

# Water for fire preparedness and fire fighting

When fire threatens life and property, landholders need fast and easy access to water.

New amendments to the *Water Management (General) Regulation 2018* provide exemptions that allow landholders to take water for specific fire-related purposes without the need to hold a licence or certain approvals. The changes make it easier and cheaper for landholders to access water to prepare for and respond to emergency fire situations.

Water is a vital resource for the people of NSW, supporting communities, Aboriginal culture, industries such as agriculture and fisheries, recreation and the environment. Our limited water resources are shared for the benefit of present and future generations under the provisions of the *Water Management Act 2000*. It is the responsibility of all water uses to ensure sustainable and efficient use of water and to not take more than needed.

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## What has changed

In the past, water taken for fire fighting and preparedness was subject to the standard water licensing and approval requirements. The exemptions now allow landholders to take and use water without a water access licence or water use approval for the following purposes:

- to fight an active fire on a landholding
- to prepare for a nearby fire that is threatening a landholding
- for fire fighting training (by or under the supervision of a fire fighting authority)
- for controlled burning (by or under the supervision of a fire fighting authority)
- for the testing and maintenance of fire fighting equipment.

Water supply work approvals are also no longer needed for mobile pumps/tanks to take water for the above purposes.

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## Using the exemptions in a fire emergency

If there is a fire on a landholding or on nearby land and it is posing a threat, the owner or occupier of the land can take water and use it to:

- control, suppress or extinguish the fire
- protect people, animals or property (such as buildings and machinery) from the fire.

A 'fire' includes all types of fire emergencies, such as bushfires, grassfires, shrubland fires, electrical fires, house fires and fires on industrial premises.

A fire becomes a threat to a landholding if the flames, heat, smoke and/or embers are likely to harm people, animals or property.

A landholder cannot take water under the exemptions for other reasons, such as:

- because a total fire ban has been declared
- a high official fire danger rating has been communicated – such as “Extreme” or above
- a fire is present but is well away from the landholding and not posing any real threat to the that person’s landholding
- to regularly irrigate grassed or lawn areas around buildings to reduce future fire risks.

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*Important: An active fire must be present before these exemptions can be used, except when carrying out fire fighting training or testing and maintaining firefighting equipment.*

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## Water sources from which water can be taken

Water can be taken from the following water source types:

- a surface water source located on the person’s landholding – such as a creek, stream or river running through the landholding
- a surface water source abutting a landholding – such as a river on the boundary of a landholding, dissecting it from a neighbouring property
- a groundwater source (water in an aquifer) found under the surface of the person’s landholding.

The exemptions do not allow a landholder to take water from any other water source or to enter a landholding they do not own or occupy.

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### Notes:

1. *Regardless of the exemptions, landholders can take water from dams or tanks on their landholding that store water already lawfully taken from a water source. This includes water stored in harvestable rights dams that capture rainfall runoff. Harvestable rights water can already be used for fire fighting purposes.*
  2. *The NSW Rural Fire Service can enter properties without permission and take water from any source to fight fires during declared emergencies. The issue of compensation for water taken from farm dams by emergency service agencies is a matter being separately considered by the NSW Rural Fire Service and the NSW Department of Primary Industries and Regional Development (DPIRD). Inquires on this matter should be directed to DPIRD ([www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)) or Local Lands Services ([www.lls.nsw.gov.au](http://www.lls.nsw.gov.au)) in your region.*
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## Where the water can be used

Water taken under the exemptions can be used on the person's landholding and on neighbouring land abutting the landholding and used for the purposes set out in this fact sheet. It cannot be conveyed to or used on other lands.

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## The volume that can be taken

The volume of water taken must be reasonably proportionate to the fire that is being fought or the threat being posed by an approaching fire.

For example, the exemptions do not allow a landholder to take:

- 1 megalitre of water to extinguish a small grass fire
- any water if the fire is far away from the landholding and posing no real threat to people, animals or assets on the landholding
- water every week to test and maintain fire fighting equipment.

A volume limit applies to landholders who want to take water under the exemptions for storage in a tank or dam for later use – see section below relating to storage.

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## Fire preparation activities

Activities to prepare for a fire that is threatening a landholding include:

- wetting down assets – including domestic houses and outbuildings (such as machinery, hay storage and animal housing sheds), community halls or buildings, and community gathering spaces (such as culturally significant sites with no infrastructure)
- wetting down land directly surrounding assets to reduce the risk of those assets catching fire, but not to a level that is disproportionate to the threat.

The action of wetting down can include the use of fire fighting equipment, such as pumps, hoses, reticulation systems and roof sprinklers, or blocking downpipes to flood gutters.

If no fire is present, the take and use of water under the exemptions are limited to:

- fire fighting training (by or under the supervision of a fire fighting authority)
- controlled burning (by or under the supervision of a fire fighting authority)
- testing and maintaining fire fighting equipment, and
- increasing the amount of water stored in a tank or dam for future fire fighting needs, noting a volume limit applies in this case.

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## Water taken and stored for later fire fighting use

Water can be taken from a water source and stored in a tank or dam for later use to fight or prepare a landholding for a future possible fire. The tank or dam does not have to be used solely for this purpose and may hold water from other sources.

However, if a landholder takes water under the exemptions to store it, a 100,000 litre (that is 0.1 megalitres) per landholding per fiscal year limit applies to that take and storage and the take overall must be reasonably proportionate. For example, a landholder cannot keep accruing multiple hundreds of thousands of litres in storage over multiple years if no fires have eventuated.

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## Water uses that are not covered

A landholder cannot use water taken under the exemptions for:

- domestic or stock purposes, as this is provided for under basic landholder rights
- commercial purposes, including agricultural (such as irrigating crops and pasture horticulture, operating feedlots and so on) and industrial uses, as this is provided for under the water access licence system
- a secondary purpose, such as supplying it to another person or any other use from which a commercial benefit is or may be obtained. Water taken and used for another purpose is subject to the standard licensing and approval requirements, or
- refilling a dam when water has been taken from it by a fire fighting agency during a bushfire.

Further, the exemptions do not cover someone who intentionally starts or is associated with starting a fire with the aim of taking water under the exemptions for other uses. It is an offence under the *Crimes Act 1900* to intentionally cause a fire and to be reckless as to the spread of the fire to vegetation on any public land or another person's land.

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## Water supply work approval requirements

A water supply work approval is required for any new dam or bore constructed at a fixed location. This ensures that the impacts of new permanent works on other water users and the environment can be assessed.

However, if the new work is solely to provide water for fire preparedness and fire fighting, a streamlined impact assessment process will apply and the application fee will be the same as a basic landholder right bore application. If a new work is to be used for multiple purposes, such as irrigation, then the standard water supply work approval application process and fees apply.

Mobile water tanks and pumps (such as temporary fire fighting pumps and vehicle or trailer mounted fire fighting units) are exempt from water supply work approval requirements when used solely for fire preparedness and fire fighting.

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## Non-urban metering provisions do not apply

Mandatory metering conditions do not apply to water supply works that are used to take water under a licence exemption and not nominated on a water access licence.

Landholders are encouraged to record the volume of water taken under the exemption for their own records but are not required to submit any reports.

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## Monitoring, evaluation and enforcement

The department will undertake targeted periodic surveys of landholders to identify the extent and scale of water used for fire fighting and fire preparedness. This will help us understand how the exemptions are being used and inform a medium-term (3-5 year) review. The review will look into whether the exemptions should be maintained, modified or transition to a new form of basic landholder right. Any expansion of basic landholder rights to include fire preparedness and fire fighting would require an amendment to the *Water Management Act 2000*.

In relation to compliance, the Natural Resources Access Regulator (NRAR) monitors and enforces water use activities. The NRAR uses numerous tools including reports about suspected non-compliance and intelligence from remote surveillance techniques and technology (such as aerial photography and satellite imagery analysis) to identify non-compliant water take. NRAR can investigate potential non-compliance with the exemptions and may take enforcement action as required.