



# Farm dams - do you need a licence?

All rural landholders in NSW are able to maintain or build farm dams. There are several categories of farm dams that do not require a licence.

## Harvestable rights dams

### 1 Farm dams that capture up to 10% of runoff

Licences are not required for harvestable rights dams built on hillsides and minor streams that capture up to 10% of the average regional rainfall runoff from their property.

The total capacity of all dams on a property allowed under the harvestable right is called the Maximum Harvestable Right Dam Capacity (MHRDC). The MHRDC is based on 10% of the average regional rainfall runoff of the property and takes into account local evaporation rates and periods between rainfall replenishments.

To allow for differences in the reliability of rainfall and runoff across NSW (drier inland areas for example) the MHRDC multiplier numbers vary across the State.

To calculate your MHRDC see *Farm Dams - what size dam you can build without a licence?*

### 2 Farm dams built before 1999

Licences are not required for farm dams built before 1999 when the harvestable right was introduced, provided these dams are **only used for stock and domestic watering purposes**.

These dams must be included when assessing your right to build additional harvestable right dams.

### 3 Farm dams up to one megalitre on small properties

Licences are not required for farm dams up to one megalitre in size on small properties where the Maximum Harvestable Right Dam Capacity (MHRDC) is less than one megalitre and where the property was **approved for subdivision before 1 January 1999**.

No further harvestable right dams may be constructed; any new dams above this allowance must be licensed.

## The importance of location and purpose

When determining whether you need a licence for farm dams you must consider the dams' locations and purposes. Table 1 shows where licences are needed.

**Table 1. Farm dam location and use**

| Location of Dam   | Used for stock or domestic purposes   | Used for irrigation or commercial purposes |
|---|---|--|
| On hillsides, gullies, and minor streams <sup>1</sup> and capacity is <b>less than</b> MHRDC      | No licence or approval required   | No licence or approval required            |
| On hillsides, gullies, and minor streams <sup>1</sup> and capacity is <b>more than</b> your MHRDC | Not permissible - your harvestable right should provide more than enough water <sup>2</sup> | Licence or approval required               |
| On permanent creek or river   | Licence or approval required  | Licence or approval required <sup>3</sup>  |

<sup>1</sup> Minor streams are defined by the Strahler stream ordering method as 1<sup>st</sup> or 2<sup>nd</sup> order streams that do not have permanent river flow. See *Farm dams – where can they be built without a licence?*

<sup>2</sup> DWE may provide consent for some dams where the additional harvesting of water is justified and will not adversely impact the environment and other users.

<sup>3</sup> See *What are rural landholders' basic rights to water?*

## Special dams exempt from harvestable right calculations

The following farm dams should not be included when you are calculating the MHRDC for your property but **the dam construction may require consent** (perhaps as part of a licence) from the Department of Water and Energy (DWE).

### 1 Dams for the control or prevention of soil erosion

**(gully control structures)** where no water is reticulated or pumped from them and the size of the structure is the minimum necessary to fulfil the erosion control function.

If you fence off the dam as part of the erosion control program, water may be reticulated to a trough in an adjacent paddock without prejudicing the exempt status.

### 2 Dams for flood detention and mitigation provided no water is reticulated or pumped from them.

These dams serve specific functions and, apart from a small pondage, should only store water for a short period during and immediately after floods. Such storages are exempt provided they function effectively. If any water is pumped or reticulated from such a storage it can no longer be considered to be exempt and must be considered in calculating your MHRDC.

### 3 Dams for the capture, containment and recirculation of drainage and/or effluent, that conform to best management practice or are required by regulation to prevent the contamination of a water source.

The harvestable right is not intended to be contrary to initiatives to prevent pollution of water sources. Many landholders are required to install dams to capture contaminated water or to collect and re-use irrigation tailwater. These dams are not considered in assessing your harvestable right.

### 4 Dams endorsed by DWE for specific environmental management purposes.

Small dams may need to be constructed for specific environmental management outcomes. In such cases, permission in writing from DWE is required to obtain this exempt status **before** construction of the dam commences.

### 5 Dams without a catchment.

These include turkeys nest dams and ring tanks and are replenished by pumping from rivers or from groundwater. These works have no natural catchment and operate to store water only. (Note: Both the pumps that divert water into these storages and the dams themselves require consent from DWE.)

### 6 All farm dams, whatever their size, in the arid Western Division of NSW (see *Farm Dams in the Western Division of NSW*).

#### Where do I get more information?

Contact the water licensing officer at your local Department of Water and Energy office  
26 Honeysuckle Drive  
Newcastle West  
t (02) 4904 2500  
e [information@dwe.nsw.gov.au](mailto:information@dwe.nsw.gov.au)

Note: This information does not constitute legal advice.

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