

Environmental flows

Our compliance approach

January 2021 Natural Resources Access Regulator



The Natural Resources Access Regulator (NRAR) is an independent regulator established under the NSW *Natural Resources Access Regulator Act 2017*. The current regulatory focus of NRAR is water regulation, a key part of which is to prevent, detect and stop unlawful water activities.

To do this, NRAR adopts an outcomes-focused and risk-based regulatory approach to enforcing the *Water Management Act 2000* (WM Act).

Monitoring environmental flows is a key part of NRAR's regulatory priorities.

Environmental flows

Environmental flows relate to environmental water—water that is allocated and managed specifically to improve the health of rivers, wetlands and floodplains. To find out more about environmental water, visit the NSW Government's [environmental water hub](#).

Environmental flows are flows released from storages (dams or weirs) or otherwise protected from extraction. These flows are protected to create a flow regime in a waterway over time for environmental outcomes. They are essentially the flows provided for by the environmental water rules in water sharing plans or protected by temporary water restrictions imposed under Section 324 of the WM Act.

Environmental water rules

The environmental water rules that allocate and manage environmental water operate in different ways.

In regulated rivers, environmental water rules operate by:

- setting a limit on the long-term average annual volume of water that can be extracted—providing the remainder to the environment
- timing the releases of water from storages
- providing for the proportion of storage inflows that can be released
- setting the flow rates that need to be met at specific places
- setting aside a volume of water in a storage that can be released for specific environmental purposes as necessary.

In unregulated rivers, environmental water rules control the extraction of water by setting:

- the water levels at which water pumping can start or stop
- rules that apply in specific circumstances
- daily extraction limits on the amount of water that users can take across an area or individual daily extraction limits on water access licences.

Temporary water restrictions

Under Section 324 of the WM Act, the minister may impose temporary water restrictions or prohibit the taking of water from a water source if doing so is in the public interest. This includes restricting or prohibiting the taking of water to manage environmental flows.



Compliance monitoring

Monitoring compliance is an essential part of NRAR's role, and our [regulatory priorities](#) include unauthorised water extraction.

Unauthorised water extraction includes noncompliance with environmental water rules or temporary water restrictions.

As it is not possible for NRAR to monitor every environmental flow, we will focus our activities on areas where there is a high likelihood of noncompliance occurring. We'll further focus on instances where that noncompliance would have material environmental and hydrological consequences or an impact on fair use and public confidence. To identify these areas, we will consider:

- where the environmental flow will occur
- the water entitlements and works approvals in the area
- previous compliance history
- prevailing environmental conditions
- the volume of the environmental flow.

Proactive monitoring

When we proactively monitor environmental flows, we will use the most effective and efficient regulatory tools available and relevant to the environmental flow. For example, we may use remote surveillance techniques alone or together with field inspections.

Remote surveillance techniques include integrating:

- geographic information system (GIS) data, aerial photography and satellite imagery
- metering, logbook and telemetry records
- river flows, heights and climatic data.

Reactive response

In addition to proactive monitoring, we respond to reports, incidents or other intelligence received from the regulated or wider community. We assess reports and prioritise investigations related to environmental flows according to risk-based principles. We prioritise situations that have the potential to cause serious harm, as well as patterns of similar incidents that may suggest ongoing or broader issues.

Regulatory response

NRAR employs a graduated and proportionate approach to noncompliance with environmental flow requirements identified through proactive monitoring or reactive responses. When deciding on the appropriate regulatory response, we consider the degree of harm; the regulated entity's culpability, cooperation and attitude; and the public interest.

Our responses to noncompliance, in increasing severity, include:

- guidance, education and information
- warnings, corrective requests and statutory directions, such as stop-work orders and remediation notices
- enforceable undertakings and penalty notices
- licence variation, suspension or cancellation
- civil or criminal proceedings.

More information

This fact sheet is one in a series explaining water management, compliance and associated issues. You can find this series and more information about licensing, approvals and compliance on the NRAR website at

www.industry.nsw.gov.au/nrar

Copies of the Acts and associated Regulations are available on the NSW Government legislation site at www.legislation.nsw.gov.au

For enquiries, call NRAR on 1800 633 362 or email at nrar.enquiries@nrar.nsw.gov.au.



For more information on the Natural Resources Access Regulator, visit industry.nsw.gov.au/nrar

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