



Natural Resources Access Regulator

Compliance priorities

June – August 2018

industry.nsw.gov.au/nrar

1 Introduction

The Natural Resources Access Regulator (NRAR) is an independent regulator established under the *Natural Resources Access Regulator Act 2017*. The NRAR has responsibility for ensuring that the regulated community complies with natural resources management legislation which currently includes the *Natural Resources Access Regulator Act 2017*, *Water Management Act 2000*, *Water Act 1912* and associated regulations.

The NRAR legislative objectives are to:

- ensure effective, efficient, transparent and accountable compliance and enforcement measures for the natural resources management legislation
- maintain public confidence in the enforcement of the natural resources management legislation.

To do this, the NRAR will:

- promote compliance with the objectives of the *Water Act 1912* and the *Water Management Act 2000*
- achieve best practice management and regulation of surface water and groundwater
- take a risk-based and outcome-focused approach to regulation
- guide decision-making and action by officers, through the adoption of a graduated and proportionate response to legislative non-compliance
- ensure decisions on enforcement action are transparent to the community.

The NRAR seeks to build community confidence as a trusted, credible, effective, efficient and transparent regulator. The NRAR will encourage and assist high levels of voluntary compliance with appropriate education, guidance, advice and systems. However, when instances of non-compliance are detected, the NRAR will not hesitate to take appropriate enforcement action, including prosecution where appropriate.

1.1 Purpose of this document

This document sets out the NRAR's compliance priorities for June to August 2018.

1.2 Background to prioritisation process

A three monthly time-frame period, June to August 2018, has been chosen to address the urgency for action on immediate and known compliance matters and to ensure environmental flows are successful. Priorities will be adjusted over time to align to climate risks, compliance data, community reporting and water source stress.

Risk and evidence-based assessment

The NRAR uses a risk and evidence-based approach to assessing its compliance priorities. Data analysis from 2010 to present has been used to assess non-compliance by region and time and consideration has been made for water source stress, climate pressures, seasonal variation and known compliance issues. Non-compliance type has been reviewed on the basis of its risk to the environment. Recent public reports and community feedback on non-compliance issues have been taken into account.

The risk assessment was created using a multivariate model assessing compliance, this is an evolving model and will continue to evolve for future purposes. The following diagram provides a high level view of those factors.

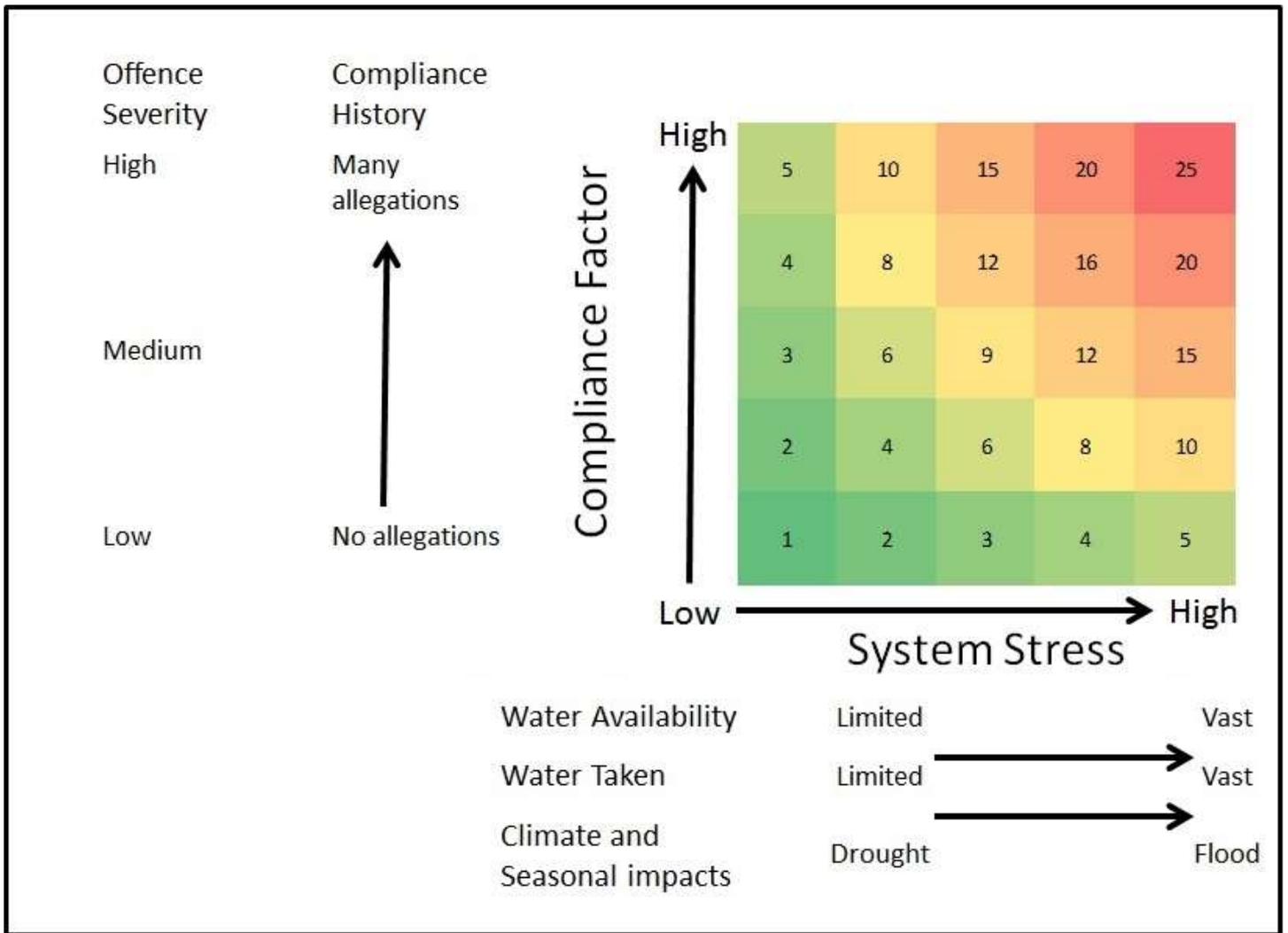


Figure 1. Compliance factor is a weighted score as a result of the severity of the offence and the likelihood of the offence. System stress is a weighted score as a result of the proportion of the water taken from a system against the vulnerability of the system.

2. Compliance priorities

NRAR will focus its compliance activities for June to August 2018 on the following issues and locations:

- **Water take for which there is no or insufficient water allocation**
- **Failure to install and maintain a meter and failure to keep a log book**
- **Protection of environmental waters**
- **Unlicensed bores**
- **Harvestable Rights**

Details of proposed activities:

- Water take for which there is no or insufficient water allocation

Water users are required to apply for a licence under the *Water Management Act 2000* in accordance with their water take needs. It is an offence under section 60c of the Act for a person to take water that they are not authorised to take under a licence, whether intentionally or negligently.

The focus areas for NRAR's compliance activity will be identified non-compliance along the Murrumbidgee, Murray and Border rivers, the latter comprising a group of rivers which straddle the NSW and Queensland border.

- Failure to install and maintain a meter and failure to keep a log book

Metering and/or log book records are essential tools to measure and monitor water extraction. Under current legislation, log books are required if meters are not in place or not functioning. Information collected from water meters and log books is used to: determine if water users are complying with the rules and limits placed on water extraction, inform the preparation and review of water sharing plans which set water extraction limits and pumping rules, determine water metering and usage charges for licence holders, clarify if environmental objectives are being achieved and inform water trading activities.

To date, the use of meters has been variable across NSW despite various state and federal metering programs. Recent independent reviews have also found a lack of compliance with the use of log books where there is no meter. New metering and log book requirements are a current focus for legislative reform. Compliance activities on the use of meters will further build regulatory knowledge on the extent to which meters are in place, being used and meet required standards and help educate licence holders on new metering requirements.

The focus area for this activity is the Barwon-Darling River in northern NSW.

- Protection of environmental waters

Environmental water is water used for important ecosystem health or other environmental purposes. Environmental flow events deliver environmental water to areas of specific need as identified by the Commonwealth Environmental Water Holder and the respective state agencies. A flow event is enabled by the issue of a water restriction order by the Minister requiring licence holders to withhold their licenced water take for a period of time. It is an offence under section 336C to take water during such an event.

Compliance activities for June to August 2018 will focus on those areas subject to an environmental flow event at the time. At the time of publication an embargo had been placed on the Barwon–Darling system for the purposes of protecting environmental water releases.

- Unlicensed bores

A bore is drilled to access groundwater in underground water aquifers. Under the Water Management Act, the construction of bores and any use of borewater for commercial purposes requires an approval. Aquifers supply large amounts of water to many people and industries across the state and are heavily managed for water allocations. Aquifers are managed in a similar fashion to unregulated rivers.

The mid-coast region of NSW will be the focus for these targeted activities.

- Harvestable Rights

Rural landholders in NSW can build dams on minor streams that capture 10 per cent of the average regional rainfall run-off on land in the Central and Eastern Divisions, and up to 100 per cent on land in the Western Division. The maximum harvestable right dam capacity is the total dam capacity allowed under the harvestable right for your property and takes into account rainfall and variations in rainfall pattern. If a party wants to construct a dam that is larger than the maximum harvestable rights capacity, they will need a licence for the volume of water that exceeds the maximum harvestable rights dam capacity.

Mining industries in the Eastern and Central Division of NSW will be the focus for these targeted activities.

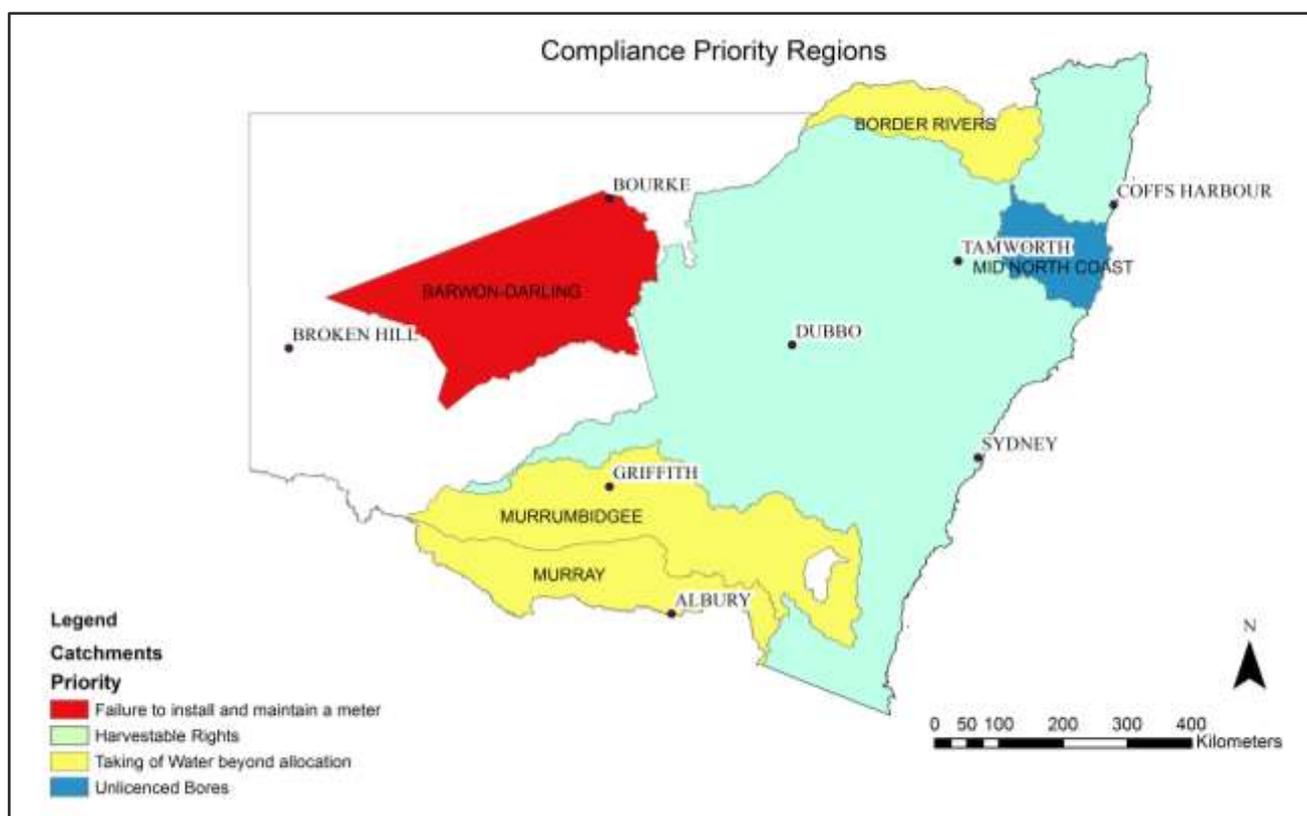


Figure 2. Compliance priorities by catchment