



## The Lay of the Land: Water Licencing, Vegetation Management and Contamination

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Water allocations, vegetation management, contamination and biosecurity obligations are just a few important matters for buyers to consider before purchasing rural property in Queensland. The results of these investigations may prevent a buyer from using rural land as intended.

This is the second part in our three part series of articles on rural property in Queensland.

### Water Allocations and Licencing

Water rights and access are often overlooked or misunderstood in rural property transactions. Generally, when a buyer is acquiring a property, they may expect or assume that water will be accessible or available to the property in some way. However, if a property is not connected to town water, it may be that the property is near a body of water in relation to which the owner of the land can apply for rights to access and use instead. Depending on the body of water, this may be authorised by the relevant authority by grant of a water allocation or licence.

A water licence is an authority granted

under the *Water Act 2000* (Qld) to take water and/or interfere with water.

In relation to rural property, water may be required for the following purposes:

- a) stock or domestic use on lands that do not adjoin a watercourse, lake or spring;
- b) irrigation;
- c) industrial or commercial use;
- d) storing water behind a weir;
- e) impounding water behind a storage structure; and
- f) storing water in excavations that are within or connected to a watercourse.



Failure to identify that there is a water licence or allocation to be transferred as part of a purchase, may mean a buyer doesn't have access or rights to water after settlement. It is important to identify this at an early stage, and make the appropriate arrangements.

Consideration must be given to any water entitlements, the issuing of any notices to transfer those entitlements and allowing adequate time under the contract to obtain the requisite transfer notices. There may also be circumstances where water entitlements are managed under a distribution operations licence, which means the seller will have to provide the licence to the buyer, with an appropriate disclosure statement, prior to entering into any contract of sale.

### Vegetation Management

The Queensland Government offers a vegetation management report which identifies the type of vegetation on a property, the requirements of vegetation clearing, and any other laws that might apply. The report contains several maps, including:

- a) regulated vegetation management map to determine relevant assessment category;
- b) vegetation management supporting map detailing information on regional ecosystems, wetlands, watercourses, and essential habitat and factors;
- c) protected plants flora survey trigger map to determine whether any part of the proposed clearing is within a high-risk area; and
- d) koala habitat area and priority area map to determine whether the property is part of these areas.

The results of these searches will impact what a buyer can and cannot do on the property with respect to vegetation. It is important to note that a failure to adhere to the requirements within certain vegetation areas is an offence which can result in

penalties and potentially imprisonment. Any notice issued due to non-compliance, will pass to the buyer and will remain enforceable.

### Contamination

Buyers should also investigate whether the property is subject to the *Environmental Protection Act 1994* (Qld) as the land may be recorded on the Environmental Management Register (EMR) or the Contaminated Land Register (CLR). Land is recorded on the EMR if certain types of notifiable activities have been or are being carried out on the land, or if the land is contaminated, that is, affected by a hazardous contaminant. If the property appears on the EMR, a buyer should engage a qualified person to conduct a site inspection. If the property appears on the CLR, it means that the property was previously recorded on the EMR and now it is necessary to take action to remediate the land to prevent serious environmental harm and protect human health or other aspects of the environment.

A property's absence from these registers does not guarantee that the land is not contaminated, as the relevant authority merely may not have been notified. It is important that buyers are aware of this risk when entering in to a contract, ensuring they take all reasonable steps to identify whether the property is in fact contaminated. Given that notice has to be provided to declare contamination, it is recommended that buyers arrange a site inspection and/or a soil test as part of their due diligence investigations to satisfy themselves in this regard.

The results of a contaminated land search will show:

- a) if the land is or is not listed on the EMR or the CLR;
- b) what, if any, contaminants are on the land and have been notified;
- c) what, if any, notifiable activities have been, or are being, conducted on the land and have been notified; and



- d) if there is a site management plan for the land. If there is, a copy of the plan will also be provided.

The search results will not include:

- e) contaminated land where authorities have not been notified of contamination;
- f) land on which a notifiable activity is being, or has been, undertaken but where it has not been notified; and
- g) a complete list of notifiable activities or contamination affecting the land if it has been notified.

It is important to note that should the seller not disclose to the buyer that the property is on either the EMR or CLR, there may be termination rights under the standard terms of the contract available to the buyer.

### Chemical Contamination

Investigating chemical contamination is particularly important where a property has been used for farming purposes (cattle dips) as animals can accumulate contaminants from grazing on contaminated land sites, having access to rubbish tips or industrial wastes, and when poor quality feed ingredients or fertilizers are used at the property. Plant toxins can also contaminate animals and end up in food and animal feed products. Biosecurity Queensland samples and analyses Queensland-produced agricultural produce to monitor and minimise the levels of chemical residues and contaminants in plant and animal products from Queensland.

Chemical and contaminant monitoring programs support access to markets and confirm Queensland's status as a producer of clean food. The programs encourage good agricultural practices, help to identify any potential problems and indicate where corrective action may be required.

### Biosecurity requirements

Residents in Queensland, are expected to know the basics about how to reduce the risk of spreading pest or disease and be

informed about problem pests in local areas. All Queenslanders have a general biosecurity obligation under the *Biosecurity Act 2014* (Qld) to prevent the spread of pests, disease and contaminants.

To meet the general biosecurity obligations, it is recommended to:

- a) stay informed about the pests and diseases that could affect or be carried by animals, including livestock and pets;
- b) know what animals or plants can and can't be kept in Queensland;
- c) understand what risks recreational hobbies may pose;
- d) research the species of plants to avoid possessing or distributing an invasive species before propagating plants for gifts or selling at market stalls; and
- e) contact local government to identify problem pests and diseases in the local area and to avoid contributing to the spread.

These requirements are particularly important for buyers who intend to purchase and use property for farming purposes. Buyers of rural property in Queensland must understand their obligations and what practices might be restricted.

More general information is available at the Queensland Government website: [General Biosecurity Obligation 2021](#).

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