Rule Summary Sheet for in-river dams on streams of third order or higher

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Plan details

Water sharing plan:	Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024
Plan commencement:	24 May 2024
Term of plan:	10 Years

Important

This fact sheet summarises the rules contained in the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024* (the Plan) specific to in-river dams on streams of third order or higher. It is intended as a guide only. Consult the water sharing plan for further details. Alternatively, contact the department on 1300 081 047, or via email at water.enquiries@dpie.nsw.gov.au

Water access and other water sharing plan rules are implemented through conditions on the "Statement of Conditions" for access licences and "Statement of Approval" for water supply work approvals. These conditions are updated in accordance with any new or amended water sharing plan. However, this can take some time. Licence and approval holders must comply with the conditions on their existing licence condition and approval statements until new statements are provided by the department.

You can access this information from your 'Statement of Approval', 'Statement of Conditions' or via the WaterNSW water register.

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Construction of dams on streams of third order or higher

Background

The construction of dams on streams of third order or higher has been identified as a key threatening process for catchment and marine environments. Water sharing plans can address these risks by prohibiting the construction of such in-river dams in areas with high environmental values.

Current rules

The recently commenced *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024* (the plan) prohibits the construction of in-river dams on streams of third order or higher in twenty-one water sources. See Part 7 Division 2 section 42(1) of the plan for a list of these water sources.

Six of these water sources have a time limited exemption, See Part 7 Division 2 section 42(3) to assist to transition to the new rules.

Transition period

To provide time to adapt to these changed rules, the plan includes a transition period. This is in the form of an exemption which applies to six of the water sources where the rules for construction of in-river dams have changed, including:

- Candelo Creek
- Dignam's Creek
- Dry River
- Narira Creek
- Sandy Creek
- Tantawangalo Creek.

In these water sources, approval under the *Water Management Act 2000* may be granted if a development application for the construction of an in-river dam, which will capture and store licensed water, is submitted prior to 1 July 2025. Applications for development consent and approval will be subject to the requirements set out in the *Environmental Planning and Assessment Act 1979* and the *Water Management Act 2000*. In circumstances where development consent is not required the application for the dam must be submitted to WaterNSW with evidence that development consent is not required by 1 July 2025.

Authorisations required

Where dams are permitted with development consent under relevant environmental planning instruments, the landowner will need to make the relevant application. This will require:

- **development consent** under the *Environmental Planning and Assessment Act 1979* from Bega Valley Shire Council, and
- a **water supply work approval** under the *Water Management Act 2000* from WaterNSW for the construction and use of the dam, and
- a relevant category **water access licence** under the *Water Management Act, 2000,* that covers the volumetric capacity of the dam. Talk to WaterNSW about your existing licence, trade and high flow conversion option as required.

As approval from both the local council and WaterNSW is required, construction of an in-river dam on a stream of third order or higher is integrated development. The Statement of Environmental Effects provided with the development application and list of approvals of the kind referred to in s4.46(1) of the *Environmental Planning and Assessment Act 1979* that must be obtained before the development may lawfully be carried out (to be included with the development application under s25 of the *Environmental Planning and Assessment Regulation 2021*) should identity the development as integrated development.

Council will then refer the development application to WaterNSW and there will be an integrated assessment of the proposal.

- If WaterNSW recommends refusal, Council must refuse consent to the application.
- If WaterNSW recommends approval, Council must be consistent with the general terms of any approval proposed to be granted by Water NSW when granting consent to the development.

Please note that applicants are still required to submit an application to WaterNSW for a water supply work approval after development consent has been granted, but as WaterNSW will have already provided its general terms of approval, processing times for these applications will be reduced.

Both Bega Valley Shire Council and WaterNSW provide a pre-application service advising on the applications process including required forms and fees. It is suggested that applicants seek this advice to ensure they clearly understand the requirements and timeframes.

- Bega Valley Shire Council https://begavalley.nsw.gov.au/services/pre-lodgement-advice
- Phone 02 6499 222
- WaterNSW https://www.waternsw.com.au/customer-services/water-licensing/approvals

Phone 1300 662 077 Option 1 (Licensing)

How the exemption works

WaterNSW will only be able to grant a water supply work approval to construct an in-river dam in the six water sources where the exemption applies if an **application for development consent for the in-river dam has been submitted to Bega Valley Shire Council prior to 1 July 2025. In circumstances where development consent is not required the application for the dam must be submitted to WaterNSW with evidence that development consent is not required by 1 July 2025.**

If a development application is lodged with Bega Valley Shire Council on or after 1 July 2025, the exemption will not apply and any **subsequent application** to WaterNSW for a water supply work approval for the in-river dam will be refused.

If a development application is submitted to council prior to 1 July 2025, and subsequently consent is granted, Water NSW will have 3 years after the date on which the development consent is granted to then grant a water supply work approval. Applicants should submit their application for a water supply work approval as soon as possible.

More information

The exemption is at section 42 (3) of the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024*.

Information about the planning process and the *Water Sharing Plan for the Bega River Area Regulated, Unregulated and Alluvial Water Sources 2024* is available on the department's website, including the water sharing plan pages.