

Trusts administering Water Districts

Water Management Act 1999

Background

The *Water Management Act 1999* provides for the management of water resources by non-government bodies called *water entities* within declared areas of the State.

Water entities (which include companies, Councils and Trusts formed under the Act) or a group of landowners may apply to the Minister for Primary Industries and Water to appoint and administer a *water district*. An irrigation supply, river works, water supply or a drainage scheme may be established in a *water district*.

The *Water Management Act 1999* provides for the establishment of a *Trust* as a water entity where a group of landowners have made an application to administer a water district.

When should a Trust be formed as the responsible water entity?

A Trust should only be considered as the responsible water entity where the following conditions and situations apply:

- extensive member experience in undertaking the relevant activity/ managing the resource;
- proposed medium annual turnover;
- strong focus on local management; and
- a need for varied and a high level of member involvement in decision making.

What powers and duties does a Trust have?

Trusts established under the *Water Management Act 1999* have been provided with the following powers:

- power to borrow money;
- power to appoint employees to carry out its responsibilities; and
- power to borrow on overdraft.

On top of the day to day duties relating to the administration of a water district, the Trustees are also responsible for maintaining accurate accounts, records and proceedings of the Trust.

Water entities (including Trusts) established to administer water districts have been afforded the following powers and duties under the *Water Management Act 1999*:

- the power to rate/charge members for operation, maintenance and/or administrative costs;
- the power to acquire land, to enter land and undertake works, and to manage and protect Trust works; and
- the requirement to provide the Minister with an annual report showing full financial statements and details of all activities undertaken in discharging its responsibilities as a responsible water entity.

What is the status of a Trust?

A Trust, established under Part 10 of the *Water Management Act 1999*, is a body corporate under a name assigned by the Minister, with perpetual succession and a common seal. This is not the same as a body corporate as defined under any other legislation (eg *Corporations Act*).

How are Trusts administered?

Part 10 and Schedule 3 of the *Water Management Act 1999* and the Water Management (Electoral and Polling) Regulations 1999 provide details in respect of the administration of a Trust. Such matters include:

- Membership
- Proceedings
- Constitution
- Elections and Polls
- Accounts



Water Facts: Trusts *administering Water Districts*

The administrative arrangements for Trusts formed under the *Water Management Act 1999* are addressed in the Rules of the Trust. A set of completed Trust Rules are to be provided in support of an application for a Trust and are to be consistent with the requirements of the Act.

See “Generic Rules for a Trust established under the *Water Management Act 1999*” for further information.

Who may apply to establish a Trust?

An application for the establishment of a Trust may be made by the *owners of at least two thirds of the land* in a proposed water district.

What are the requirements for making an application for a Trust?

An agreement will need to be recited by those landowners wishing to create a Trust and submitted with the application to appoint a water district. The Minister in approving the application for the establishment of a water district will condition the approval on the creation of a Trust as the administering water entity. See “Application Form for Establishment of a Trust” and “Application Form for the Establishment of a Water District” and Accompanying Notes for further information.

As the Trust is to be responsible for the day to day administration and management of the water district, the Minister will need to be provided with enough information to demonstrate that it will be able to operate efficiently and effectively and will be financially viable in its role in assisting to further the objectives of the Act.

Such information is to include however is not necessarily limited to providing the proposed Rules of the Trust, and a Business Case providing details of the proposed financials.

Annual Report

To demonstrate due administration of its water district, a water entity is to provide to the Minister an Annual Report during September each year. The Annual Report is to include a full financial

statement and details of all activities undertaken. See “Guidelines for Annual Report for a Water Entity Administering an Irrigation/ Drainage District – April 2009”.

Specific information to be provided by a Trust in this report includes:

- Details of, and a statement of compliance with the Trust election
- A statement of compliance with the requirements of the constitution of the Trust
- Details of, and a statement of compliance with the membership and proceedings of the Trust
- Details of any powers exercised by the Trust
- A statement of compliance with the financial management arrangements

Can a Trust be dissolved?

A Trust can be dissolved either voluntarily or by Minister’s dissolution.

Related Documentation

For related information refer to:

- Part 10 and Schedule 3 of the *Water Management Act 1999*
- Water Management (Electoral and Polling) Regulations 1999
- Generic Rules for a Drainage Trust -*Water Management Act 1999*
- Generic Rules for an Irrigation Trust -*Water Management Act 1999*
- Application Form for the Establishment of a Trust and Accompanying Notes
- Application Form for the Establishment of a Water District and Accompanying Notes
- Guidelines for Annual Report for a Water Entity Administering an Irrigation District – April 2009
- Guidelines for Annual Report for a Water Entity Administering a Drainage District – April 2009

FOR FURTHER INFORMATION CONTACT:

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