



Natural Resources Access Regulator Regulatory Priorities

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Contents

NRAR's regulatory purpose	1
Approach to setting regulatory priorities	2
First-level prioritisation.....	2
Second level prioritisation.....	3
Ongoing review	3
Regulatory priorities	4
Projects.....	5
Floodplain management.....	5
Protecting environmental flows.....	5
Legacy mining	6
Irrigation corporations.....	6
NSW non-urban water metering policy	6

NRAR's regulatory purpose

NRAR undertakes effective and efficient compliance measures to protect water users and the environment from harmful water activity.

Under the *Natural Resources Access Regulator Act 2017*, our principal objectives are to ensure effective, efficient, transparent and accountable compliance and enforcement measures to maintain public confidence in water management in NSW.

Under the *Water Management Act 2000*, the objective is the sustainable and integrated management of the water sources of the state for the benefit of present and future generations.

To carry out NRAR's regulated purpose, we employ a program of set activities and specific regulatory projects to respond to emerging issues.

This document sets out our approach to setting and prioritising NRAR's program and projects over the period March 2019 to March 2021.

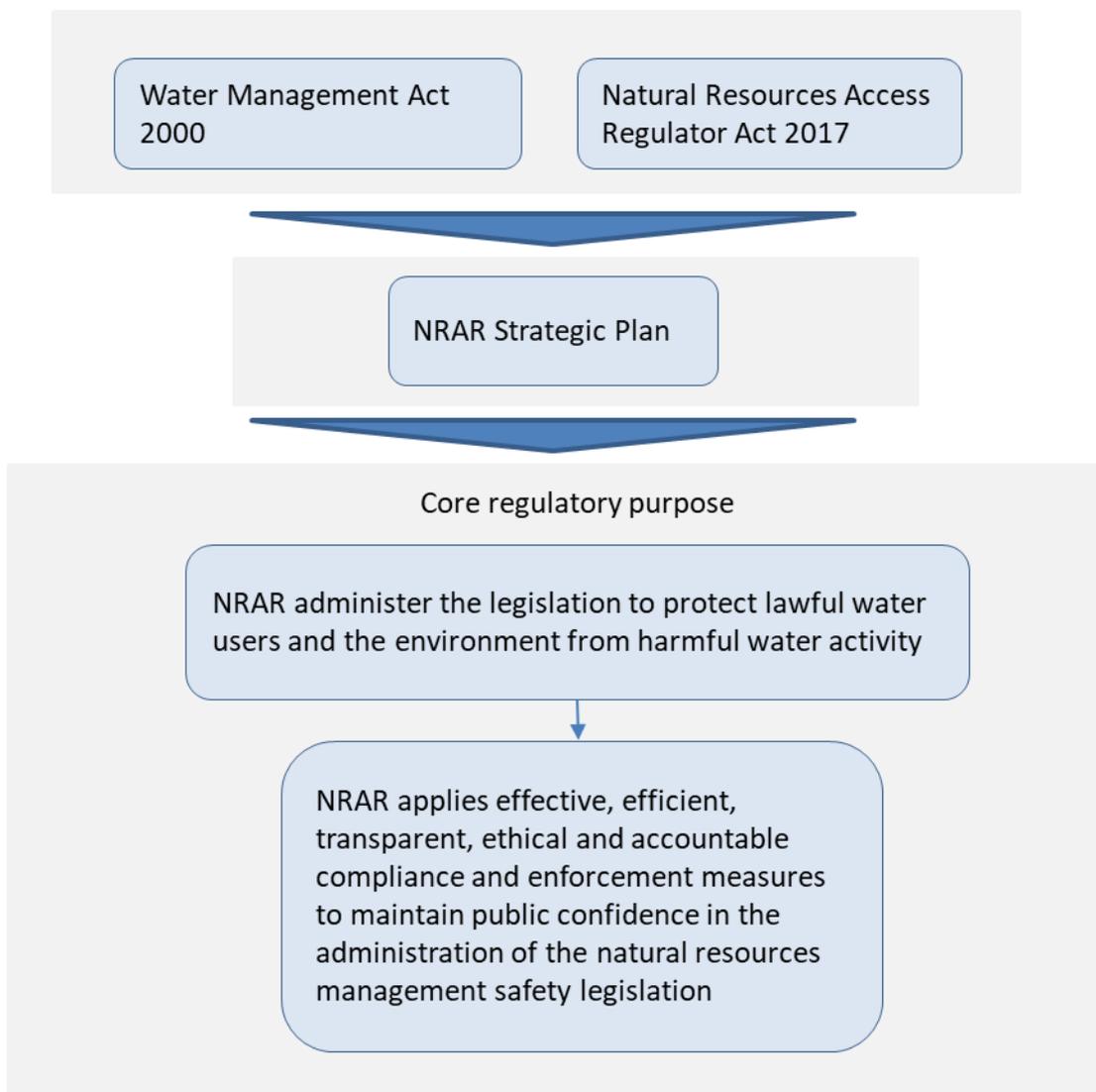


Figure 1: NRAR's core regulatory purpose

Approach to setting regulatory priorities

NRAR takes a risk-based and evidenced-based approach when assessing its regulatory priorities.

To carry out our compliance functions effectively and efficiently, we base our ongoing program of activities on an analysis of the impact and likelihood of non-compliance. This means the focus of activities will be on areas where there is high likelihood of non-compliance occurring, and where that non-compliance would have:

- material environmental and hydrological consequences
- an impact on fair use and public confidence.

Our two-level approach to prioritisation and the factors we take into account are shown in Figure 2 and further explained in the sections following.

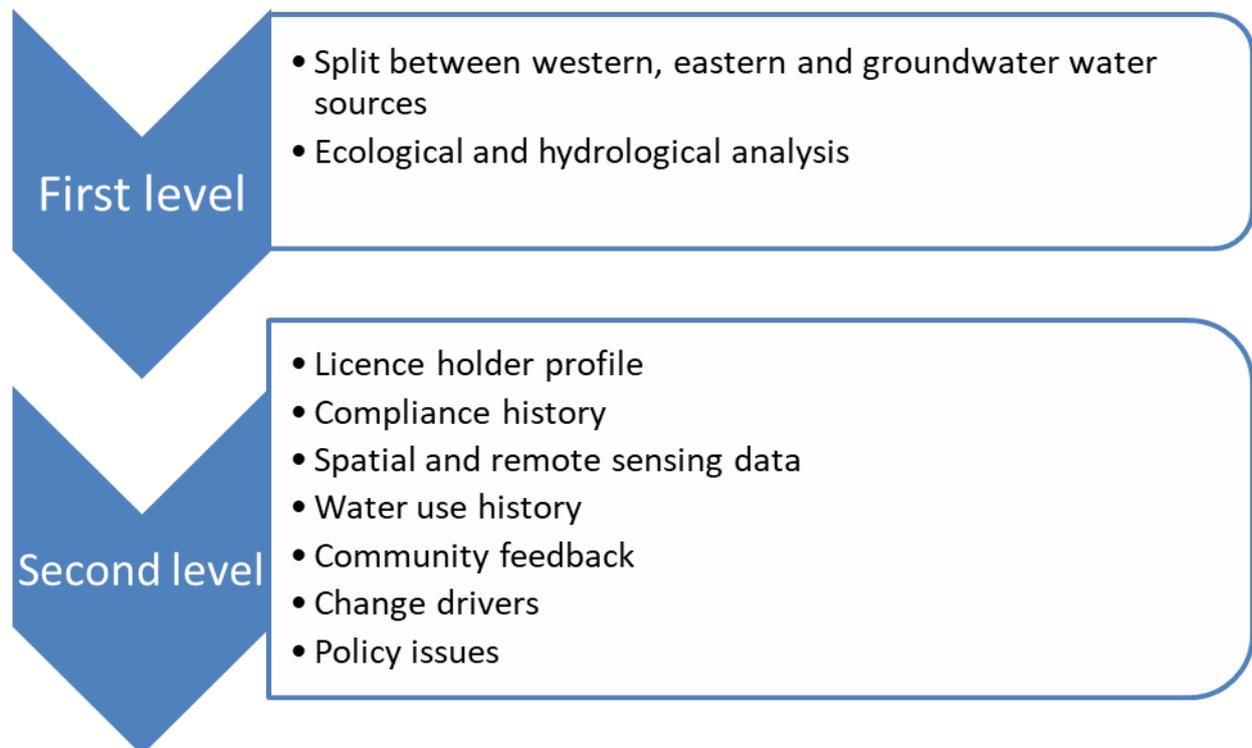


Figure 2: Approach to setting regulatory priorities

First-level prioritisation

We use different assessments to prioritise Murray–Darling Basin (MDB) surface water, coastal surface water and groundwater sources. This is because there are different geomorphic and hydrological characteristics between inland, coastal and groundwater sources.

In the first-level prioritisation, analysis allows water sources to be ranked according to ecological or hydrological value as a proxy for the potential impact from non-compliance.

In the MDB, we use the assessment carried out under the High Ecological Value Aquatic Ecosystems (HEVAE) framework to classify NSW regional zones into five categories by instream value: very high, high, medium, low, and very low. Further details of the HEVAE framework are available from the NSW Department of Industry website (visit www.industry.nsw.gov.au and search for 'Applying the HEVAE Framework for Riverine Ecosystems').

In the coastal areas, where the HEVAE assessment has not been completed, we use a 'river styles' assessment as an indicator of the instream values. River styles is one component of the

HEVAE framework. It provides an assessment of river condition based on elements such as the river's level of degradation, vulnerability to disturbance and recovery potential. As with the MDB, we classified regional zones into risk categories.

For groundwater systems, we use extractive pressure as an indication of the level of risk, and therefore potential impact, if there was non-compliance.

Second level prioritisation

In the second level, we refine the design of our activities by analysing other information that highlights the potential impact and likelihood of non-compliance, such as:

- analysis in relation to land holdings, water entitlements, water use, works approved and industry
- activities that have resulted in investigations and enforcement actions
- analysis of spatial and remote sensing data that shows a high level of water use or activity that may not be matched by approved water allocation levels or works
- water use history, for example analysis of water use compared to water allocation over time to identify locations and times where water take approaches extraction limits
- community reports of potential non-compliance or issues
- significant current or emerging trends, for example changes in land use, water use, industry profile or population
- emerging policy issues such as policy changes that may require additional monitoring as well as community education.

Ongoing review

We review and update regulatory priorities on an ongoing basis to take into account new developments and improvements in our data and analytical tools. We will test and adapt our approach over time to ensure that priorities are set at the right level, and that our two-year timeframe for priority setting is appropriate to help balance our proactive and responsive work streams.

It is appropriate that NRAR's regulatory priorities respond to influences such as new technology, community feedback, and environmental and social changes. As an example, when the current drought eases, we would look to support communities by focussing on education programs that help them comply with water access rules such as commence-to-pump thresholds in unregulated systems.

We will also refine the weighting assigned to specific factors, as we may need to vary these from time to time based on data analysis.

Regulatory priorities

Our focus for the March 2019 to March 2021 period will be on unauthorised water extractions and controlled activities at locations where there is high ecological and hydrological value.

NRAR’s top priorities for the next two years are shown in Table 1 and are based on risk assessments applicable to MDB surface water, coastal surface water and groundwater systems.

Priority projects for all areas are: floodplain management, environmental flows, legacy mining, irrigation corporations, and new metering policies. These are detailed in the section following.

Table 1: Top priorities for March 2019 to March 2021

	Murray-Darling Basin	Coast	Groundwater
Regional zones	<ul style="list-style-type: none"> • Murray and Lower Darling • Gwydir • Barwon Darling • Macquarie • Murrumbidgee 	<ul style="list-style-type: none"> • Hunter Rivers • Northern Rivers • Sydney Metro 	<ul style="list-style-type: none"> • Lower Murrumbidgee deep groundwater source • Lower Lachlan groundwater source • Lower Namoi groundwater source
Activities	<ul style="list-style-type: none"> • Unauthorised water extraction • Unauthorised controlled activities 	<ul style="list-style-type: none"> • Unauthorised water extraction • Unauthorised controlled activities 	<ul style="list-style-type: none"> • Compliance with extraction limits

Figure 3 provides a breakdown of NSW by regional zones and shows each zone’s level of priority for regulatory activities based on risk assessments.

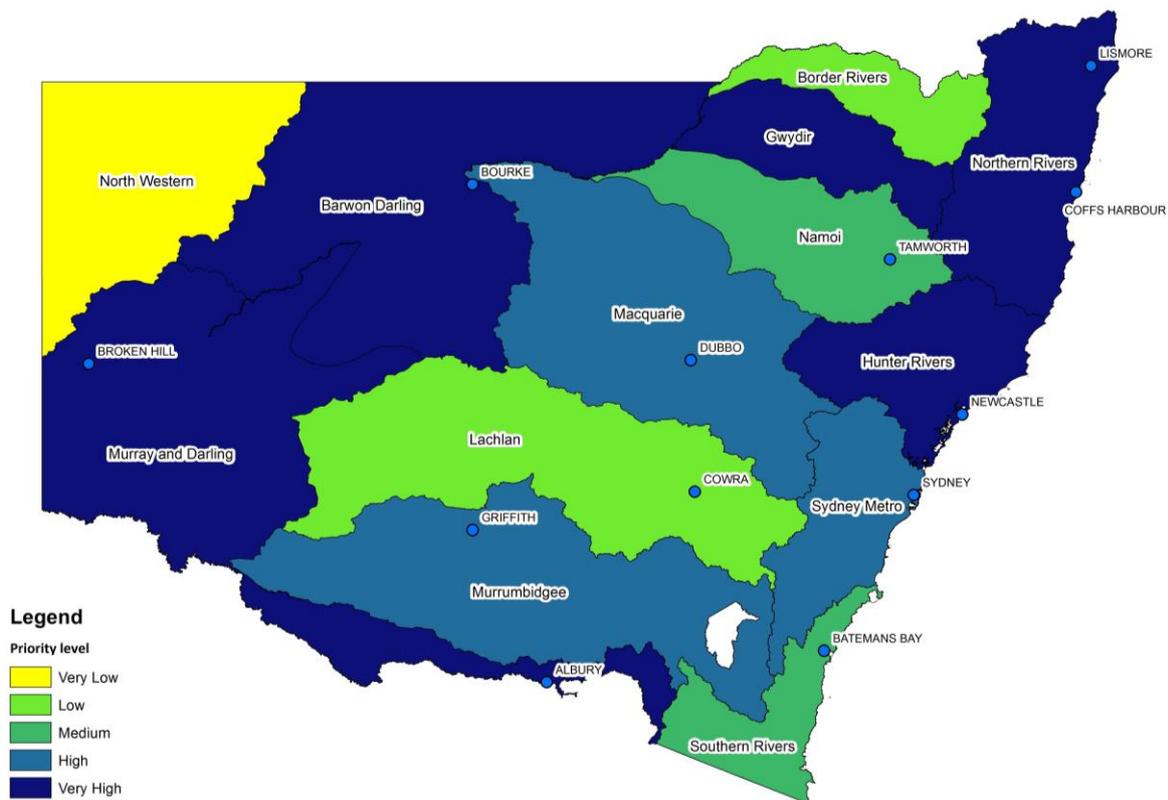


Figure 3: NSW by priority areas

Projects

Floodplain management

In May 2013, the NSW Government released the NSW Floodplain Harvesting Policy to guide the introduction of a licensing framework for floodplain harvesting. Following stakeholder consultation, the policy was revised in September 2018.

The policy applies to all of NSW, but is currently being implemented in the five northern valleys of the Murray–Darling Basin: the Border Rivers, Gwydir, Namoi, Barwon–Darling and Macquarie valleys. The project is scheduled to be completed by 31 December 2019.

Under a draft Floodplain Harvesting Monitoring and Auditing Strategy, NSW Department of Industry will install gauge boards on each water storage deemed to be an eligible floodplain harvesting work. The gauge boards will be matched to a storage curve specifically developed for each storage.

During the three years commencing 1 January 2020, irrigators must report on changes in storage levels and quantify their take of overland flow. During 2020 and 2021, the department will investigate alternative monitoring technologies. In 2022 the department will evaluate the effectiveness of the self-reporting system. If necessary, a new monitoring strategy will be introduced in 2023 and beyond.

All eligible floodplain harvesting works that are not already included in a water supply work approval, or are exempt from the requirement, will be appropriately authorised during 2019. Around 500 new approvals will be granted as a result of this process, and we will need to consider this when developing NRAR's future audit program.

Consideration of these new approvals ranks high on the list of priorities because:

- NRAR has no prior history or experience in regard to the regulation of these works, so they are considered high risk until investigated
- there is potential impact on downstream ecological and cultural assets
- the works could affect the reliability of supply to downstream water users
- there may be third-party impacts such as risks to life and property.

Along with the introduction of the floodplain harvesting framework, a sister project is underway to develop and implement valley-wide floodplain management plans for the five northern valleys. During development of the plan for the Macquarie valley, a significant number of unauthorised floodworks were identified. Some of these will divert environmental flows being targeted at ecological assets within the valley. They may also have the effect of diverting flood flows and thereby cause adverse impacts on third parties.

We consider investigating these unauthorised works, ideally ahead of any significant rainfall and flooding events, a high priority.

Protecting environmental flows

Environmental flows are flows from federal or state government allocations released predominately from storages and dams to maintain downstream river health. The intent is to protect aquatic ecosystems, reduce algal blooms, improve river health, and improve wetland conditions for water-dependent plants and animals. Protection of environmental flows does not prevent water being taken for legitimate consumptive uses (basic landholder rights).

To help achieve the goals of the release, we may develop a compliance program to help prevent and detect any unauthorised water take or illegal use during these flows, and ensure that any take that does happen is in accordance with water sharing plan rules and stated conditions on access licences and water supply works approvals.

Legacy mining

Under the *Water Management Act 2000* (WM Act), a licence is required for all water taken by mines, including incidental take. This means new mines must account for all water take, including, for example, if mining results in the loss of water from an aquifer or surface water.

Prior to the WM Act and due to limitations in groundwater science, indirect water take was not always correctly captured by the licencing system. This means that some mines established before the new requirements came into effect do not have licences that account for incidental take.

Mining activities are governed by multiple government agencies under different legislative instruments. There is a high level of community interest and concern about potential long-term mining impacts on water resources, and specific mining operations. NRAR will work with the relevant government agencies to develop short- and longer-term solutions to address legacy licensing issues.

Irrigation corporations

Although few in number, water extracted by irrigation corporation districts and some private irrigation districts account for a large proportion of total consumptive water take for irrigation purposes. Prior to the WM Act, the *Irrigation Corporations Act 1994* established irrigation corporations licences that specified conditions and allowed water take and the construction or use of water management works. When the WM Act came into effect, irrigation corporation licences were converted to Water Access Licences and Water Supply Work Approvals. At the time of conversion, not all water management works were captured.

This has created regulatory uncertainty, and irrigation corporations have expressed concern that they may not be compliant with water management requirements under the WM Act. We have identified this issue as a regulatory priority for NRAR because of the high proportion of total water take accounted for by irrigation corporations and the apparent lack of clarity around compliance requirements and accountabilities.

NRAR will work with irrigation corporations to ensure that their risk profile is better understood, and that transparent, proportionate and effective regulatory requirements are in place. This project is not intended to address the administrative and governance requirements applied to and by irrigation corporations as entities established under the WM Act.

NSW non-urban water metering policy

A new metering framework for non-urban water take commenced 1 December 2018. The new policy requires relevant water users to have in place meters that are pattern-approved.

The policy implementation will be staged over a five-year period and see the installation of more than 7,200 meters. Surface water users with pumps 500 millimetres and above must comply by 1 December 2019. Remaining water users in the northern inland region must comply by 1 December 2020.

NRAR will work closely with NSW Department of Industry to design appropriate programs to ensure compliance with the metering policy.