confined aquifer under hydraulic pressure that causes water levels to rise naturally to the ground surface.
business day	Any day that does not meet the definition of an 'excluded day', as described under s.62(2) of the <i>Interpretations Act 1984</i> (WA).
calendar day	Any day of the week from Monday to Sunday inclusive.
CEO	Chief Executive Officer
Department	Department of Water and Environmental Regulation
EPA	Environmental Protection Authority of Western Australia
EP Act	<i>Environmental Protection Act 1986</i> (WA)
licence to take water	Allows the water licence holder to take water from a watercourse, well and/or underground source. Unless a person holds a licence, any unauthorised taking of water is prohibited except where a person has another right to do so, or is exempt from licensing.
licence to construct or alter a well	Allows the licence holder to commence, construct, enlarge, deepen or alter an artesian well or a non-artesian well in a proclaimed groundwater area.
operating strategy	A strategy that is linked to the water licence conditions that details how the licensee will manage their operations in light of the broader water resource management issues associated with the impacts of taking and using the water.
permit	Allows the permit holder to undertake the required works to interfere or obstruct the bed and banks of a watercourse or wetland. Water cannot be 'taken' under a permit. However, in many instances, persons exercising their rights in proclaimed and unproclaimed areas under s.9, 10, and 21 of the RIWI Act require a permit to undertake the required works. This includes installing any works or object that causes the obstruction of or interference to a watercourse or wetland or its bed and banks, in order to exercise their right to take water under these sections.
RIWI Act	<i>Rights in Water and Irrigation Act 1914</i> (WA)
RIWI Regulations	<i>Rights in Water and Irrigation Regulations 2000</i> (WA)



Term	Definition
security interest holder	A party that has an interest in a licence (however arising) that secures payment of a debt or other financial obligation or the performance of any other obligation.
spring	Where water naturally rises to and flows over the surface of land but does not include the discharge of underground water directly into a watercourse, wetland, reservoir or other body of water.
State Administrative Tribunal	A tribunal that reviews decisions made by WA government agencies, public officials, and local governments.
stop the clock	A business rule where the timeframe for processing an application is placed on hold under specific circumstances.
third-party agreement holder	A third party that has entered into an agreement with a water licence holder to take water under their licence for a limited period (not exceeding the licence expiry date).
water licence	Broad term used to describe both a 'licence to take water' and a 'licence to construct or alter a well'.
Water Online	The department's online application system.
water resource subarea	A subdivision within a surface or groundwater area, defined for the purpose of managing the allocation of groundwater or surface water resources.

Custodian and review

We will continuously evaluate the application of this procedure, with a review no later than two years from the date of issue, or sooner as required.

Document details	
Author(s)	Regulatory Capability Division
Current version	Version 1.0
Previous versions	-
Corporate file number	DWERVT2144