



Contact: Ben Hutt
Phone: 0437467878
Email: ben.hutt@waternsw.com.au
Your ref: DA 2021.016

Gunnedah Shire Council
Attn: Amber Hassen
Po Box 63
GUNNEDAH NSW 2380

25 June 2021

Dear Amber

RE: DA 2021.016, 328//755503 and 329//755503 – 3130 OXLEY HIGHWAY GUNNEDAH 2380 NSW Australia.

I refer to your correspondence seeking WaterNSW consideration in respect to requirements under section 90 of the *Water Management Act 2000* (WM Act).

WaterNSW has reviewed the information submitted with the application for the purposes of the WM Act, and can advise that no water supply work (WSW) approval or water use approval is required to be administered by WaterNSW. Consideration in respect to 'water use' is only assessed by WaterNSW in relation to irrigation use. Any purpose outside of irrigation should be addressed by the relevant consenting authority, such as council via local government development consent.

Please note that any approval that may be required under the WM Act which is applied for and/or to be held by The Gunnedah Shire Council will have to be lodged with the Natural Resource Access Regulator (NRAR) as they are the consenting body for approvals required to be held by Councils under the WM Act.

I do however wish to advise of the requirement for compliance with Harvestable Rights under section 53 of the WM Act - water management work approval.

The "Statement of Environmental Effects" document refers to existing storages on the property subject to the application, the total capacity of these dams must not exceed 2.2926 Megalitres (ML) to comply with Section 53 of the WM Act, the maximum harvestable right dam capacity available for this property. Therefore, if the dam(s) current combined capacity exceeded this NRAR should be contacted to obtain relevant approval. Attached to this document as Appendix 1 and Appendix 2 are WaterNSW current policies regarding Harvestable Right Dams for reference.

For additional information on Harvestable Rights – Dams please see the following link
<https://www.waternsw.com.au/customer-service/water-licensing/blr/harvestable-rights-dams>

Considering the above, a Water Supply Work Approval and an associated Water Access Licence may be required to service the proposed water supply requirements, which would have to be lodged with and assessed by NRAR.

Please don't hesitate to contact me should you require any further information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ben Hutt', written over a light blue horizontal line.

Ben Hutt
Water Regulation Officer
Assessments and Approvals
WaterNSW – Tamworth

Do I need a licence?

October 2017

Dams that do not require a licence

Dams that do not require a licence include:

- **Dams that capture water under a harvestable right**

Licences are not required for harvestable rights dams built on minor streams that capture 10 per cent of the average regional rainfall run-off on land in the Central and Eastern Divisions of New South Wales, and up to 100 per cent on land in the Western Division.

The total capacity of all dams on a property allowed under the harvestable right is called the Maximum Harvestable Right Dam Capacity (MHRDC).

Use the [calculator](#) to calculate your MHRDC.

- **Dams built before 1999**

Licences are not required for dams built before 1 January 1999, *provided these dams are only used for stock and domestic watering purposes* and are located on a minor stream. These dams must be included when assessing your right to build additional harvestable right dams

- **Dams up to one megalitre on small properties**

Licences are not required for 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.

Dams used to store water taken in addition to your harvestable right

Landholders may construct and use a dam to store different kinds of water taken under different rights and licences. In this case, the landholder must hold:

- a licence for the volume of water that exceeds the MHRDC, unless the water is taken under a domestic and stock right or native title right
- a water supply work approval for a dam which exceeds the MHRDC.

Special dams which are not included in harvestable right calculations

The following dams should not be included when you are calculating the capacity of dams allowed on your property under a harvestable right:

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 the Minister for specific environmental management purposes.
5. Dams without a catchment. These include turkey 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 WaterNSW.
6. Dams licenced under the Water Act 1912 before 1 January 1999.

Note: however, that the *construction* of the dams in the above list may require a water supply work approval from the WaterNSW.

Check your harvestable right if you sell your property

Since the Maximum Harvestable Right Dam Capacity (MHRDC) is directly related to the size of your property, when you subdivide or sell part of your property, your MHRDC is reduced proportionally. For example, if you sell half of your property, your MHRDC is also halved.

If your property is to be subdivided, then some of the resultant properties may have dams that are greater than the MHRDC. You will need to modify the dams or apply for an approval and you may also need a water licence for the volume of water. There is no guarantee that the licence would be issued. Consult with WaterNSW before finalising your plans for subdividing or selling part of your property.

Definition of 'property'

The definition of a 'property' should be based on that for a landholding. Under the Water Management Act 2000, a landholding means a holding that is owned by a person, or occupied by a person (either alone or together with some other person with whom he or she has an association of a kind prescribed by the regulations), being a holding that comprises:

- a) a parcel of land that is separately valued under the Valuation of Land Act 1916, or
- b) two or more such parcels that together form a single area of land (ignoring any division that arises merely because the land is transected by a road or river).

More information

Phone: 1300 662 077

Email: Customer.Helpdesk@waternsw.com.au

www.waternsw.com.au for information about water licencing and compliance.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (October 2017). However users are reminded of the need to ensure that the information upon which they rely on is up to date and to check currency with WaterNSW or with the user's independent adviser.

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Where can they be built without a licence?

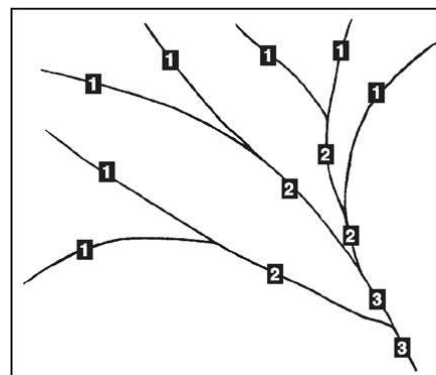
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Dams that are part of the harvestable right of your property can be located on minor stream. For more information on harvestable rights see *Dams in NSW – Do you need a licence?*

What is a minor stream?

Minor streams are defined by the Harvestable Rights Order, *Water Management (General) Regulations 2011* and the Strahler stream ordering method (Figure 1) as any stream or part of a stream that is a first-order or second-order stream or part thereof, that does not permanently flow and that does not at any time carry flows from a third, fourth or higher order stream. The Strahler system is explained as follows.

- Starting at the top of a catchment, any watercourse that has no other watercourses flowing into it is classed as a first-order stream (1).
- Where two first-order streams join, the stream becomes a second-order stream (2).
- If a second-order stream is joined by a first-order watercourse – it remains a second-order stream.
- When two or more second-order streams join they form a third-order stream (3).
- A third-order stream does not become a fourth-order stream until it is joined by another third-order stream and so on.



How do I work out the stream order of a river on my property?

The harvestable rights stream order can only be determined from a topographic map that has been defined under the harvestable rights order and General Regulations. Streams are shown on topographic maps as broken or continuous blue lines and are deemed to be continuous even if they lose definition and then reappear. Contact WaterNSW to determine which map to use.

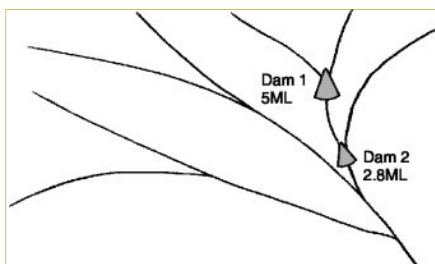
- Topographic maps show watercourses, contours, towns, roads, portion boundaries and other information and are generally available throughout New South Wales at news agencies, tourist information centres and other stores.

Example: Geoff owns a 60 hectare property near Kangaroo Valley NSW. Geoff would like to build two dams using his harvestable right. The following examples show the size and location of Geoff's proposed dams.

Step 1: Geoff needs to calculate his Maximum Harvestable Rights Dam Capacity (MHRDC). For information on the MHRDC, go to the calculator provided at: www.waternsw.com.au Basic water rights > Harvesting runoff. (Note that a harvestable rights dam can only be constructed where the Harvestable Rights Orders apply. More information on requirements for a harvestable rights dam is provided with the calculator.)

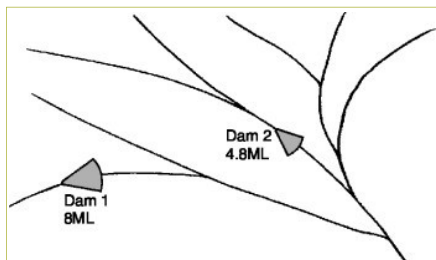
Using the calculator, Geoff works out he can build dams with a combined volume of up to 7.8 ML, using his harvestable right on his property.

Step 2: Geoff needs to work out where to construct his harvestable rights dams on his property. He has a few alternatives to assess.

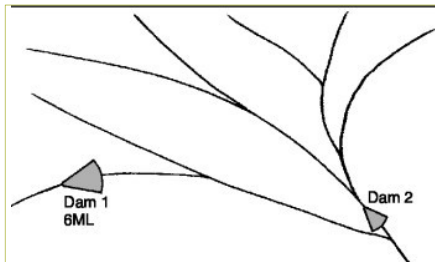


Dams 1 and 2 would be located on second-order streams.

The total dam capacity of dams 1 and 2 would be 7.8 ML, which is equivalent to the MHRDC for the property.



Dam 1 would be located on a first-order stream, BUT would be 8 ML i.e. bigger than the permissible MHRDC of 7.8 ML so it is not allowed under the harvestable rights provisions.



Dam 2 would be located on a second-order stream and would be 4.8 ML. It is permissible since it would be less than the MHRDC of 7.8 ML.

Geoff could build both dams 1 and 2 if the combined volume was 7.8 ML e.g. Dam 1 could be reduced to 3 ML.

Dam 1 would be located on a first-order stream and would be 6 ML, which is less than the MHRDC of 7.8 ML.

Dam 2 would be located on a third-order river. Harvestable rights do not apply here. If Geoff wishes to build a dam at this location, he must obtain approval from WaterNSW before commencing construction. Geoff would also need to hold a water access licence for this dam.

More information

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