

Water Management Works and Approvals

The NSW Government and the Department of Planning, Industry and Environment (the department) are implementing the Healthy Floodplains Project across northern NSW. Initially this project only applies across floodplains in the Border-Rivers, Gwydir, Macquarie, Barwon-Darling and Namoi valleys.

The Healthy Floodplains Project is driving reform in water management across floodplains through:

- Floodplain management plans (FMPs) – to coordinate flood work developments on a whole-of-valley basis
- [Floodplain harvesting program](#) – to bring floodplain harvesting into the water licensing and approvals framework under the *Water Management Act 2000* (WM Act) and ensure that the harvesting of water from these floodplains is brought within legal limits in NSW water sharing plans and the Basin Plan.

More information on the Healthy Floodplains Project can be found at

<https://www.industry.nsw.gov.au/water/plans-programs/healthy-floodplains-project>.

As part of implementing the project, the Department will be assessing and granting water supply work approvals for works used for floodplain harvesting (floodplain harvesting works).

The NSW Floodplain Harvesting Policy (the policy)

(https://www.industry.nsw.gov.au/_data/assets/pdf_file/0017/143441/NSW-Floodplain-harvesting-policy.pdf) defines floodplain harvesting works.

What is floodplain harvesting?

Floodplain harvesting is the last substantial form of water take to be licensed in NSW. The NSW Floodplain Harvesting Policy (the policy)

(https://www.industry.nsw.gov.au/_data/assets/pdf_file/0017/143441/NSW-Floodplain-harvesting-policy.pdf) defines floodplain harvesting as the collection, extraction, or impoundment of water flowing across floodplains, including rainfall runoff and overbank flow. It excludes the taking of:

- water under a water access licence that is not a floodplain harvesting access licence
- water under a basic landholder right (see <https://www.industry.nsw.gov.au/water/licensing-trade/landholder-rights>)
- water under an applicable water access licence exemption under the WM Act
- used irrigation water

Incorporating floodplain harvesting into the licensing framework will more effectively manage floodplain water extractions to protect the environment and the reliability of supply for downstream water users. It will do this by defining and limiting where, when and how much water can be legally taken from the floodplain by eligible water users, ensuring it is measured and reported on, and ensuring that it is controlled within legal limits set by water sharing plans and the Basin Plan.

What works are used for floodplain harvesting?

Floodplain harvesting works are:

- works specifically constructed to facilitate floodplain harvesting, such as pumps, structures and other works that divert water into/from storages, supply channels and depressions or otherwise impound flows
- works used for multiple purposes that facilitate floodplain harvesting. Examples include:
 - levees and conveyancing works and off-river storages constructed in billabongs or depressions
 - below-ground level channels that deliver water into storages
 - works that collect rainfall runoff and deliver that water into storages.

Integrating floodplain harvesting, works and work approvals

To implement the policy, the department is working with landholders with eligible floodplain harvesting works to assess and grant water supply work approvals for relevant works.

Depending on their location, size and configuration, floodplain harvesting works could be:

- a water supply work
- both a water supply work and a flood work.
- It is also possible that works located within a floodplain are not floodplain harvesting works. The definition and approval requirements for such works are set out below. Table 1 also provides examples of works and scenarios that may apply to works used for floodplain harvesting.

Works and work approvals under the Water Management Act

Section 90 of the *Water Management Act 2000* defines the types of water management work approvals that may apply to floodplain harvesting.

1. Water supply works and approvals

A key component of the project is for the department to assess and grant water supply work approvals for floodplain harvesting works.

A water supply work is a work used:

- for the purpose of taking water from a water source (e.g. a water pump or water bore)
- for the purpose of capturing or storing water (e.g. a tank or dam)
- for the purpose of conveying water to where it will be used (e.g. a water pipe or irrigation channel)
- that has, or could have, the effect of impounding water in a water source (e.g. a weir)

and includes all associated pipes, sluices, valves, metering equipment and other equipment.

The requirements of a water supply work approval state that a landholder must not construct or use a water supply work unless an exemption applies or it has an approval. Exemptions are listed in Part 3, Division 2, Subdivision 3 of the *Water Management (General) Regulation 2018* (Water Management Regulation).

Find more information about the exemptions in the department's *Water supply work approval exemptions* factsheet (https://www.industry.nsw.gov.au/_data/assets/pdf_file/0006/172095/Water-supply-work-approval-exemptions-fact-sheet.pdf).

2. Flood works and approvals

Flood works are defined by reference to their location and potential to effect water flows.

A flood work is a work that is situated:

- in, or in the vicinity of, a river, estuary or lake, or
- within a floodplain.

To be a flood work, a work must also be of such a size or configuration that its use would affect:

- the flow of water to or from a river, estuary or lake
- the distribution or flow of floodwater in times of flood
- diversion of water flowing to or from a water source (e.g. a bank or levee).

A flood work could be a barrage, causeway, cutting or embankment (including all associated pipes, valves, metering equipment and other equipment). If they satisfy the above criteria, roads, infrastructure protection works, building pads, levees, storages, stock refuges and supply channels could be flood works.

A flood work approval is required to construct or use a flood work unless an exemption applies. Exemptions are listed in Part 3, Division 2, Subdivision 6 of the *Water Management (General) Regulation 2018*. It should be noted that a flood work approval does not authorise the take of water from a water source.

Flood work approvals must be consistent with a floodplain management plan. As a result, floodplain management plans play an important role in guiding what works may be granted. For clarity, flood work approvals will not be granted as part of the process of volumetrically licensing floodplain harvesting.

The water supply work approval process for floodplain harvesting works

How do I register/apply for a water supply work approval for floodplain harvesting?

The department has sought registrations of interest from eligible floodplain harvesting landholders. This process has now closed, but the department continues to work with landholders to ensure that eligible floodplain harvesting works installed on each farm are accurately identified, described and recorded in accordance with the prescriptions of the policy.

The process of farm scale validation will result in the development of a water infrastructure plan for each eligible property. More information about eligibility and how water infrastructure plans are developed are in the *Guideline for the Implementation of the NSW Floodplain Harvesting Policy*. See https://www.industry.nsw.gov.au/data/assets/pdf_file/0007/272338/floodplain-harvesting-implementation-guidelines.pdf.

For each eligible property, the department will send the landholder a prefilled water supply work approval – floodplain harvesting application form. The information provided in this form is based on the water infrastructure plan for that property and includes all works that are currently constructed.

To formally apply for this approval, the landholder needs to review the prefilled application form, amend any incorrect information and submit the form to the department at floodplain.harvesting@dpi.nsw.gov.au. To amend an existing water supply work approval and/or water use approval, the landholder must contact WaterNSW.

No application fees are payable for water supply work approvals assessed as part of the Healthy Floodplains Project. Fees will be charged for flood work approvals and amended water supply work approval applications in accordance with the normal WaterNSW fee schedule.

For more information visit WaterNSW at <https://www.waternsw.com.au/customer-service/water-licensing/approvals/water-supply-work-and-use-approvals>.

Table 1: Water supply work for floodplain harvesting and a flood work approval

Works	Scenario
Water supply work	<p>Floodplain harvesting work (e.g. a water pump, tank or dam)</p> <ul style="list-style-type: none"> • water supply work approval required • application prefilled, assessed and determined as part of the Floodplain Harvesting Project
Water supply work and flood work	<p>Irrigation properties within a designated floodplain will typically have a variety of works. These include:</p> <ul style="list-style-type: none"> • flood works, such as protection levees • water supply works, such as pumps located on rivers • other works used for floodplain harvesting. <p>In some instances, a work used for floodplain harvesting may be associated or combined with a flood work, such as a pipe through a levee. For these works, a flood work approval is required for the levee and a water supply work approval is required for the pipe.</p> <p>During the process of assessing and granting water supply work approvals for floodplain harvesting, any flood work that is associated with or combined with a floodplain harvesting work must have a flood work approval.</p> <p>If these types of works do not have a flood work approval, a water supply work approval for floodplain harvesting will not be granted until the flood work approval has been granted. In these situations, landholders should contact WaterNSW to discuss the process to apply for a flood work approval.</p> <p>Conversely, flood works which have an existing flood work approval will be considered in the assessment for a water supply works approval for floodplain harvesting.</p>
Flood work only	<p>Some flood works are not used for floodplain harvesting, for example, causeways, cuttings or embankments and levees that do not collect, extract or impound water flowing across floodplains. In this case:</p> <ul style="list-style-type: none"> • All flood works require a flood work approval, which is issued by WaterNSW. • Some flood works may have an existing flood work approval or be unauthorised. • If unauthorised, NRAR may take compliance action. The landholder may need to apply for a flood work approval. • The application is not assessed as part of the Healthy Floodplain Project and an application fee may be payable.

How will the department assess my application?

The department determines applications for water supply work approvals for floodplain harvesting works by applying the same assessment process used for any water supply work application under the WM Act.

However, applications for floodplain harvesting works do not have to be advertised under clause 26(6A) of the *Water Management (General) Regulation 2018*.

Applications will undergo an assessment that will consider:

- the impacts on the habitat of protected fauna and local ecosystems
- the endangering of any species of animal, plant or other form of life
- protecting habitats, animals and plants that benefit from water or are potentially affected by management activities
- protecting water sources, floodplains and dependent ecosystems (including groundwater and wetlands)
- minimising the degradation of land
- protecting water quality
- minimising cumulative impacts on water sources and other water users
- protecting geographical and other features of Aboriginal significance and major cultural, heritage or spiritual significance
- maximising social and economic benefits to the community.

Applicants will be advised in writing of the department's determination and, if the application is granted, the applicant will be issued with a statement of approval which will be subject to appropriate conditions.

Responses to non-compliance

The Natural Resources Access Regulator (NRAR) is the independent regulator responsible for enforcing water management laws in NSW. Non-compliance regarding water supply works approvals for floodplain harvesting works will be integrated into NRAR's programs.

Find more information at NRAR's compliance approach to flood works factsheet at https://www.industry.nsw.gov.au/data/assets/pdf_file/0003/273621/Regulatory-Response-to-Floodplain-Management-fact-sheet.pdf.

NRAR will respond to reports, incidents or other intelligence received from the community and assess the information. Investigations will be prioritised according to risk-based principles, giving priority to situations that have the potential to cause serious harm and to patterns of similar incidents that may suggest ongoing or broader issues.

NRAR's responses to non-compliance, 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.

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