

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

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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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