

Article Information

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Service: Corporate & Commercial

Bulk Water Rights - What do they entail?

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*20 years ago, water rights was not a topic commonly contemplated as being something people would have taken seriously from a transactional and trading point of view. As water law in Australia is becoming significantly more complicated, it is a necessary evil that people appoint the correct advisors to review documentation and provide advice on water law. **Senior Associate, Kara Pennisi** provides some insight.*

Today, water rights and the legislation that governs them are extremely complicated and are deemed important to assist in creating a sustainable and environmentally effective water industry. Development in the rules and policies that relate to water rights also ensures people's access to water now and into the future is secured.

As such, water is more and more being seen as a tradeable commodity and dealing with water, particularly bulk water rights, is much more transactionally focused. It is, therefore, important for people to be aware of how such transactions may affect them. It should also encourage users to seek advice from water experts early before purchasing or otherwise dealing with a bulk water right.

The water legislation which exists in Australia is extremely complicated and varies from State to State. Jurisdictionally, there is no consistency of terminology as each jurisdiction uses its own terminology in describing bulk water rights and each State has different overall processes for dealing with bulk water rights.

Distinct from water used by the majority people which is sourced from a town water supply, there are those bulk water rights which are usually connected to agricultural, commercial or industrial type properties. These bulk water rights are usually important to an entity who needs more water to make their property operate efficiently and effectively or even to those who may not be able to access the town water supply. From a transactional perspective, dealing with bulk water rights is fast becoming a transactional hive of activity and complexity.

Whilst the law creates distinct differences in bulk water rights in each State broadly, the commonalities which exist include:

- water rights are administered through legislation (which differs from State to State);
- bulk water rights in most States are more often being traded and consideration is being paid for them;
- laws relating to water rights deal with the water and use of the water but also the access to that water (including in respect of infrastructure);
- each State in some way deals with water quality management and how this is to be maintained.

From a practical perspective, the below examples offer a broad insight into the differences between certain States in how bulk water rights are termed and the legislation which relates to them:

- In Queensland, bulk water rights are governed predominantly by the Water Act 2000 (Qld). Water users are afforded access water rights which include Water Allocations (whether supplemented or unsupplemented), Water Licences (in certain circumstances but these are becoming less common), Seasonal water assignment, water for stock and domestic purposes, riparian rights and in addition to these rights, there are obligations to obtain approvals for particular infrastructure works or to maintain licences for structures such as bores.
- In New South Wales however, bulk water rights are governed predominantly by the Water Act 1912 (NSW) and Water Management Act 2000 (NSW). Water users are afforded access to water rights which include Water Access Licences, Water Entitlements which are generally connected Delivery Entitlements and shares in an irrigation

provider (but there are exceptions to this) and there is also a requirement for approvals under different legislation for particular infrastructure works.

- In South Australia, bulk water rights are governed predominantly by the Natural Resources Management Act 2004 (SA). Water users are afforded access to water rights which include water allocations, water access entitlements (which is also known as a water licence), water resource works approvals and site use.

As bulk water rights are fast becoming a valuable commodity, it is important people ensure they:

- Are transferring these assets in accordance with the relevant laws. If bulk water rights are not correctly transferred, the ramifications could not only be detrimental to a person's business but could result in penalties, interest or other charges being payable.
- Are aware of the value of the resource they hold, so they can ensure they sell it or buy it (as the case may be) at market value.
- Source qualified assistance with dealing with bulk water rights as soon as they can in the process to ensure the process is efficiently and effectively managed.

Water licence experts at Piper Alderman, [Kara Pennisi](#), [Jonathan Whybird](#) and [Simon Venus](#) can help with your bulk water rights enquiries.

Please contact us if you require more information or require assistance in this regard.