



chapter eight

Protecting our water

Millions have lived without love. None has lived without water.
Old Turkish proverb

Our future prosperity depends on the wise management of our most precious natural resource—water. Australia is a country that uses more water per head than nearly any other. Rarely do we think about where this water comes from, how much we use or what happens after the plug is pulled or the toilet flushed. Our concerns are generally whether it is clean and safe and whether we will have a continuing right to clean water.

Water is one of the most far-reaching policy issues Australia has ever grappled with: an issue raising intense emotions, a maze of intellectual brain-twisters, cutting-edge environmental forecasting, hazy legal rights, and local, interstate and Commonwealth-state jealousies.

The ACT's water is controlled, protected and managed under four main pieces of legislation:

- *Water Resources Act 2007* (ACT) which covers management of territory water resources
- *Environment Protection Act 1997* (ACT) which sets standards for water quality and control of water pollution
- *Utilities Act 2000* (ACT) which guides the operations of the main supplier of domestic water, ActewAGL
- *Water and Sewerage Act 2000* (ACT) which sets out procedures and requirements for water supply and the supply of plumbing and sewerage arrangements.

This chapter deals mainly with the *Water Resources Act 2007* (ACT) (Water Resources Act) and only touches on other Acts.

Cooperative arrangements for the use and management of Australia's water resources have also been developed through the Council of Australian Governments (COAG). COAG is the peak intergovernmental forum in Australia, made up of

by
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the Commonwealth, state and territory heads of government and the Australian Local Government Association. COAG's role is to initiate, develop and monitor the implementation of policy reforms of national significance which require cooperative action between all states and territories, such as water reform.

The national water initiative is an intergovernmental agreement (IGA) signed at COAG in 2004 and includes objectives, outcomes and agreed actions to be undertaken by governments across eight inter-related elements of water management. The recent IGA on Murray-Darling Basin reform signed on 3 July 2008 builds on the national water initiative and sets out principles for the co-operative, efficient and effective planning and management of the Basin's water and other natural resources.

Water Resources Act 2007

Introduction

In 2007 the legislation governing water resource management in the ACT was substantially rewritten and the Water Resources Act replaced the *Water Resources Act 1998* (the repealed Act). The new Act came into effect on 1 August 2007. Similar to the repealed Act, the objects of the new Act (set out in s.6) include:

- allowing the use of waterways while protecting the ecosystems that depend on those water resources
- protecting aquatic ecosystems and aquifers from damage and, where practicable, reversing damage that has already happened
- ensuring that the reasonably foreseeable water needs of future generations are met.

While the ACT's urban water supply is drawn from the Cotter and Queanbeyan Rivers, our water resources also include:

- other waterways, that is, rivers, creeks, lakes, wetlands
- surface water, including water collected in dams and reservoirs
- storm water
- ground water, generally collected from bores
- waste-water, treated or untreated.

The water resources regulated under the Act are broad. The Act defines 'water' as either 'surface water' or 'ground water' and includes water that contains impurities (see Dictionary and ss.8 and 9). In general terms, surface water is water on or flowing over land. It includes water in a waterway, such as a river, creek, lake or marsh and water collected in a dam, reservoir or tank. Ground water is water below the ground surface and includes water from a bore.

Under the Water Resources Act a number of instruments are made to assist in managing the water resources of the territory. These are briefly summarised here and discussed in further detail later in the chapter:

- water management areas are determined plus amounts of water available for taking in each water management area

- environmental flow guidelines are set determining the amount of water needed to maintain aquatic ecosystems—these are used in determining the amounts of water which can be taken in a particular area
- water access entitlements are determined according to the amount of water available in the area and the amount which is reasonable for the intended use—they provide an entitlement to use a certain amount of water from a particular area.

In addition the Water Resources Act provides for a system of licensing to assist in the management of the territory's water resources. The following licences are required in certain circumstances:

- a licence to take water (s.30)
- a driller's licence (s.35)
- a bore work licence (s.39)
- a waterway work licence (s.44)
- a recharge licence (s.49).

Application fees are payable for these licences (s.107 and Water Resources (Fees) Determination 2008 (No.1)). It is an offence not to hold a licence where required by the Act. Penalties of up to 50 penalty units (\$5,000 for an individual or \$25,000 for a corporation) or six months imprisonment or both apply if a licence is not held (ss.28, 33, 37, 47), except for a failure to hold a waterway work licence which carries a maximum penalty of 100 penalty units (\$10,000 for an individual or \$50,000 for a corporation) or 12 months imprisonment (s.42).

Details of the granting or variation of a licence must be kept by the Environment Protection Authority (EPA) on a publicly available register (s.66). Details of these licences are discussed in greater detail later in the chapter.

Ownership of water

The ACT government owns ACT water. Section 7 of the Act states that, subject to this Act, 'the right to the use, flow and control of all water of the Territory is vested in the Territory'.

The Act imposes a general duty on owners or occupiers of land that adjoins a waterway, or on which a waterway is situated, to take all reasonable steps to prevent damage to the waterway (s.74). Damage is not defined, although it excludes any 'authorised' activity or minor damage.

Environment Protection Authority

The EPA, located within the Department of Environment, Climate Change, Energy and Water, administers the Water Resources Act. Section 64 of the Act gives the EPA broad water management functions. These include to:

- keep the state and condition of the water resources of the territory under review
- coordinate policies in relation to water resource management
- regulate the allocation of water from waterways

- compile and maintain up-to-date information about the water resources of the territory
- promote the importance, and encourage the efficient use, of water resources
- foster public education about the management of water resources
- implement national water resource measures made under national scheme laws or intergovernmental agreements relating to water resource management
- confer, and exchange information, with any entity having functions corresponding to those of the authority under a law of the Commonwealth, a state or another territory relating to water resource management.

In particular, the EPA is responsible for:

- preparing environmental flow guidelines
- monitoring water quality
- licensing water users and enforcing those licences
- licensing bore work, bore drillers and waterway works
- charging and collecting fees.

At the time of writing the Minister for the Environment, Climate Change and Water (the minister) is responsible for the Water Resources Act. The minister is responsible for determining:

- water management areas for managing the water resources of the territory (s.16)
- amounts of water available for taking in each water management area (s.17)
- water access entitlements (s.21).

Environmental flow guidelines

Environmental flow guidelines are a statutory instrument under the Water Resources Act setting out the flow of water that is needed to maintain aquatic ecosystems. The guidelines set environmental flow requirements for all water bodies in the ACT, including ground water. The principle of environmental flows is important as it recognises that waterways, and the ecosystems that rely on them, need to have a certain amount of water allocated to them if they are to survive.

Under the Act the EPA prepares environmental flow guidelines to be used in managing ACT water resources (s.13). In particular, the guidelines are used in determining the amounts of water available for taking from water management areas (s.17(2)) and in licensing the taking of water (paragraph 1.2 of the guidelines).

In preparing the guidelines, the EPA must principally consider the ecological needs of aquatic ecosystems. However, the EPA may also take into account the environmental, economic and social impact of the guidelines (s.13(2)).

The first environmental flow guidelines came into effect in December 1999; the most recent in March 2006. Although the guidelines were made under the repealed Act, the transitional provisions of the new Water Resources Act provided for them to continue (s.200).

The guidelines recommend environmental flows for the Molonglo River downstream of Scrivener Dam and drawdown limits for Lake Burley Griffin which remains under the control of the Commonwealth and is managed by the National Capital Authority. The guidelines specify environmental flows for all waterways lying within the ACT. The guidelines also discuss paramount rights to Queanbeyan and Molonglo water and indicate that through the Commonwealth *Canberra Water Supply (Googong Dam) Act 1974*, the ACT executive exercises the rights to the waters of the Googong Dam Area and this includes any necessary releases from the Googong Dam.

The guidelines outline that while the only NSW waters yet developed for ACT urban water supply are those entering Googong Dam, the remaining waters over which the Commonwealth has paramount rights (the Molonglo River and Jerrabomberra Creek) are important for other ACT purposes, including the protection of aquatic ecosystems in the ACT.

The public have an opportunity to comment on draft environmental flow guidelines developed by the EPA. Under ss. 14 and 15 the EPA is required to prepare draft guidelines, publicly notify these guidelines and invite public comment. Following consultation the EPA must consider any comments and submit the draft guidelines together with a report for the responsible minister outlining issues raised in consultations. The minister then approves the guidelines or directs the EPA to revise the draft or conduct further consultation. The guidelines are a disallowable instrument, which means they must be tabled in the ACT Legislative Assembly and, within 12 sitting days, may be disallowed by the Assembly (s.12).

Water management areas

Under Part 4 of the Water Resources Act the responsible minister must determine a number of matters including:

- water management areas for managing the water resources of the territory (s.16)
- the amount of water available from water management areas (s.17).

These determinations are disallowable instruments and as such require tabling in the Assembly and may be disallowed by the Assembly and are listed in legislation register (see Contacts list at the back of this book). The minister has determined 14 water management areas.

These water management areas replace the 32 sub-catchment areas under the repealed Act. The water management areas are comprised of a number of grouped subcatchments or one larger subcatchment. The volume of water available for use and the environmental water provision are determined for each water management area.

In determining the total amount of surface water and ground water that is available for taking in each water management area the minister must take into account:

- the environmental flow guidelines
- the total water resources of the territory
- any investigations undertaken by the EPA to establish sustainable yields for the water management area (s.17(2)).

The minister has the power to determine a volume of water in each management area which is to be reserved to meet future demands (s.17(3)).

In addition the minister has determined guidelines for working out the amounts of water that are reasonable for particular uses (s.18) (referred to as the Efficient Use Guidelines). The guidelines outline the methods for calculating which volumes are appropriate for particular uses.

Decisions about granting water access entitlements and issuing licences to take water require consideration of what are reasonable amounts for intended uses (see below under 'water access entitlements' and 'water licences'). The guidelines state that should an applicant (for a water access entitlement or licence to take water) request a smaller water volume than is determined using the following methods, then the smaller requested volume will be accepted and issued as the appropriate volume.

Water access entitlements

A water access entitlement is an entitlement to use a stated amount of surface water or ground water from a particular area. However, a water access entitlement only provides an entitlement to use a certain amount of water. It does not allow water to be taken from a particular area. If you want to take water from a particular location and use it you must have a licence to take water (see below under 'water licences'). That is, a licence must be acquired before the entitlement to water can be realised.

Neither does a water access entitlement give the right to build any of the works, such as dams, that may be physically required to extract the water. These works require a waterway works licence (see below under 'waterway work licences').

A water access entitlement is similar to what was previously called a water allocation under the repealed Act.

A water access entitlement is granted by the minister. Water access entitlements are made on the basis of sustainable yield. No new water access entitlements can be issued for direct use on urban residential properties.

The minister must not grant a water access entitlement unless satisfied of the following matters (s.21):

- the amount of water is available given the amounts of water in the water management area and any other access entitlements and surviving allocations and the amount is not more than a reasonable amount for the intended use
- the water is not for urban residential property use
- the intended water use is consistent with the Territory Plan
- the applicant does not hold a surviving allocation
- it is appropriate having regard to the applicant's environmental record and other relevant matters.

Priority for water access entitlements is given:

- firstly to land owners or occupiers who were previously entitled to take water without a

licence but can no longer do so because of a boundary change initiated by the territory and the water is for stock or domestic use

- secondly to persons who do not have access to urban water supply and are seeking water for stock or domestic use
- after that, as the minister considers appropriate (s.21(4)).

The EPA has the power to amend a water access entitlement, including by imposing a condition on an entitlement (s.24).

The public has no opportunity to comment on whether a water access entitlement should be granted. However the public can access details of water access entitlements granted from the public register that must be maintained by the EPA (s.66).

Water access entitlements may be transferred to another person with the approval of the EPA (s.26). Any transfer necessarily has an effect on any licence to take water granted under the entitlement. Where part of an entitlement is transferred, the amount that can be taken under the licence is similarly reduced. Where the whole entitlement is transferred, the licence is cancelled (s.27).

When the Water Resources Act commenced people who held an existing allocation and licence to take water could keep the existing allocation and licence which remained valid, or could surrender the surviving allocation to the EPA and receive a replacement water access entitlement.

Where a water utility held an existing allocation and licence to take water under the repealed Act, the allocation was surrendered within six months of the Water Resources Act's commencement and the utility was granted a water access entitlement (ss.111 and 112). The amount of water on the water access entitlement was the lesser of the volume of the surrendered allocation or the amount that is determined by the minister under the new Act to be reasonable for the existing use.

At the time of writing there is no charge for a non-transferable water access entitlement which replaces a surviving allocation. For any other grant of a water access entitlement, including a transferable or tradable water access entitlement which replaces a surviving allocation, a fee of \$568.10 per megalitre is charged. In addition, an application fee and a yearly administration fee is payable for a licence to take water (see below under 'Licences to take water').

Water licences

Introduction

One of the key advantages of the licensing system is that it places an onus on water users to quantify their usage. In the past many users, particularly rural landholders drawing water from bores, were unsure of their actual water usage.

A licence provides a right to use a particular entitlement at a specific site, so a licence to take water cannot be issued unless there is a water access entitlement or surviving allocation (see above under 'water access entitlements'). A licence to take water is required in order

to use water to which a person has a water access entitlement. Water licences are no longer transferable (s.54).

The fees applicable to licences and applications are set out in Water Resources (Fees) Determination 2008 (No.1) that is published on the ACT legislation register (see Contacts at the back of this book).

Licences to take water

Section 28 of the Water Resources Act makes it an offence to take water without a licence and attracts a maximum penalty of 50 penalty units (currently \$5,000 for an individual and \$25,000 for a corporation), imprisonment for six months or both. A broad definition of 'taking water' is provided for in the Act and includes actions such as pumping, extracting, using, diverting water for use, or doing anything that results in a flow reduction of surface water in a waterway (s.11).

There are exceptions to the prohibition on taking water without a licence. A person may take water from a waterway for stock or domestic use. Other exceptions include taking water for camping purposes, for watering travelling stock, or taking water from a rainwater tank. The Water Resources Regulation 2007 also exempt certain persons from the requirement to have a licence to take water. These exemptions are discussed below under 'Water resources regulation'.

In addition, exceptions apply if water is taken by certain emergency service personnel, including rural fire services officers and police officers, in an emergency for the protection of life or property or extinguishing, controlling or preventing spread of a fire.

Licences to take water are issued by the EPA (s.30). The EPA must not issue a licence unless satisfied that it is appropriate to do so having regard to the following matters:

- the applicant's environmental record
- whether the issue of the licence would have an adverse effect on
 - environmental flows
 - the environment generallyor
 - the interest of other water users
- anything else the EPA considers relevant.

This is a higher test than the repealed Act which simply required the EPA to take these factors into consideration when deciding whether to issue a licence.

In addition, a licence can only be issued if:

- the applicant holds a water access entitlement or surviving allocation (unless exempt)
- the water is to be taken from the stated water management area (or subcatchment area for surviving allocations)
- a reasonable amount of water is to be taken
- the water is not intended to be used on urban residential property
- the intended use is consistent with the Territory Plan

- the applicant has lawful authority to access the place where the water is to be taken
- development approval is in place, if required.

Since the commencement of the repealed Water Act in December 1999 to 30 June 2008, 195 licences to take water have been issued, including 31 licences since the new Water Resources Act commenced in August 2007. At the time of writing the application fee for a licence was \$125.75.

There is also an annual administration fee for each licence year; the amount of the fee depends on the volume of water licensed to be taken. For a licensed volume of up to 1000 megalitres per year the fee is \$325.25, except where a licensee has entered into a data collection sharing agreement with the EPA. Where there is a data collection sharing agreement there is no annual administration fee.

A data collection sharing agreement may be entered into where the EPA is interested in collecting particular data for a specific location. For example, it may wish to take water samples for laboratory analysis or it may wish to measure the static level of a bore to determine how an underground aquifer is changing. In this case the annual administration fee is waived. However, the licence holder must still pay the abstraction fee for the water taken. Where there is a licensed volume greater than 1000 megalitres per year, the annual administration fee is \$6,312.50.

The application fee and first year's administration fees are payable at the time of applying for a licence to take water. Added to this is an abstraction fee of 25 cents per kilolitre for water extracted other than through the urban water supply network. Water taken for the purposes of urban water supply attracts a water abstraction fee of 51 cents per kilolitre. There is no charge for water taken for stock and domestic purposes as no licence is required (s.28(6)).

The EPA can impose conditions on a licence to take water (s.31). The types of conditions that may be imposed include: the licensee keeping and maintaining records; installing a water meter; or conducting monitoring and testing of the water taken. Conditions may also specify the rate at which water may be taken and the maximum amount of water to be taken, or that water must not be taken from a waterway at a time when there is little or no flow in the waterway.

It is an offence to contravene a condition of a licence (s.58). The maximum penalty is 50 penalty units (currently \$5,000 for an individual and \$25,000 for a corporation).

The Act gives the responsible minister power to prohibit or restrict the taking of water where he or she is satisfied that the taking of the water may adversely affect the environment, or it poses a safety or health risk because of contamination (s.71). In such a case, written notice must be given to the licensee, and the notice must be published in the ACT legislation register.

Bore work licences and driller's licences

Under Division 5.3 of the Water Resources Act, it is an offence if bore work is done without a bore work licence.

A 'bore' is defined in the Act (in the Dictionary) as a bore, hole, well, excavation or other opening in the ground or underground cavity (whether natural or not) which is, or can be, used to intercept or collect ground water; from which groundwater is, or can be, obtained or used; which is, or can be, used for the disposal of water or waste below the ground's surface; or which extends into an aquifer.

Bore work includes drilling, constructing, altering, plugging, backfilling or sealing off a bore; removing, replacing, altering, slotting or repairing the casing, lining or screen of a bore; or deepening a bore (s.3 and the Dictionary in the Act).

A bore work licence is issued by the EPA (s.39). The EPA must not issue a bore work licence unless satisfied that the applicant holds a water access entitlement or surviving allocation in relation to ground water to be taken from the proposed bore. It must also be satisfied that it is appropriate to grant the licence having regard to the proximity of any existing bores and anything else the authority considers relevant.

The bore work licence is issued to the owner or occupier of the land on which the bore work is to be done.

At the time of writing the application fee for a bore work licence was \$125.70. Since the commencement of the repealed Act in December 1999 to 30 June 2008, 103 bore works licences have been issued, including 10 licences since the new Water Resources Act commenced in August 2007.

In addition to requiring a bore work licence, if bore work is undertaken the person who does the bore work must hold a driller's licence. Under s.33 of the Act it is an offence to do bore work without holding a driller's licence. The maximum penalty is 50 penalty units (currently \$5,000 for an individual and \$25,000 for a corporation), imprisonment for six months or both.

The EPA is responsible for issuing driller's licences upon application and payment of a fee (s.35).

The EPA must not issue a driller's licence unless satisfied that the applicant has any relevant qualifications approved by the EPA. The EPA has approved a driller's licence held under corresponding state or territory legislation as an approved qualification. The EPA must also have regard to the applicant's environmental record and anything else it considers relevant before issuing a licence.

At the time of writing the fee for a three-year driller's licence was \$125.70 if the applicant holds an equivalent licence outside the territory. As noted above, a person can only be issued a driller's licence if they hold appropriate qualifications (s.35(2)(a)). Since the commencement of the repealed Act in December 1999 to 30 June 2008, 43 driller's licences have been issued, including eight licences since the new Water Resources Act commenced in August 2007.

To take water from a bore it may be necessary to have a water access entitlement and/or a licence to do so (see above under 'water access entitlements' and 'water licences' for details).

Restriction or prohibition on taking surface water or ground water

The minister may prohibit or restrict the taking of surface or ground water if satisfied that taking of the water may adversely affect the environment or impose a risk to health or safety or of damage to property or the environment because of contamination (s.71).

Waterway work licences

The construction of a dam or other water retention structure (a water structure) is likely to reduce the volume of water available to downstream users and for environmental flows. Therefore, s.42 of the Water Resources Act prohibits a person from constructing or altering a water structure, that is, a dam or other water retention structure, or doing other work in a waterway that adversely affects or may adversely affect the water flow, water quality or aquatic habitat, without a licence. The maximum penalty for this offence is 100 penalty units (currently \$10,000 for individuals and \$50,000 for corporations), imprisonment for one year, or both. There are some exceptions to the licensing requirements. Structures not in a waterway and of less than two megalitres capacity can be built without a licence.

The EPA is responsible for issuing waterway work licences upon application and payment of a fee (s.44). The EPA must not issue a waterway work licence unless it is satisfied it is appropriate to do so having regard to:

- any adverse effect on either the environment and environmental flows or the interest of other water users
- the public interest
- whether the structure allows water to pass over, under or through it and the need for the structure and other possible alternatives (s.44(2))
- anything else the EPA considers relevant.

The EPA may impose conditions on the licence reflecting these considerations (s.45).

At the time of writing there was a \$125.70 fee for each waterway work licence.

Since the commencement of the repealed Act in December 1999 to 30 June 2008, 74 waterway works licences (previously known as water control structure permits) have been issued, including 17 licences since the new Water Resources Act commenced in August 2007.

A dam may also be a development that requires development approval from the ACT Planning and Land Authority under the *Planning and Development Act 2007*. (See Chapter 3 for information on development approvals.) A water access entitlement and/or a licence to take water may be required to use the water in the dam (see above under 'water access entitlements' and 'water licences' for details).

Recharge licences

The Water Resources Act makes it an offence to construct, operate or alter works to increase the quantity of ground water without a recharge licence (s.47).

The EPA is responsible for issuing recharge licences upon application and payment of a fee (s.49).

The EPA must not issue a recharge licence unless satisfied that it is appropriate to do so having regard to relevant considerations, including the applicant's environmental record, the risk of damage to soil or rock, to ecosystems, or to the natural drainage of surface water (s.49(2)).

At the time of writing a \$125.70 application fee applied for a recharge licence. In addition there is a yearly administration fee of \$325.25. To date no such licences have been issued.

Water Resources Regulation

The Water Resources Regulation came into effect in August 2007. The Regulation exempts certain activities from the requirements under the Act to have a water access entitlement, a licence to take water and a bore work licence. It also enables the EPA to exempt certain activities from such requirements if satisfied that they would lead to improved environmental outcomes.

The Regulation provides an exemption for:

- the requirement for a water access entitlement if a utility is transferring water from Cotter water management area to Googong water management area
- the requirement to hold a bore work licence for certain specified bore work, including excavation for buildings or swimming pools and trench work for the laying of gas, water or electricity pipes.

Some of the exemptions that the EPA may grant if satisfied that it would lead to improved environmental outcomes include:

- an exemption from the requirement for a water access entitlement if treated sewage is to be reused
- an exemption from a requirement to have a licence to take water if the water is to be used for certain purposes including testing a bore, or geothermal heating or cooling.

Enforcement of the Water Resources Act

The EPA has extensive powers to investigate and enforce breaches of the Water Resources Act, including the power to:

- prosecute people who have committed offences
- suspend or cancel a licence (Part 6)
- issue orders to a person requiring them to do things such as stop taking water, or remediate damage done to land or water sources (Part 9).

In addition the responsible minister has the power to issue orders to a person requiring them to modify or remove a water structure (s.72).

Appeal provisions

A person whose interests are affected, such as an applicant, may appeal a refusal of an application for a licence to take water, a driller's licence, a bore work licence, a waterway work licence, a recharge licence, or the imposition of conditions on the licence to the ACT Civil and Administrative Tribunal (ACAT) (s.94 and Schedule 1 of the Water Resources

Act). An application for ACAT to review the decision must be made within 28 days of the decision being given (s.10(2) ACAT Act). (see Chapter 12 for a further discussion of ACAT which replaces the former AAT).

Other legislation and instruments

Planning and Development Act 2007

The Planning and Development Act provides for preparation of the Territory Plan (TP). The TP includes a Water Use and Catchment General Code (s.11.8 of the plan). (See Chapter 2 for discussion of planning issues.)

The code recognises the competing and often conflicting demands made on the territory's water resources. It protects the waters and catchments of the ACT by specifying permitted uses and environmental values for each catchment area. It identifies the purposes for which water may be used in different parts of the ACT and identifies the environmental values, and the water quality and stream flow criteria to protect these uses and values.

There are three types of water use catchment categories which have been classified according to the predominant water use or environmental value within that catchment. These are:

- conservation
- water supply
- drainage and open space.

Secondary uses are also permitted for individual waterways, as long as they can be managed so that they are consistent with the primary environmental value.

The mechanisms for ensuring that the principles relating to each of these catchments are implemented will generally be one of the following:

- the identification of appropriate provisions in the relevant land use policies in the TP
 - the issue of licences to discharge to streams or to divert or abstract water for use or to undertake activities on or in waters
- or
- the preparation of management plans by the relevant authority responsible for the land management and the preparation of water-sharing plans by the relevant authority responsible for administration of the territory's water resources.

Environment Protection Act 1997

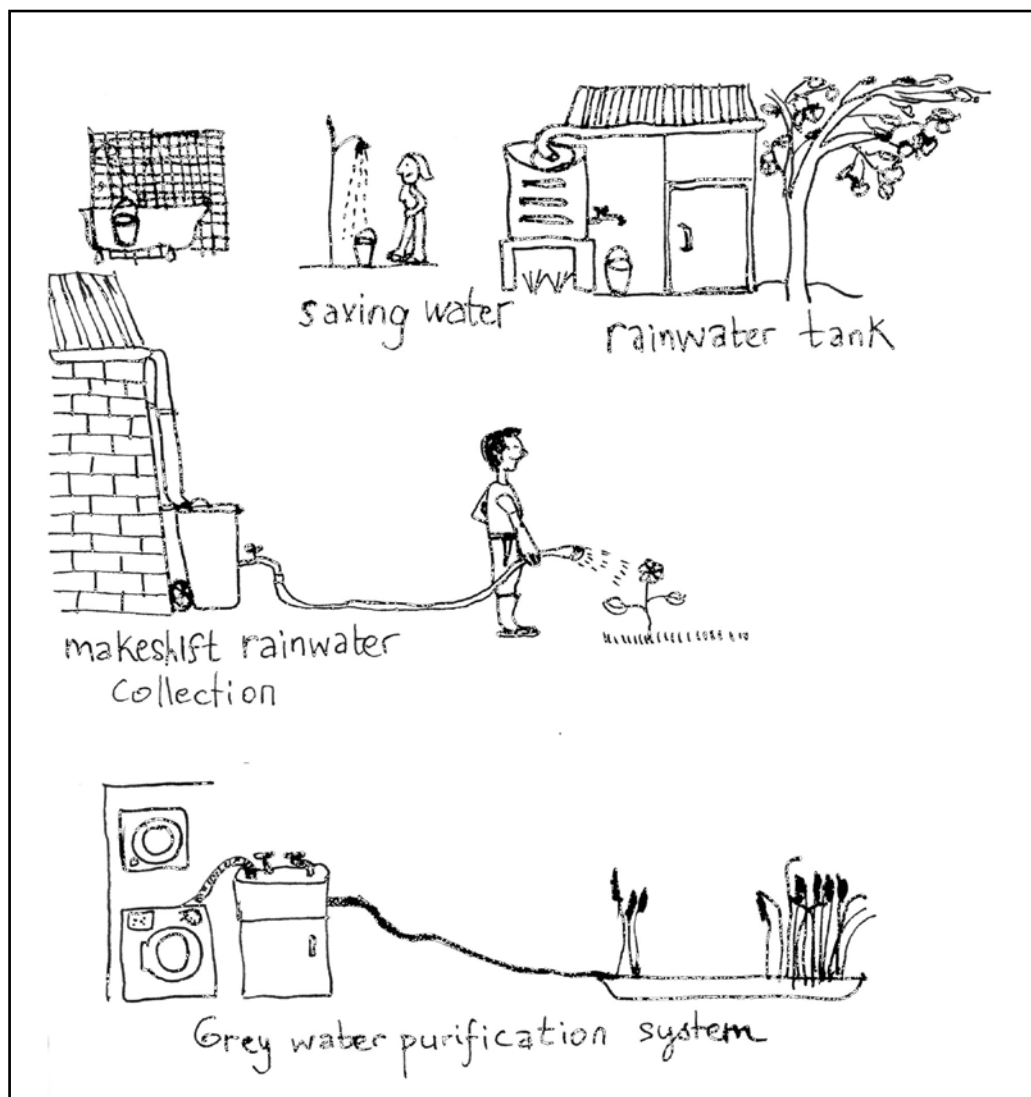
The *Environment Protection Act 1997* (Environment Protection Act) is the ACT's main legislation for managing pollution, which includes water pollution. It requires that certain activities be licensed and subject to environmental standards. The Environment Protection Act establishes the EPA.

The Environment Protection Act defines a pollutant as a substance in any form which when discharged may cause environmental harm (see Dictionary). Water quality standards and the environmental values of a waterway are set out in the Environment Protection Regulation 2005 in force under the Environment Protection Act.

In addition, under the Environment Protection Act there is capacity for the EPA to develop Environmental Protection Policies (EPPs) that provide administrative guidelines for decision-making under the Act. Two EPPs have been developed relating to water resources: the Water Quality Environment Protection Policy adopted in April 2008; and the Wastewater Reuse Environment Protection Policy adopted in July 1999. (See Chapter 10 for a discussion of environmental harms.)

Utilities Act 2000

The Utilities Act deals with the networks established to deliver water, electricity and gas to residents of the ACT. It is concerned, among other things, with maintaining the integrity of these networks and it establishes the offence of contaminating water in the water network for which there is a penalty of 100 penalty units (currently \$10,000 for individuals and \$50,000 for corporations), imprisonment for one year, or both (s.126).



The Utilities (Water Conservation) Regulation 2006, made under the Utilities Act, regulates water conservation measures, temporary water restrictions and the imposition of penalties for contravention of conservation measures and temporary water restrictions.

Commissioner for Environment Act 1993

The Commissioner for the Environment Act requires the Commissioner to prepare a State of the Environment Report for the ACT (s.19), which may include information on water quality and supply. The latest report was prepared in August 2008. It is available on the commissioner's website (see Contacts list at the back of this book). (See Chapter 12 for more information on the commissioner.)

Water quality report

The ACT Department of Territory and Municipal Services (TAMS) issues a water quality report every year providing the community with information about ecosystem diversity, water quality data and management strategies. It includes information on water allocations and licences to take water issued by the EPA. This function now comes under the Department of the Environment, Climate Change, Energy and Water (DECCEW). The latest report available is for 2007-08, which can be viewed on the TAMS or DECCEW websites (see Contacts list at the back of this book).

Catchment management

In 2000 the Environment and Recreation network within TAMS, in consultation with the community, developed *An Integrated Catchment Management Framework for the ACT* that recognises that 'integrated management of our resources is the most effective way of dealing with environmental issues'.

Three community based groups, Southern ACT, Ginninderra and Molonglo Catchment Groups, have been formed in the ACT to tackle problems such as water quality, environmental restoration, weeds and pests in ACT catchments. The Southern ACT Catchment Group launched its Catchment Management Strategy 2007-2010 in June 2008

These groups are now within the Department of Environment, Climate Change, Energy and Water (see Contacts list at the backs of this book).

Rain water tanks and greywater

Currently the ACT government offers a rebate for households that install domestic rainwater tanks which have a plumbing connection to inside the house (for example to the toilet or washing machine). This announcement was a sign of changing attitudes, in the government and the community towards these means of conserving water.

A Rainwater Tank Guide has been prepared in partnership between ActewAGL, the then Environment ACT (now part of Department of Environment, Climate Change, Energy and Water), the ACT Planning and Land Authority and ACT Health and provides guidance on the installation of rainwater in residential properties. Tanks can be installed and the water used for garden irrigation, pools, drinking water, household water and flushing toilets.

Installation of a rainwater tank requires planning approval if it is:

- in front of a residence
- more than 20,000 litres capacity
- higher than 2.45 m above ground level
- installed within 1.5 m of rear or side boundary (in certain instances) (Regulation 20(1), s.1.55 Schedule 1 of the Planning and Development Regulation).

Planning approval may be required if the rainwater tank is to be located in a heritage listed area or affects a heritage listing.

ACT Health has issued a second edition of a pamphlet titled *Greywater use: guidelines for residential properties in Canberra* which was published in October 2007 and is available on its website. The guidelines cover system design considerations, owner obligations, health and environmental implications and legislative requirements associated with its use. See Contacts list at the back of this book for above agencies.

Think Water Act Water

The ACT government released the final water resources strategy, *Think Water, Act Water: a strategy for sustainable water resources management* in April 2004. It is a long-term strategy focused on water resource management until 2050. The strategy aims to improve water use efficiency, reduce water quality impacts, enhance ecological values in waterways and protect recreational and amenity value. A copy is available on the Department of Environment, Climate Change, Water and Energy website (see Contacts list at the back of this book).

It sets targets to reduce Canberra's per capita mains water consumption by 12 per cent by 2013 and 25 per cent by 2023. A further target set by the government is to increase wastewater reuse from five per cent to 20 per cent by 2013. Using domestic grey water is one way of contributing to the achievement of this target.