

# Proposed approach for enabling access to water for bushfire preparedness and firefighting

March 2024

This document sets out the approach the department is proposing as the best way of giving landholders easy and fair access to water for bushfire preparedness and firefighting<sup>1</sup>, while managing potential impacts on water sources and other water users.

For more information about this project, see the [Background Paper](#). It includes information on:

- drivers for doing the work
- objectives
- process used to consider policy options
- reasons for arriving at the proposed approach, including conditions, set out below.

Public comments are now invited before the department finalises its recommendations to the NSW Government. Comments can be submitted using [this form](#).

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## Proposed approach

The proposed approach is to create a licence exemption that would provide landholders with quick and easy access to water for bushfire preparedness and firefighting, with a subsequent review phase to consider whether this form of access should transition to a basic landholder right.

The main elements of the proposed approach are:

1. **Exemption:** Create an exemption within the Water Management (General) Regulation 2018 to allow water to be taken and used by landholders for specific purposes without the need to hold a water access licence or a water use approval. The permitted and non-permitted purposes would be well defined (see next section).
2. **Review:** The department would undertake a review in 3-5 years' time (once sufficient information is available) to understand how the exemption has been used by landholders. It

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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.

would consider whether there is merit in transitioning from the exemption to a new form of basic landholder right. The review could consider things like:

- a. when and where the exemption is used and the scale of use
- b. whether the stated objectives are being met
- c. feedback from water users, including any risks, benefits or difficulties encountered
- d. compliance and enforcement issues
- e. whether any changes to access conditions are needed
- f. suitability and need to transition from an exemption to a right.

### 3. **Expand basic landholder rights to include bushfire preparedness and firefighting**

**(optional):** If deemed appropriate through the review phase, replace the exemption with an expanded basic landholder right built into the *Water Management Act 2000*.

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## Defining bushfire preparedness and firefighting

The exemption would allow landholders to take and use water without a water access licence and water use approval for the purposes of protecting persons and animals from injury or death and protecting assets by:

- preparing for an imminent fire that is threatening a landholding with flames, heat and/or ember attack
- fighting an active fire.

### Fire preparedness

Activities to prepare for an imminent fire would include:

- wetting down assets – including domestic households and outbuildings (e.g. machinery or hay storage, animal housing sheds), community halls or buildings and community gathering spaces (e.g. culturally significant sites with no infrastructure)
- wetting down land directly surrounding each of the above.

The action of wetting down assets and land can involve the use of firefighting apparatus, such as firefighting pumps, hoses, reticulation systems and roof sprinklers, or blocking downpipes to fill gutters with water.

Except when doing regular testing and maintenance of firefighting apparatus, bushfire preparedness activities would only be allowed when an imminent fire is threatening a landholding.

## Firefighting

Firefighting activities would include:

- the action of defending oneself, others, animals and assets on a landholding against a fire
- the process of controlling, suppressing or extinguishing a fire using firefighting apparatus.

## Taking and using water under the exemption

Water could be taken under the exemption by:

- extracting it directly from a water source during bushfire preparedness or firefighting activities, with no limit on the volume of water able to be taken and used
- extracting it from a water source to store in a tank or dam, so it can be used to prepare for or fight a future potential fire. The tank or dam would not have to be used solely for this purpose but a limit on the volume that could be taken from a water source and stored for future use is proposed (see 'Conditions' section).

Water taken under the exemption could not be used for:

- domestic or stock purposes – access to water for these purposes is already provided under basic landholder rights<sup>2</sup>
- commercial purposes, including agricultural (such as irrigating crops and pasture, horticulture, operating feedlots and so on) and industrial uses
- a secondary purpose (such as supplying it to another person or any other use from which a commercial benefit is or may be obtained). If water taken under the exemption was to be used for another purpose, the standard licensing and approvals requirements would apply in relation to that use
- refilling a dam if water is taken from the dam by an emergency services agency during a bushfire or as recompense for that water having been taken – these are separate matters under consideration by the NSW Rural Fire Service.

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<sup>2</sup> Note that the proposed exemption would allow a person taking water under a domestic and stock right to use that water for bushfire preparedness and firefighting purposes. Such use is not currently permitted under a domestic and stock right.

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## Conditions

Although statistics published by the Natural Resources Access Regulator from time to time show high rates of compliance among water users, some measures are necessary to ensure water is responsibly and sustainably taken, and equitably shared.

The following positions in relation to different types of conditions are proposed:

- **Volume:** No volume limit is proposed for water taken to prepare for imminent fires or to fight active fires. In the case of water taken from a water source to be stored in a dam or tank for later use, a 100,000 litre (or 0.1 megalitres) per landholding per year limit would apply<sup>3</sup>.
- **Water supply work approvals:** A water supply work approval would be required for any new dam or bore constructed solely to provide water for bushfire preparedness and firefighting. However, a streamlined impact assessment process with the lowest application fee would apply (for example, ~\$1,000 for a new bore application, equivalent to a basic landholder right bore). 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 would apply.
- **Monitoring:** It is proposed that landholders would not be required to record or report water taken and used under the exemption. Instead, targeted periodic surveys of landholders would be carried out to get an understanding of the extent and scale of use of the exemption. This would utilise NSW Rural Fire Service data to do stratified, random surveys in areas that have encountered fires in the preceding years. Data gained would contribute towards general water resource assessments and inform the medium-term review of the exemptions.
- **Metering:** Under the Water Management (General) Regulation 2018, mandatory metering conditions do not apply to water supply works used to take water under a licence exemption and not nominated on a water access licence.

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<sup>3</sup> This proposed limit exceeds the minimum water storage requirements set out in NSW Rural Fire Service's *Planning for Bushfire Protection* guidelines. That standard requires larger rural/lifestyle lots (>10,000m<sup>2</sup>) in fire prone areas to have at least 20,000 litres of storage available for bushfire preparedness and firefighting if no reticulated water supply system is in place.