

# Responding to alleged breaches

## Frequently asked questions

### Fact sheet

The Natural Resources Access Regulator (NRAR) is an independent regulator established under the NSW *Natural Resources Access Regulator Act 2017*.

We ensure the lawful use of water so communities and the environment get their fair share.

NRAR is equally committed to making it easy to follow the water management rules as we are to enforcing them.

We enforce the water rules and respond appropriately when they are broken.

## What do NSW water management laws regulate?

*The Water Management Act 2000* (the WM Act) and the *Water Act 1912* (the Water Act) control the extraction and use of water, the construction of works (such as pumps, bores, dams and weirs) and the activities that can be undertaken in or near water sources.

The WM Act replaces the Water Act for all areas where a Water Sharing Plan applies.

## How are alleged breaches identified?

NRAR monitors and assesses compliance with NSW water laws through a range of programs.

Proactive monitoring and inspection programs help determine the level of compliance within the regulated community, and may include:

- the use of remote sensing technology such as aerial photography, satellite imagery, and land and river surveys
- inspections/audits determined by a risk rating
- follow-up audits or more frequent auditing of identified poor performers or high-risk activities/businesses
- programs targeting a particular regulated community.

NRAR also reacts in response to reports of alleged breaches of water laws, incidents or other intelligence received. These may be identified by:

- a public tip off via our online reporting form at [nrar.nsw.gov.au/report-suspicious-water-activities](https://nrar.nsw.gov.au/report-suspicious-water-activities)
- reports from other agencies.

## How does NRAR assess and respond to alleged breaches?

We use a risk-based assessment to determine how to respond appropriately to alleged breaches. The severity of the breach, the degree to which the offender is responsible for the breach, their attitude to compliance, and the public interest are all taken into account. Priority is given to situations that have the potential to cause serious harm, and patterns of similar incidents that may suggest ongoing or broader issues.

We use a suite of regulatory tools to respond to alleged breaches. These can be used separately or in combination with each other.



They include:

- intelligence informed monitoring and auditing programs
- education and information campaigns
- investigations and enforcement.

We may investigate reports of breaches following the risk assessment. This may involve an NRAR authorised officer inspecting a site and collecting information from the landholder and/or licence holder. Information collected by authorised officers may take the form of videos, photographs, samples, meter readings and physical evidence, witness statements and recorded interviews.

## What can I expect during an investigation?

In most cases, an authorised officer will:

- explain the allegation to you
- explain the process the investigation will follow
- advise you of the outcome of the investigation once completed.

During an investigation, an authorised officer:

- can direct you to provide your name and address. Failing to comply or providing false information could result in a fine or prosecution.
- can direct you to answer questions and record the questions and answers. Failing to answer a question could result in a fine or prosecution; however, compliance officers will provide appropriate warnings when asking questions.
- may require you to assist them with an activity (for example, turn on a pump).
- may require you to provide information and records to which you have lawful access (for example, metering records).

It is an offence to hinder, obstruct, delay or threaten an authorised officer as they carry out their duties.

## What conduct can I expect from an authorised officer?

All authorised officers undergo appropriate training and are required to comply with the regulatory principles outlined in NRAR's Regulatory Policy at [nrar.nsw.gov.au/policies-and-guidelines](https://nrar.nsw.gov.au/policies-and-guidelines)

Compliance decisions are made in accordance with public sector guidelines and to the highest ethical and professional standards.



Any attempts to bribe, influence or engage authorised officers in corrupt or unlawful behaviour will be reported immediately and investigated by the appropriate authority.

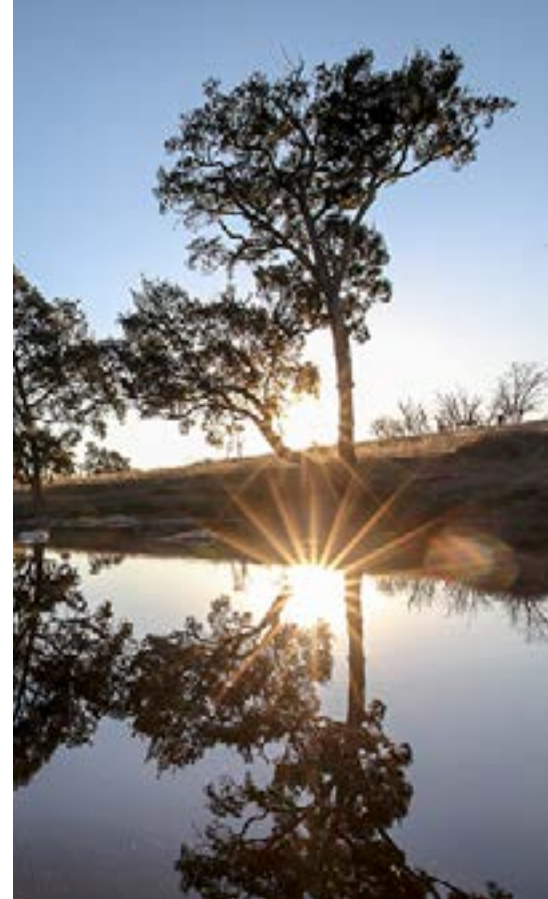
## What actions can NRAR take if an investigation confirms the water rules have been broken?

We take a balanced approach to addressing improper conduct and seek to promote changes in attitudes and behaviours, rather than simply applying a punishment. Our responses to breaches may include, in increasing severity:

- guidance, education, information
- advisory letters
- warnings (written and verbal)
- cautions
- corrective action requests
- statutory directions such as stop-work orders, directions to remove works such as pumps and pipes, and remediation notices
- enforceable undertakings
- penalty notices - set at \$750 for individuals or \$1,500 for a corporation, per offence
- licence action (including suspension, variation or cancellation)
- civil action, such as:
  - debiting a water licence holder's account by up to five times the amount of water taken
  - imposing a penalty of up to five times the value of the water taken
  - injunctions for breaches of directions issued by NRAR
  - prosecution.

Serious non-compliance can lead to penalties of up to \$1.1 million for an individual and \$5.005 million for a corporation. Daily penalties also apply for each day that the offence continues, and individuals can face up to two years' imprisonment for some offences.

We may issue stop-work orders or remediation directions before completing an investigation to address ongoing and significant harm to a water source, the environment or public safety.



## More information

To contact NRAR, you can write to us at [nrar.enquiries@nrar.nsw.gov.au](mailto:nrar.enquiries@nrar.nsw.gov.au)

Copies of the Acts and associated Regulations are available at [legislation.nsw.gov.au](http://legislation.nsw.gov.au)

**Find more information about how to comply with the water laws on the NRAR website at [nrar.nsw.gov.au](http://nrar.nsw.gov.au) or scan the QR code below to find out more about how we respond to breaches of the law.**

