

NSW water regulation

NRAR quarterly compliance report

Jan-Mar 2021



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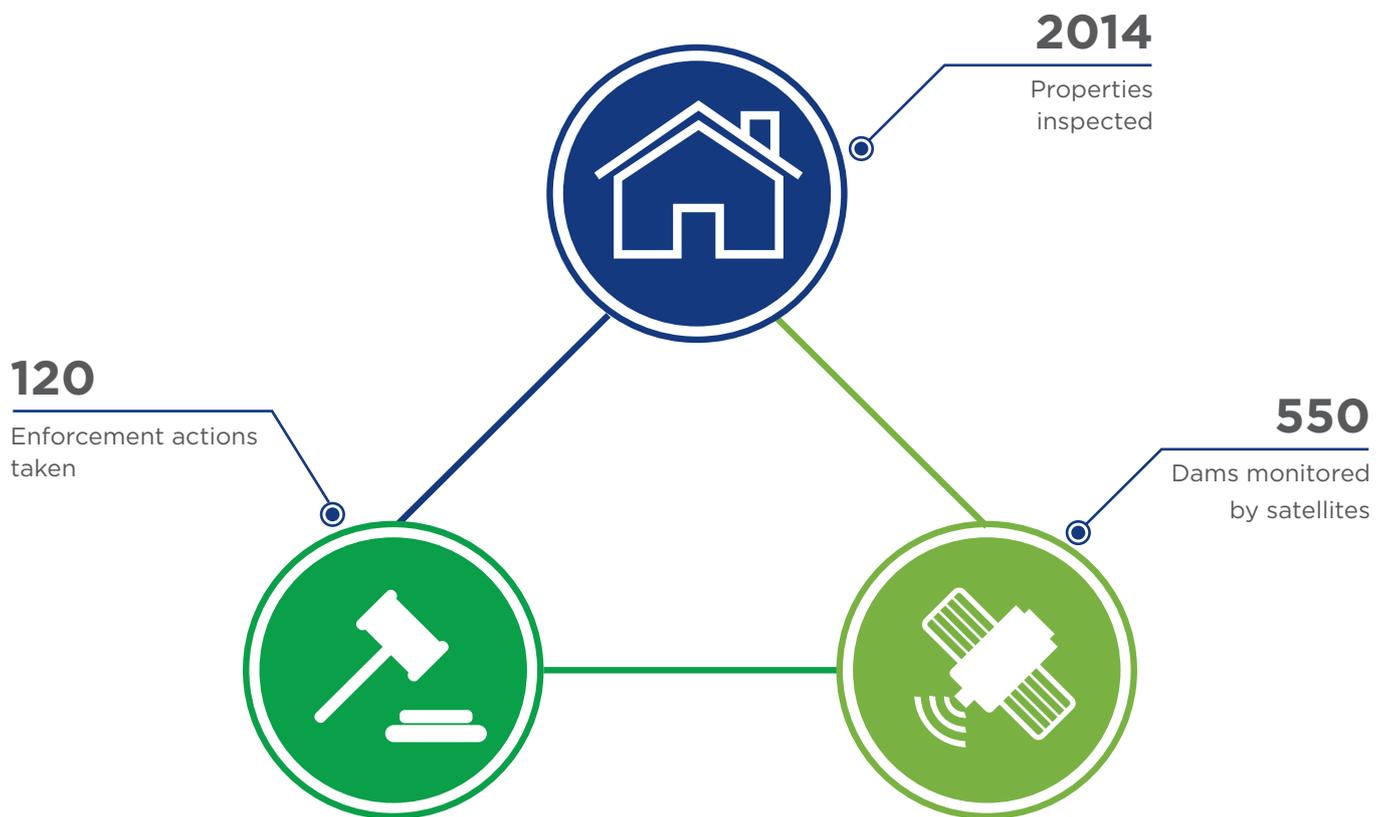
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The Natural Resources Access Regulator (NRAR) was established in April 2018 to bring greater focus on enforcement of water laws in NSW. NRAR’s function is to provide fair, transparent, efficient and accountable water law enforcement.

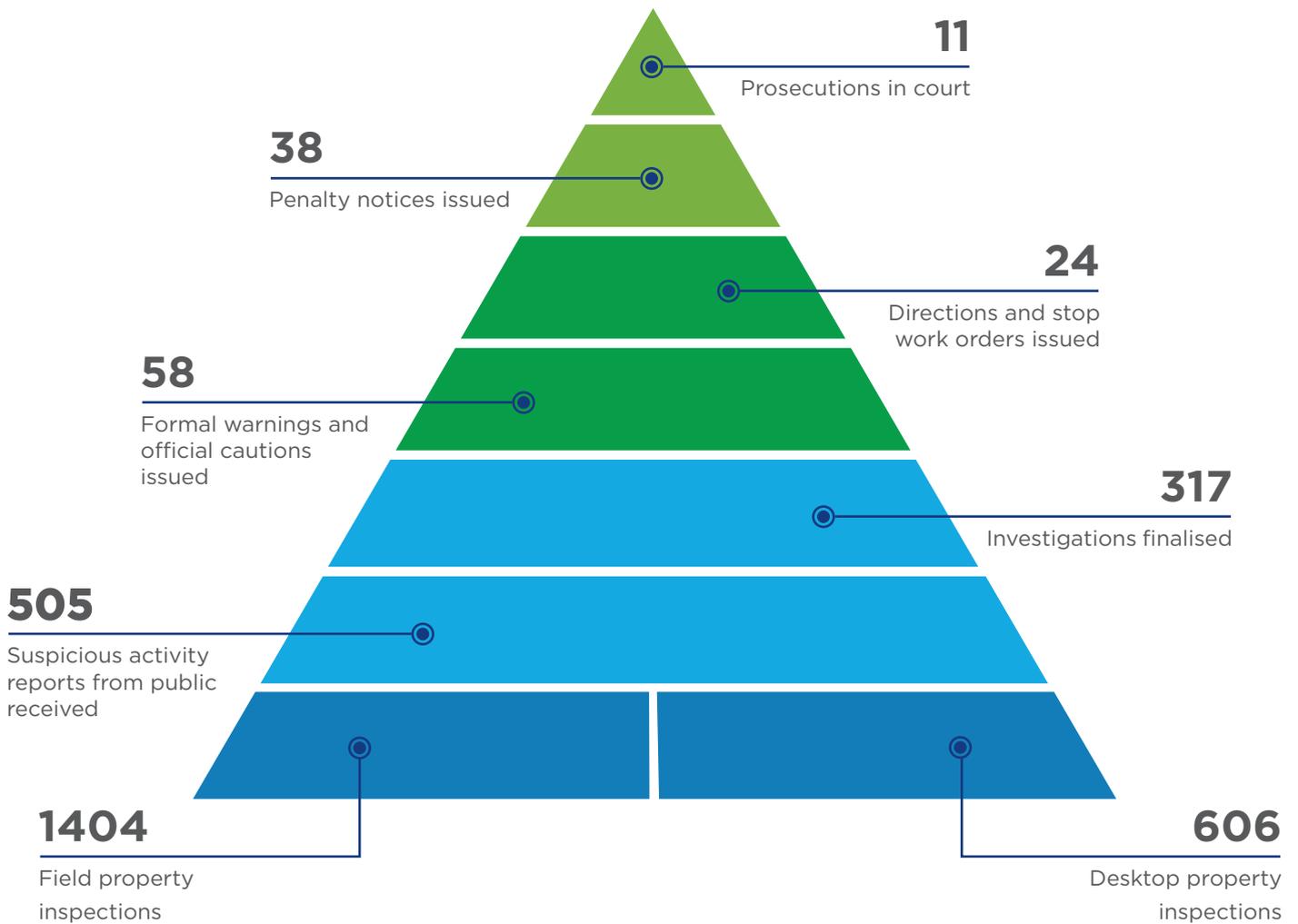
We release the results of our campaigns to help water users understand what we do and to build public confidence that water is being regulated fairly in NSW. Our quarterly compliance reports are an easily accessible summary of our activities for water users and the community.

Our regulatory priorities for the past quarter were the Murray and Lower Darling, Gwydir, Barwon Darling, Macquarie and Murrumbidgee areas of the Murray-Darling Basin, as well as the Hunter Rivers, Northern Rivers and Sydney Metro areas on the coast.

Our protection of groundwater this quarter focused on the Lower Murrumbidgee deep groundwater source, the Lower Lachlan groundwater source and the Lower Namoi groundwater source.

In this report you will find the compliance campaigns we conducted this quarter, trends observed, and actions taken.

Key activities Jan-Mar '21



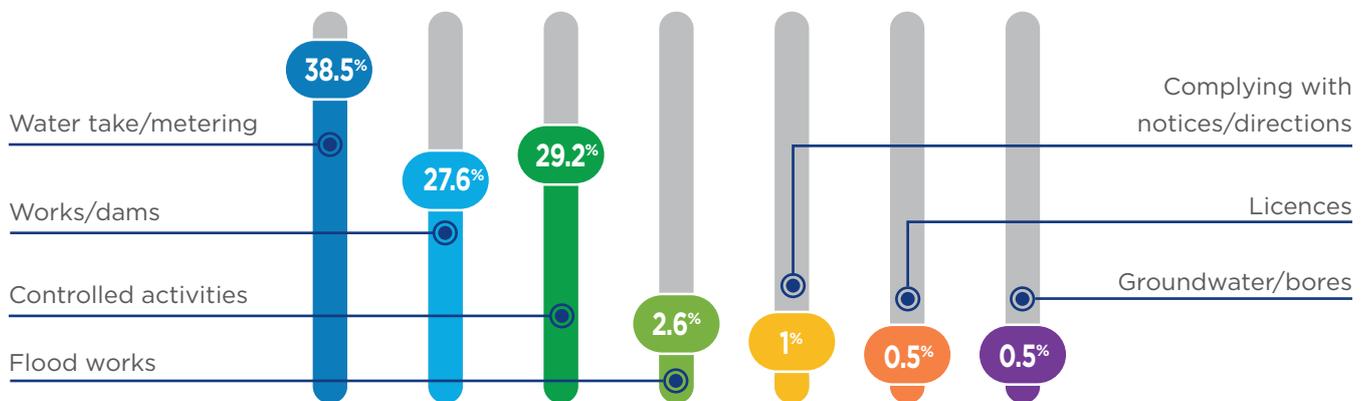
Compliance projects completed

- Coffs Harbour campaign
- Operation Reboot

Compliance projects continuing

- Routine monitoring program
- Harrington spearpoints campaign
- Overdrawn accounts
- Barwon-Darling resumption of flows campaign
- Renewal of expired approvals campaign
- Operation Guya - Billabong Creek floodplain floodworks
- Gwydir floodworks hotspot pilot

Non-compliance trends across the state Jan-Mar '21



The chart above indicates that across the state, the bulk of non-compliances was fairly evenly divided between unlawful controlled activities (works on waterfront land), water take/metering offences and unlawful works and dams. However, the offence types vary greatly from zone to zone across the state. Compare which offences we found in each region in the breakdown on the next page.

Regional breakdown Jan-Mar '21: snapshot

Region	Investigations received	Investigations finalised	Formal warnings issued	Penalty notices issued	Directions/ stop work orders issued	Offence types
Barwon, Darling and West	26	17	2	2	1	
Border Rivers	45	7	2	4	2	  
Central Coast	6	4	3	1	1	 
Clyde	5	6	1	0	0	  
Far North Coast	17	27	0	4	3	  
Greater Metropolitan	31	27	5	0	0	  
Gwydir	38	10	3	0	0	  
Hunter	10	29	2	0	2	  
Lachlan	53	32	7	8	1	  
Macquarie - Castlereagh	33	30	5	5	7	  
Murray	52	22	5	4	1	 
Murrumbidgee	36	25	4	2	2	  
Namoi	95	25	7	1	2	   
North Coast	57	54	12	7	2	  
No data collected	1	2	0	0	0	N/A
Grand total	505	317	58	38	24	

Legend:

-  Water take and/or metering
-  Works and/or dams
-  Controlled activities
-  Floodworks

Campaigns and programs



Coffs Harbour intensive horticulture campaign

Region: North Coast

The intensive horticulture industry in the Coffs Harbour region experienced rapid growth in the last few years, with many new operators entering the industry. The region came to NRAR's attention early on, with many reports from the public of possible breaches of water laws.

Our initial visits to 50 horticulture businesses indeed found compliance levels to be low - only 12 per cent. We responded with an intensive education campaign, meetings with industry and community groups, attending a local field day, and following up landholders after inspections by phone and email. By phase 3 of our Coffs Harbour campaign 74 per cent of those properties had become fully compliant.

In February this year NRAR returned, focusing on oversized dams, bores used for irrigation, and record-keeping. We used satellite imagery and drones as well as public reports and users' compliance history to identify 52 potentially high-risk properties for inspection.

Our officers not only checked compliance with water laws, they also helped water users understand the laws relating to dams, basic landholder rights bores, pumps and pumping logbooks.

We found only 10 properties were fully compliant with water laws. Oversized dams which exceeded maximum harvestable rights were the most common offence - on 32 out of 52 of the properties. There was unauthorised use of bores on six properties, and three properties which were required to have a pumping logbook did not. Other non-compliances found included unauthorised take of water from a dam, and breaches of conditions of approval. Enforcement actions to be taken as a result of the findings have not yet been finalised.

Operation Reboot

Regions: North Coast and Far North Coast

The Grafton region was the focus for compliance campaign 'Operation Reboot' in February and March, in response to a number of reports from the public of possible non-compliance with water laws in the area. The North East Investigations team conducted 25 site inspections of water users considered at high risk of breaching the laws in Tweed, Ballina, Casino, Tenterfield, Coffs Harbour, Armidale and Ebor.

Just over half the sites were found to be compliant, but 12 needed further action. This included four \$750 fines being issued, two warning letters, one stop work order and two requests to remove unlawful water works. Five properties are undergoing further investigation.

Our officers were encouraged that most breaches found were unintentional mistakes by water users and they were willing to make changes to come into compliance.

While there, officers also checked up on water users who had previously been issued with direction orders, to ensure the required actions had been carried out.



Harrington spearpoint campaign

Region: Hunter

After finding some unlawful spearpoints in the Harrington area (near Taree) in late 2020, NRAR delivered over 250 letters to residents explaining how to get spearpoints authorised with WaterNSW and why they needed to do it.

Only 14 spearpoints in Harrington had been authorised before the campaign. Since the letters, WaterNSW has reported 21 more applications for authorisations so far and has approved 14 already. It also rejected two.

There have also been many enquiries about the authorisation process. In response, an NRAR fact sheet on spearpoints has been distributed and added to the NRAR website.

Further applications for authorisation are expected since NRAR's doorknock of nearly 60 properties as part of the campaign. A number of spearpoints have also been voluntarily removed.

NRAR's aim in this campaign was to increase voluntary compliance, but if by the end of the campaign there are still non-compliant spearpoints, enforcement action will be considered.



Routine monitoring program

Regions: Barwon-Darling West, Border Rivers, Gwydir, Namoi, Macquarie-Castlereagh, Lachlan, Murrumbidgee, Murray.

Our 12-month routine monitoring program continued for its second quarter in this reporting period, with officers travelling 36,000km in this quarter and visiting 913 properties.

The program is focused on helping water users better understand NSW water rules. While on farm, officers check water users are recording their water take in a logbook or with a meter, have correctly sized pumps or bores and are ordering water before they pump.

We found overall 70 per cent of water users were following the specific rules the monitoring program is focused on. Those who did not comply, largely did so out of a lack of understanding or awareness.

Compliance varied however from region to region. Below are the compliance rates for the different NSW regions compiled from the program's first six months.

Regional compliance rates on properties inspected from October 2020 - March 2021

Number of properties that were fully compliant with the specific rules this program focused on:





Operation Guya – Billabong Creek floodplain floodworks

Region: Murrumbidgee

This pilot program in the Murrumbidgee Valley has just begun. It will not only assess whether floodworks in the area are compliant with the rules but will also enable NRAR to develop an effective approach to regulating unauthorised floodworks in the southern floodplains of the state.

The Billabong Creek floodplain was chosen for the pilot program as it has its own floodplain management plan, as well as there being some history of alleged non-compliance in the area. If any non-compliance is found during the inspections, NRAR will respond with its usual proportionate approach.

Floodworks hotspot pilot

Regions: Gwydir and Border Rivers

This northern Murray-Darling Basin pilot program is focusing on the Gwydir area as it has a floodplain management plan, which began in 2016. This area is one of five regions in the north of the state where floodworks have been identified which could potentially be hindering water from reaching important environmental areas like wetlands. Desktop audits of the area have begun, which aim to identify floodworks to be inspected.

Like Operation Guya, this program will not only assess whether floodworks are compliant with the rules; it will also be developing the best approach for regulation of floodworks in the future, within the northern valley rules. Inspections based on this information are proposed to begin in the next two months. Any breaches of the rules found will be dealt with according to NRAR's proportionate approach.





Overdrawn accounts campaign

Regions: statewide

This is an ongoing proactive campaign conducted all over the state by NRAR's Monitoring and Audit officers, targeting water users in regulated river systems who have pumped more water than they have ordered and paid for and those who have taken water in excess of their allocation balance. As water is allocated according to how much is in the system at the time, taking more than was ordered impacts other water users and the environment.

NRAR generates lists of water users whose accounts are overdrawn and officers visit those water users to explain the harm done by the practice, find out why it is occurring and encourage voluntary compliance. Consequences for not complying have included penalty notices, directions to install a meter and directions to bring accounts into compliance. Some have also been referred to Investigations for possible further action.

Expired approvals campaign

Regions: Far North Coast, North Coast, Hunter, Central Coast, Greater Metropolitan, Clyde

This proactive campaign is being conducted along the state's eastern seaboard. NRAR's Monitoring and Audit officers obtain lists of water access licence holders with expired approvals. They contact those on the list to enquire about their situation and provide help to those who need it to renew their approvals.

Most water users who have become non-compliant are not aware they have become so, and when informed, willingly take steps to become compliant again. If water users continue to take water with an expired approval, they will be subject to enforcement action if appropriate, including penalty notices.

Education programs Jan-Mar '21

Education of water users is a pivotal part of NRAR's function to encourage voluntary compliance. With so much non-compliance being due to lack of understanding or failure to review rules and approval conditions over time, helping water users know the rules is critical. NRAR's Education team this quarter have:

- Prepared a video and social media for NRAR's Know the Rules campaign
Region: statewide
- Developed a fact sheet for the Harrington spearpoint campaign and accompanying social media content. **Region:** Hunter
- Developed a customer satisfaction survey and dashboard to enable NRAR to improve its dealings with water users. **Region:** statewide.
- Coordinated and developed presentations at the River Operations Stakeholder Consultative Committee (ROSCCo) meetings. **Regions:** Hunter and Bega

The education team also developed case studies to help water users understand the rules in real life situations, such as this one below.



Pumping from a creek or bore - are you correctly licensed?

Allegations were made to NRAR that a landowner had been pumping water from a creek to irrigate commercial crops. The investigation confirmed that the landowner had been taking water from a water hole that formed part of the creek. The landowner claimed the previous occupier of the property had told them it was OK and that they believed the waterhole to be a 'natural dam'.

The previous owner was allowed to access the water as they were only using it for domestic purposes under basic landholder rights, however the new landholder should have obtained a water access licence because he was using the water for commercial irrigation.

The landholder had failed to do due diligence and check the legality of taking the water. He was fined \$750 by NRAR and instructed to stop taking water from the water source until the appropriate licences and approvals had been obtained.

For further information on basic landholder rights, water access licences and water use and supply works approvals, please visit www.watersw.com.au or call 1300 662 077.

Conclusion

After three years of establishing its presence as the state's water regulator, NRAR is now changing direction. From focusing on getting officers out in the regions to deal with an inherited backlog of reports of breaches from the public, we are now in a proactive phase, deriving much more of our intelligence on non-compliance from remote sensing technologies, and designing campaigns to tackle the findings.

Our 9 campaigns carried out this quarter are evidence of NRAR's strategic response to areas or issues identified as needing our attention.

As conditions change, so does NRAR's work. With the recent breaking of the drought in many areas, and then flooding, the types of non-compliance we find change, and the reasons for it. NRAR officers take these events into account when responding to breaches of the law.

While our emphasis is now on enabling and encouraging water users to voluntarily comply, we will still enforce the law - both as a deterrent and to ensure fairness.

By dealing appropriately and fairly with non-compliance and addressing its causes, we aim to keep building public trust and confidence in NRAR as an effective water regulator.