

Department of Climate Change, Energy, the Environment and Water


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# What we heard report

Water for bushfire preparedness and firefighting

July 2024



# Acknowledgement of Country

The Department Climate Change, Energy, the Environment and Water acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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What we heard report - Water for bushfire preparedness and firefighting

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# Executive Summary

The NSW Department of Climate Change, Energy, the Environment and Water has reviewed the regulatory framework that applies to the take of water to prepare landholdings for an imminent bushfire and fight an active fire. The department seeks to find a way for landholders and occupiers (including community groups) to be able to take small volumes of water for this purpose in a cost-effective way, while acknowledging the need to manage the impacts of any additional water take on the environment and other water users.

In collaboration with the NSW Rural Fire Service and other water-agency partners, the department developed a proposed approach.

This *What we heard* report details the feedback received on the proposed approach during the consultation phase. This phase included preliminary consultation with a range of peak water stakeholder groups in December 2023 followed by broader public consultation from 25 March to 17 May 2024 with an online public engagement session in April 2024.

During public consultation on the proposed approach, over 800 people directly engaged with the department to learn about the project, including attending an engagement webinar, other direct contact with the department, downloading the discussion paper and visits to the webpage.

Community and stakeholder feedback was received through questions (15) raised during the engagement webinar and from written submissions (4) tendered as part of the consultation process. Some feedback raised concerns about and/or made suggestions for how to improve specific aspects of the proposed approach. The key issues included:

- permitting water use to include firefighting training
- encouraging landholders to design and install firefighting systems that recycle water
- allowing water to be used on a landholding and on any neighbouring landholdings being threatened by an active or imminent fire
- applying limits or restrictions on water extraction points in sensitive areas such as RAMSAR sites, SEPP wetlands, and the like, to exclude or protect them in some way.

The department will consider this feedback in developing a final proposed approach for making water available to landholders for bushfire preparedness and firefighting for consideration by the Minister for Water.

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## About this report

This report provides an overview of what we heard from submissions and discussions with stakeholders on the [Proposed approach for enabling access to water for bushfire preparedness and firefighting paper](#).

The purpose of this document is to provide the community with an understanding of the range of feedback we received on the proposed approach. It also aims to assure community and stakeholders that we have heard the concerns and issues they raised in their feedback.

The report consists of:

- an overview of the engagement process and participation by community members
- a summary of feedback and views on the proposed approach
- detailed feedback in relation to issues identified in the proposed approach
- next steps.



Image: Burnt water tank on a NSW north coast property. *Photo credit: Vivienne Nehme.*

# Introduction

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## Background

The department has been considering whether changes could be made to the regulatory settings to allow landholders to take relatively small volumes of water to prepare for and fight bushfires<sup>1</sup>.

The work started in response to concerns raised by community groups, who found the cost of needing to obtain a water access licence and approvals to take and store small amounts of water was inhibiting their capacity to install and use small-scale firefighting infrastructure.

There are currently no provisions in NSW allowing landholders to take water from a water source for bushfire preparedness or firefighting without a licence or relevant approvals. Domestic and stock rights that are available to landholders with waterfront land or an underlying aquifer have limited application, only permitting water for normal household purposes and the watering of stock. These rights do not extend to preparing properties for bushfires or fighting bushfires. In emergency fire situations, landholders need to be able to draw on all sources of water, immediately, to help protect life and property.

Under current laws, a person can take water without a licence for the purpose of controlling, suppressing or extinguishing a fire, but only when acting under the direction of an authorised fire brigade officer.

## The proposed approach

To provide landholders with quick and easy access to water for bushfire preparedness and firefighting, the proposed approach is to create an exemption within the Water Management (General) Regulation 2018 to allow water to be taken and used by landholders without the need to hold a water access licence or a water use approval. The exemption would be subject to conditions, including well defined permitted and non-permitted purposes for taking and using water under the exemption and a limit on the volume that could be taken and stored for later use.

The department would undertake a review in 3-5 years' time (once sufficient information is available) to understand how landholders have used the exemption. It would consider whether there

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<sup>1</sup> **bushfire** and **firefighting** should be read broadly to include all types of fire emergencies, including bushfires, grassfires, shrubland fires, electrical fires, fires in residences and on industrial premises, etc.

**landholders** throughout this document means the owners and/or occupiers of land.

is merit in transitioning from the exemption to a new form of basic landholder right. If deemed appropriate through the review, replace the exemption with an expanded basic landholder right built into the *Water Management Act 2000*.

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## Engagement overview

The public engagement on the proposed approach for making water available for bushfire preparedness and firefighting aimed to receive feedback from a range of water stakeholders as well as the wider community. The department used a range of consultation methods, including through:

- meetings with individual peak water stakeholders before the public consultation period
- a public consultation phase involving:
  - a public webinar
  - an opportunity to lodge submissions
  - an opportunity to meet and/or speak to the project team directly.

## Engagement with peak water stakeholders

In December 2023, the project team held preliminary consultation sessions with a range of invited peak stakeholder groups to discuss the draft options and draw out any further issues needing consideration. The stakeholders who were available to meet were:

- Local Government NSW
- Nature Conservation Council of NSW
- NSW Aboriginal Land Council
- NSW Farmers Association
- NSW Irrigators Council
- Water Directorate
- 3 community groups who had told the department about the issues they have encountered with the current framework.

## Public consultation

The objectives of the public consultation were to:

- inform stakeholders and the wider community of the proposed approach for making water available for bushfire preparedness and firefighting

- communicate detail of the proposed approach, including an understanding of the issues and rationale for the approach taken
- determine the level of support for the proposed approach
- seek feedback and comment, with issues raised during the public consultation phase considered when finalising the proposed approach.

Public consultation on the proposed approach commenced on 25 March 2024 and ran over an eight-week period until 17 May 2024<sup>2</sup>. The consultation period provided an opportunity for water users and other interested parties to make comment about the proposed changes. Feedback was able to be shared with the department by:

- completing an online 'Have your say' form
- emailing comments to [water.enquiries@dpie.nsw.gov.au](mailto:water.enquiries@dpie.nsw.gov.au)
- requesting a phone call or Teams meeting with a project team member.

As part of the public consultation, the department launched a 'Water for bushfire preparedness and firefighting' webpage with links to the following support information:

- a [Proposed approach for enabling access to water for bushfire preparedness and firefighting paper](#) setting out the key points of the proposed approach
- a [Water for bushfire preparedness and firefighting – background paper](#), providing an overview of the key issues, the process taken to identify and analyse options, and the rationale for the proposed policy approach
- a set of [Frequently asked questions](#)
- four short video presentations about the proposed approach.

The department promoted the consultation opportunity through:

- direct email to peak water stakeholders
- Water News – March e-Newsletter
- 'Have Your Say' webpage – Department of Customer Service
- a media release
- social media – Facebook and X (twitter) posts
- Water Engagement Roundup presentation.

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<sup>2</sup> The original closing date for submissions was 6 May but this was extended to 17 May following a stakeholder request for this extension.



The overall level of engagement and exposure includes:



## Water Engagement Roundup presentation

The Water Engagement Roundup is a live monthly webinar about all ongoing and upcoming engagements and consultation on important water programs and issues for NSW. Water stakeholders and community members can subscribe to the Water Engagement Roundup webinars to receive email advice of upcoming webinar presentations.

At the April Water Engagement Roundup webinar, held on 17 April 2024, the project team delivered a presentation on the proposed approach for making water available for bushfire preparedness and firefighting. This was followed by an open question and answer session with attendees. Webinar attendees were informed that the department was seeking community feedback on the proposed approach and to visit the webpage to find out more.

A post event email was sent to those that had registered for the webinar, providing links to watch a recording of the presentation and to provide feedback.

The webinar engagement statistics include:



# What we heard

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## Peak water stakeholder engagement

Feedback received from peak stakeholders consulted in December 2023 reflected support for the project objectives. Everyone appeared to understand the current situation and the need for regulatory change to make water available for bushfire preparedness and firefighting.

Key insights from peak stakeholder feedback:

- all stakeholders accepted that the refilling of dams or recompense to landholders when water is taken by the NSW Rural Fire Service (NSW RFS) for active firefighting was out of scope and a separate policy matter. Those with a keen interest in this issue were mostly already in discussion with relevant parts of the NSW RFS and/or Regional NSW
- most groups thought that Option 4 (hybrid) was the best
- all groups disliked Option 3 (specific purpose access licence)
- no-one identified additional options that had not already been considered
- general agreement that ‘bushfire preparedness’ should not be defined too tightly, though there was appreciation of the need to define what is an ‘imminent bushfire’. Stakeholders were keen to see more detail around this
- most thought a 1 megalitre volumetric limit would be appropriate, though some questioned the need for any restrictions or conditions
- concerns were raised about mandatory reporting being a burden on landholders and that any information supplied is likely to be incomplete and/or unreliable
- no concerns about the impacts that this form of take might have on licensed water users or extraction limits in water sources – due to the expected small volumes and intermittent use
- no concerns about the need for a streamlined and low-cost water supply work approval application process for new bores dedicated for these purposes only
- practical insights were shared, including how stakeholders prepare and respond to bushfire threats, assisting to refine the options and the proposed approach.

Based on the feedback from peak stakeholders and the work of the inter-agency technical advisory group, the department identified Option 4 (hybrid) as the preferred option and developed it further to become the proposed approach.

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## Public consultation

During the public consultation period, a total of 4 submissions and 2 enquiries were received through the feedback channels provided.

Key issues raised in submissions:

- two submissions from members of the community did not support the proposed approach, citing concerns that the department was seeking to restrict how water is supplied and used to fight bushfires. Both submissions argued that the current arrangements for water use in bushfires remain as they are. Commentary was also provided on other bushfire issues that had been identified in the consultation documents as out of scope for the project
- a submission was received from a community-based organisation that has previously made representations to the department, concerning the problems they encountered with the current regulatory framework when trying to install a community bushfire shelter. The submission supported the proposed approach, believing it ‘represents a sensible and workable approach.... for the community to defend and protect’ against bushfire threats
- a submission from a government department expressed concern that the proposed approach would potentially allow unlimited additional water extraction from the catchments of Intermittently Closed and Open Lakes and Lagoons (ICOLLs). The basis for their concern is that the proposed approach does not set a volume limit, there are no recording or reporting conditions, and ‘imminent fire’ is not clearly defined.

Enquiries received:

- a resident of the Blue Mountains area asked whether they are permitted to ‘top up’ rainwater tanks that are used for firefighting, with water from their connected town water supply
- a government entity with responsibility for managing public land requested further information about the proposed approach to understand if there were any implications for the management of public lands.

A more detailed overview of the feedback received during the public consultation period and the department’s response is provided in Appendix 1.

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## Water engagement round-up

Participants of the Water Engagement Roundup were able to submit comments and questions both prior to and during the webinar, as well as via a post-webinar survey. Feedback received indicated that some stakeholders did not fully understand how the proposed approach is intended to operate. Other feedback identified additional issues for the department to consider.

Key issues raised:

- permit water extracted under the proposed exemption to be used for firefighting training
- consider encouraging landholders to design and install systems on structural assets that recycle the water used for firefighting to reduce the amount of water taken
- allow water taken under the exemption to be used on a landholding and on any neighbouring landholdings that are being threatened by an active or imminent fire
- apply limits or restrictions on water extraction points in sensitive areas such as RAMSAR sites, SEPP wetlands, and the like, to exclude or protect them in some way.

A more detailed overview of the feedback received via the engagement webinar and the department's response is provided in Appendix 2.



Image: Bushfire threatening a NSW north coast property. *Photo credit: Nath Mallon.*

# Next steps

During public consultation on the proposed approach, over 800 people directly engaged with the department to learn about the project, including visits to the webpage, downloading the discussion paper, attending the engagement webinar, and direct contact with the department.

The department received 4 submissions as part of the public consultation, of which 2 were against the proposed approach. Given the broadly supportive and informative feedback from stakeholders during the targeted and broader consultation processes, the level of state-wide media coverage, the large number of people who accessed information about the proposed approach and the corresponding small number of submissions and enquiries received, there appears to be community and stakeholder support for the proposed approach to make water available to landholders for bushfire preparedness and firefighting.

Some feedback received through the Water Engagement Round-up and public consultation did raise minor concerns and/or make suggestions for how to improve specific aspects of the proposed approach. The department will further consider these issues, and make amendments to the proposals where appropriate, though no significant changes to the broad content or operation of the proposed approach are envisaged.

The next action is to develop and submit recommendations on the proposed approach to the Minister for Water for consideration.

The department will continue to communicate with stakeholders and the community about the project.

# Appendix 1: Public consultation feedback and initial response

Table 1 below gives an overview of the feedback received during the public consultation period, and the department's initial response to that feedback.

Table 1: Public consultation feedback and initial response

Feedback	Department's response
<p><b>Community member:</b></p> <p>As both a retired farmer and active member of the local bush fire brigade, there is no need for this. If there is a fire put it out with the water available. If a dam is emptied, then the RFS must replace it. Farmers have always supplied the water for firefighting!</p>	<p>Harvestable rights allow landholders to catch rainfall runoff in a dam and they can use this water for firefighting. However, there are no provisions in NSW allowing landholders to take water from a water source for bushfire preparedness or firefighting without a licence or relevant approvals.</p> <p>Under current laws, a person can take water without a licence for the purpose of controlling, suppressing, or extinguishing a fire, but only when acting under the direction of an authorised fire brigade officer.</p> <p>The issue of refilling dams and recompense for water taken by the NSW RFS during a fire is out of the scope of this project. The NSW Reconstruction Authority and the NSW RFS are currently considering this issue separately.</p>
<p><b>Community member:</b></p> <p>Major concerns that the proposed approach puts restrictions on water usage during bushfires, which could put firefighter and community lives at risk. Suggested that the government should focus on reducing the extent of bushfires through prescribed burning, develop town planning controls in bushfire prone areas, and better bushfire management. More regulation is not the answer. Expressed concerns that NSW RFS had not been included in the development of the proposed</p>	<p>There are no provisions in NSW allowing landholders to take water from a water source for bushfire preparedness or firefighting without a licence or relevant approvals. The proposed approach is not placing restrictions on water usage during bushfires, but rather providing an option to allow landholders to take small volumes for bushfire preparedness and firefighting.</p> <p>The department developed the proposed approach in close collaboration with an inter-agency working group established for this purpose. The inter-agency group included representatives from the NSW RFS.</p> <p>Landholders may already use water from private dams, such as harvestable rights dams for any purpose, which includes bushfire preparedness activities and firefighting.</p>

Feedback	Department's response
<p>approach and uncertainty about the use of water from private dams.</p>	<p>Issues regarding fire mitigation practices, town planning controls, and bushfire management are out of the scope of this project.</p>
<p><b>Community based organisation:</b></p> <p>Support the proposed approach, and believe it represents a sensible and workable approach for the community to defend and protect itself from growing bushfire threats.</p>	<p>Noted.</p>
<p><b>NSW government department:</b></p> <p>Concerned that the proposed approach could allow unlimited water extraction from the catchments of Intermittently Closed and Open Lakes and Lagoons (ICOLLs). Recommend updating the proposal to define 'imminent fire', introduce reporting and monitoring requirements, and set volume limits for water extracted for bushfire preparedness and firefighting.</p>	<p>Risks to water sources and dependent ecosystems are key considerations when providing landholders with more access to water. The department will consult further with the provider of this feedback to better understand the issues and their concerns. The department will consider this matter during the next phase of the project.</p>



# Appendix 2: Water engagement round-up feedback and responses

Table 2 below gives an overview of the feedback received as part of the Water Engagement Round-up webinar, and the department's response to that feedback.

Table 2 - Webinar feedback and responses

Feedback	Response
<p>Will water utilities and government organisations in general, fall under these changes? If so, would utilities need to provide access to storage dams on their sites?</p>	<p>The proposal relates to the owners and occupiers of land being able to access water from adjacent rivers and underlying aquifers without needing a water access licence. As an owner or occupier, these organisations would be able to make the same use of the exemption as anyone else. The department does not propose to open up access to water stored in public dams, town water supply dams or private dams on someone else's landholding for these purposes.</p>
<p>Can the water be extracted for fire fighter training?</p>	<p>The proposal is to exempt landholders from needing a licence for bushfire preparedness and firefighting. Water used for firefighter training hasn't been raised as a specific issue to date but is something the department will discuss with the NSW RFS to see if any additional action is needed.</p>
<p>How does the allocation of water for bushfire fighting and recovery work? Is it devised separately for each river?</p>	<p>Under the current laws, landholders require a licence to take water for these purposes and it would be accounted for through their licensed entitlements and annual allocations. Water taken under the proposed exemption would not be accounted for at a water source scale, but the department expects the overall volumes to be very small compared with all other consumptive and non-consumptive uses.</p>
<p>Has consideration been given to encouraging landholders to design/install systems on structural assets that will recycle firefighting water, thus reducing take.</p>	<p>That is a worthwhile suggestion that the department could include in our communications at the time of rolling out any changes. Throughout the project, we have come across examples of firefighting tanks and roof sprinkler systems where water used to wet down roofs can be captured for reuse.</p>

Feedback	Response
<p>How is compliance with licence conditions monitored currently or in the event of a new type of licence, exemption, or harvestable right?</p>	<p>The Natural Resources Access Regulator (NRAR) is the independent regulator with responsibility for, and capacity to ensure that people comply with water laws. This includes compliance with licence conditions and rules surrounding the capture of rainfall runoff in harvestable rights dams. The NRAR does this through education programs, compliance monitoring, and investigation/enforcement actions, using modern tools like satellite imagery.</p>
<p>Isn't it hard to find information on practices once they have been exempted?</p>	<p>The department expects only small volumes of water would be taken infrequently for bushfire preparedness and firefighting in any particular area. The risks to water sources, dependent ecosystems and other water users are thought to be very low. For this reason, and the difficulties involved in mandating reporting for this form of take (as discussed in the <a href="#">Background paper</a>), periodic targeted landholder surveys are proposed as the best means of obtaining information on the scale and volume of water use.</p>
<p>What about volumes during drought years when water levels are already very low and there would be a strong temptation to take water to store and use, but also more likely to have a fire?</p>	<p>A limit on the volume of water that can be taken from a water source to be stored in a dams or tanks for later use is proposed – at 0.1 megalitre per landholder per year – to ensure dams or tanks cannot simply be refilled with river water or groundwater to replace water that is used for other purposes. If water availability is limited during a dry spell, the ability to draw on small volumes for these critical purposes is thought to be an important benefit to landholders, communities and significant sites that might otherwise be severely damaged by fire. The taking of water for critical needs is prioritised over other uses of water in extreme events like droughts. For more information on how water access is managed during extreme events, see the <a href="#">Extreme events policy</a>.</p>
<p>If the 0.1 megalitre is not metered as it is exempt, how will the volume taken for this purpose be monitored? Also, will this be policed and assessed?</p>	<p>Monitoring and compliance of the proposed 0.1 megalitre limit relating to storage and future use would be the responsibility of the Natural Resources Access Regulator. The NRAR has a growing list of tools at their disposal, including sophisticated satellite imagery that can detect and be used to investigate and act on water theft.</p>

Feedback	Response
<p>Is there going to be any attempt to define a Basic Right Volume of take like the reasonable use guidelines?</p>	<p>Apart from the 0.1 megalitre volume limit proposed for water being extracted and placed in a dam or other storage for later use, no volume limits or guidelines are proposed for when an active or imminent fire is threatening a landholding. The Department has been consulting on a separate policy matter relating to the use of domestic and stock rights which sought views on whether further regulation of water taken under that form of right is needed. That policy project is still in progress and the department will provide further information once it has fully considered the feedback.</p>
<p>For many rural people, maintaining a green lawn around the house is very much part of bushfire preparedness, however apparently excluded from this proposal. Is it correct to say that this water is only to be used for "Imminent" bush fire preparedness actions, not all bush fire preparedness actions?</p>	<p>That is correct. Water taken under the proposed exemption could only be used to prepare for an imminent bushfire threat or for firefighting. In this context, imminent means that a fire is impending or likely to occur at any moment.</p> <p>Landholders wanting to maintain green lawns may be able to access water under basic landholder rights. Harvestable rights allow landholders to catch rainfall runoff in a dam which could be used for this purpose. Similarly, domestic and stock rights allow landholders to take and use water for domestic consumption which includes garden purposes.</p>
<p>What would the process be for a landholder to apply for an exemption and how long is the process likely to take?</p>	<p>There is no need to lodge an application or notification or wait for approval before taking water under the proposed exemption for bushfire preparedness and firefighting. If, however, a new water supply work is to be constructed, a water supply work approval application will be required.</p>
<p>It seems a neighbour cannot use their water to help stop a fire on a neighbouring property even though this would help protect their own property by stopping the fire getting to them. Lots of landholders would want to work together.</p>	<p>This is a good point that the department will consider during the next phase of the project along with all other submissions received.</p>

Feedback	Response
<p>Has thought been given to expanding the permitted uses of stock and domestic rights to include water for bushfire preparedness and firefighting?</p>	<p>Yes, that option was considered as Option 3 (see the <a href="#">Background paper</a>). It also forms part of the proposed approach, with an undertaking to review in 3-5 years' time how the exemption is being used to decide if it should be replaced by an expanded basic landholder right. This could be achieved by expanding the permitted uses of the existing domestic and stock right or creating a new category of basic landholder right.</p>
<p>Could an outcome of restricting firefighting to an "imminent risk" result in more people remaining past a safe evacuation point in order to have access to firefighting water?</p>	<p>The objective of the proposed approach is to provide landholders and occupiers with legal access to water for bushfire preparedness and firefighting. We have worked closely to the NSW RFS to make sure that what we are proposing is sound and includes provision for preparing for bushfires. The NSW RFS has many resources available on how to plan and prepare for bush fire, including what to consider when making the decision to leave or stay and defend a property. The proposed exemption is about providing legal access to water for landholders or occupiers that choose to stay, so they can prepare for and if necessary, fight a bushfire threat.</p>
<p>Are there limits or restrictions on extraction points in sensitive areas like SEPP wetlands, RAMSAR, National Park Zones?</p>	<p>No limits or restrictions are proposed at this point but risks to water sources and dependent ecosystems are key considerations when providing landholders with more access to water. This is a matter the department will consider further during the next phase of the project along with all other submissions received.</p> <p>A key issue is whether water taken during bushfire emergencies for the protection of life and property should take priority over the environment and other water uses. Current legislation allows NSW Fire and Rescue and the NSW RFS to take and use water (without caveats) during an emergency, including from sensitive environmental areas.</p>