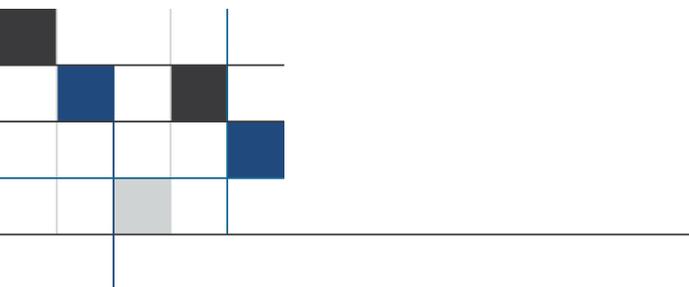


Policy

Section 5C licence tenure

October 2019



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The department has implemented a policy framework across all of its regulatory documents. The framework provides a clear and structured document hierarchy, which details how the department and its stakeholders should apply the different types of documents within the hierarchy.

As part of the implementation of this framework, this document has been updated with a new format to show how the document is classified within the framework.

The content of the document has not been changed and remains the department's position.

For more information on the policy framework refer to the department's website here: www.dwer.wa.gov.au

This document was previously published in February 2015.



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1. Introduction

1.1 Issue

The right to take water in Western Australia is generally authorised by a licence to take water issued under Section 5C of the *Rights in Water and Irrigation Act 1914* (the Act). A Section 5C licence specifies a maximum annual volume of ground or surface water that can be taken (a licensed entitlement), terms and conditions, and duration (expressed as an issue date and an expiry date).

In accordance with Schedule 1, Clause 12(3), the department has determined that Section 5C licences be granted to an owner or occupier of land for a period of 10 years, subject to the requirements of the Act.

The 10 year licence tenure does not impact on the ability of the department to manage a water licence as there is provision under the Act for the Minister to amend, suspend or cancel a licence during its term in order to protect a water resource.

The implementation of the 10 year licence tenure, supported by targeted compliance monitoring as set out in regional compliance monitoring plans, will ensure that the department delivers an efficient water licensing program that maximises the use of available resources and protects the state's water resources.

This initiative also addresses a request by stakeholders to maintain reasonable security of licence tenure.

1.2 Intent

The intent of this standard is to:

- Implement a 10 year tenure for licences granted under Section 5C of the *Rights in Water and Irrigation Act, 1914*
- Describe circumstances when a Section 5C licence may be granted for less than 10 years
- Achieve consistent decision making related to setting Section 5C licence tenure across the state.

1.3 Application

This regulatory standard applies to all new, amended and renewed licences that are granted under Section 5C of the *Rights in Water and Irrigation Act 1914*.



2. Standard requirements

This standard replaces all Section 5C licence tenure rules set in previous allocation plans, policies and guidelines.

2.1 Ten-year licence tenure

- 1 A Section 5C licence will be granted for a tenure of 10 years, unless:
 - An application is made for a temporary or non-renewable licence (e.g. granting temporary access to the public water supply reserve or for a short-term dewatering project).
 - An application is made to amend, trade, transfer or enter into an agreement. In these situations, the original licence expiry date will be used for the updated licence, unless the licence is due to expire within six months. Licences due to expire within six months will be issued with a 10 year tenure.
 - The department initiates a proposed licence amendment. For these departmental amendments, the licence will be issued for a 10 year tenure from the date of the proposed decision letter.
 - An applicant is unable to demonstrate legal access to the land associated with the licence for a period of 10 years (e.g. where there is a temporary lease agreement). In this situation, the licence tenure will correspond with the demonstrated timeframe of legal access.
 - Note: For applications where the legal access relates to a temporary mining tenement – the licence will be issued for a 10 year tenure unless it is likely that the applicant will not be granted a legal access extension to the tenement for the full 10 years.
 - There is a compliance matter that warrants a shorter tenure.
 - The applicable allocation plan stipulates licence tenure requirements.
 - The licensee has multiple licences and requires all licences to have same licence expiry dates.



3. Review

3.1 Review of standards

As part of an adaptive management decision review cycle, improvements may be made to existing processes and standards to ensure they remain relevant, practical and up-to-date.

This standard will be audited within the first year of implementation to determine effectiveness and reviewed within five years (or earlier if the need arises).

References

Australian Government, Department of Sustainability, Environment, Water, Population and Communities, 2012, *The National Framework for Compliance and Enforcement Systems for Water Resource Management*. Australia, Canberra