

Department of Planning and Environment

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# The Natural Resources Access Regulator Regulation Remake 2023

Community consultation – What we heard report

August 2023





# Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

The Natural Resources Access Regulator Regulation Remake 2023

First published: August 2023

Department reference number: DOC23/209750

## More information

DPE Water Group

## Acknowledgements

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## Background

The Natural Resources Access Regulator Regulation 2018 (NRAR Regulation) is due for staged repeal in September 2023, in line with the *Subordinate Legislation Act 1989* (SL Act). Section 10(2) of the SL Act states there is an automatic repeal of regulations after they have been in force for five years.

Under the staged repeal program, each regulation due for repeal must be reviewed and a decision made to:

- allow the regulation to be repealed
- remake the regulation (with or without amendments)
- seek a postponement of the repeal of the regulation until the following year.

The proposed NRAR Regulation is machinery in nature. It is largely identical in its terms as the current NRAR Regulation. The principal change is an update to the list of relevant agencies with which NRAR can exchange information for the purposes of exercising its statutory functions to reflect current agencies and incorporate additional agencies.

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## How we engaged

From **13 June** to **3 July 2023**, water users, the broader NSW public and other stakeholders were able to review and make a submission on the proposed draft Natural Resources Access Regulator Regulation via the department's website.

A limited number of submissions were expected due to the nature of the minor amendment being proposed. The proposed NRAR Regulation is machinery in nature and is in largely the same terms as the current NRAR Regulation.

## Communication channels

The department used various channels to advertise the public exhibition of the proposed NRAR Regulation. These were:

- **digital ads** – paid social media advertising (Facebook)
- **print ads** – paid advertising in Metropolitan, regional and Indigenous publications (Sydney Morning Herald, The Land, and the Koori Mail respectively)
- **online tools** – Have Your Say webpage and online submission form.

All relevant peak water bodies were advised of the public exhibition and the proposed amendment to the existing NRAR Regulation by email. However, no feedback or responses were received from any of the peak water bodies.

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## What we asked

The online submission form asked the following questions:

- Who are you representing?
- Which stakeholder group best describes you?
- Do you support the proposed changes to Clause 7 of the Natural Resources Access Regulator Regulation 2018?
- Please provide a reason for your support/opposition.

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## What we heard

The department received a total of **16 submissions**.

Of the 16 submissions received:

- 9 were in support of the proposed regulation amendment
- 6 were not in support of the proposed regulation amendment
- 1 did not provide a response as to whether they supported/opposed the regulation amendment.

Stakeholders raised various issues in their submissions during the consultation process. To determine if a response was needed, the following questions were considered:

- Is the issue within the scope of Clause 7 of the NRAR Regulation and the proposed amendment?
- Is the department required to address the issue?
- Will the proposed amendment adversely affect stakeholders and the issues they presented?

None of the issues raised by stakeholders during the consultation process were identified to be within scope of Clause 7 of the NRAR Regulation. Some examples of the submissions included the following:

- need for greater transparency and consistency within existing regulation frameworks
- lack of trust
- need for greater statutory powers for NRAR
- communication issue.

## Who were the stakeholders

Table 1 provides a summary of the stakeholders who participated in the consultation.

Table 1. Type of stakeholders

Who were they representing	Stakeholder group
13 – Individual representatives	2 – Irrigation Community
2 – Representatives of an organisation	1 – Member of a fishing group
1 – Did not provide detail	6 – Members of the community
	5 – Local landholders
	1 – Member of an unnamed group/organisation
	1 – Did not provide detail

Table 2 summarises the feedback the department received during the consultation process.

Table 2. Summary of submissions

Issue	In Support	Not in Support	Abstained	Comments
Do you support the proposed changes to clause 7 of the Natural Resources Access Regulator Regulation 2018?	9	6	1	<p>In support:</p> <ul style="list-style-type: none"> <li>• supports clear, consistent, and transparent determinations</li> <li>• would enable future DA proposal for a dwelling</li> <li>• although in support, greater powers are needed for NRAR to hold other state agencies to account for non-compliance.</li> </ul> <p>Not in support:</p> <ul style="list-style-type: none"> <li>• more red tape and office jobs whilst lacking experts from those who live out in the bush</li> <li>• lack of trust in government</li> <li>• doesn't clearly articulate the purpose of the remake, why it's taking place and who benefits. Doesn't support providing water leases and rights to overseas companies and urban city companies.</li> </ul>

The submissions made during the public exhibition will not be further investigated as part of the proposed NRAR Regulation remake as they are not within the scope of the proposed amendment to Clause 7 or the NRAR Regulation.

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## Next steps

The department will recommend the remake of the NRAR Regulation to the Minister for Water with a minor amendment to Clause 7 after the following steps have been taken:

- **July 2023:** prepare the *What We Heard Report*.
- **July 2023:** seek a final opinion from the Parliamentary Counsel Office for the proposed regulation.
- **August 2023:** publish the *What We Heard Report*.
- **August 2023:** seek approval to make the regulation by submitting an Executive Council brief to the Minister.
- **August/September 2023:** commencement of regulation no later than 1 September 2023.