



*STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007*

## **Proposed amendment - landscape rehydration infrastructure**

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Explanation of intended effect

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## **Acknowledgment of Country**

The Department of Planning, Industry and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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## Introduction

Landscape rehydration is the process of restoring the natural movement of water through rural landscapes. Landscape rehydration infrastructure refers to a range of structures that contribute to rebuilding the natural flow patterns and ecological function of any given landscape system. Landscape rehydration infrastructure takes the form of permeable stream bed control structures made from natural materials such as logs and rocks. A series of such structures built along a stream or part thereof can, over time, help to bring the level and flow patterns of that stream back towards its long-term natural geomorphic state. Landscape rehydration infrastructure also assists to hydrate soil and support plant growth, facilitating the creation of healthy landscapes that are more resilient to climate extremes.

This explanation of intended effect outlines the proposed landscape rehydration infrastructure changes to *State Environmental Planning Policy (Infrastructure) 2007* (the Infrastructure SEPP).

## Purpose of Landscape rehydration infrastructure

The main purpose of landscape rehydration infrastructure is to raise the bed of an eroded stream in order to facilitate remediation of the stream back to its natural state.

Land use changes and droughts affect the flow of water. Typical effects of clearing vegetation in a catchment include increases in the velocity of water moving across a landscape to the extent that the water's energy can erode stream banks, remove bank vegetation and wildlife habitat, and scour or deepen a stream bed which in turn reduces the stream's connection to its floodplain.

By building an artificial hardpoint in an eroded stream bed, in the form of a permeable weir, landscape rehydration infrastructure can have the effect of resisting the erosive forces of the water flow. The infrastructure changes the hydraulic conditions, so the stream energy no longer scours the bed, but deposits sediment behind the permeable weir. Over time the elevation of the stream bed rises as a result. This has the potential to result in environmental benefits with minimal harm to a waterway and surrounding environment, providing appropriate safeguards are put in place.

Raising the bed of a stream through the building of a permeable weir can have the following beneficial effects:

- reduction of stream water velocity
- reduction of stream water flow and variation in stream flow
- reduction of bank erosion
- creation of a less intermittent stream
- increase in the amount of water available for stream flows during dry periods
- raising of the lowered water table

## Purpose of proposed landscape rehydration infrastructure amendment

The proposed amendment to the Infrastructure SEPP aims to simplify and clarify the planning approval pathway for landscape rehydration infrastructure. Currently, planning provisions for landscape rehydration infrastructure are not well defined, and the works often require development consent from the local council. Development consent provisions for landscape rehydration infrastructure are being characterised differently across council areas (for example, environmental protection works which requires consent in some councils and not in others), making the approval regime inconsistent. Other approvals from specialist land management agencies are sometimes still also required. The inconsistency and lack of clarity in gaining approval for landscape

rehydration infrastructure makes it a lengthy and expensive process for landholders wishing to restore natural flows on their properties.

The proposed amendment will ensure that any person proposing landscape rehydration infrastructure in certain rural zones undertakes is an appropriate level of environmental assessment, as required under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The purpose of the Part 5 assessment system is to ensure that environmental issues are fully considered before the proposed infrastructure is constructed. The Department has prepared draft Part 5 Environmental Assessment Guidelines to assist in the environmental assessment process and ensuring the level of assessment is proportionate to the proposed works.

Under Part 5 of the EP&A Act development consent from a council is not required, however other approvals under other legislation may be required such as a Controlled Activity Approval (CAA) from the Natural Resources Access Regulator (NRAR)..

This proposed amendment to the Infrastructure SEPP will:

- define landscape rehydration infrastructure for the purposes of the Infrastructure SEPP;
- provide a consistent planning regime for the development and delivery of landscape rehydration infrastructure throughout the State; and
- identify appropriate zones where landscape rehydration infrastructure may be located.

## NSW Planning Reform Action Plan

The NSW Government has introduced a suite of reforms to deliver a better planning system for NSW. Work is underway to improve assessment timeframes and reduce complexity in the planning system.

The proposed landscape rehydration infrastructure amendment to the Infrastructure SEPP aligns with the initiatives that seek to improve the planning system by shortening time frames, getting rid of blockages in the system.

# Proposed provisions for landscape rehydration infrastructure

An outline of the proposed provisions within the Infrastructure SEPP is detailed in Table 1 below.

**Table 1. Proposed changes to the Infrastructure SEPP**

Proposed amendment	Effect of proposed amendment
Clause 128 Definition	<p data-bbox="810 555 1385 633"><b>Division 25 Waterway or foreshore management activities</b></p> <p data-bbox="810 658 1385 719">The intent is to provide a definition of landscape rehydration infrastructure in Clause 128:</p> <p data-bbox="810 743 1433 1115"><i><b>Landscape rehydration infrastructure</b> means a permeable stream bed control structure, located within the banks of an existing waterway, made from natural materials such as logs and rocks, is accompanied by riparian vegetation planting, and is often part of a series of such structures built along a stream or part thereof. The main purpose of landscape rehydration infrastructure is to raise the bed of a stream and contribute towards rebuilding the natural flow pattern and ecological function of any given landscape system.</i></p>

Proposed amendment	Effect of proposed amendment
<p>Add a new Clause 129A to Division 25 to provide the planning pathway - development permitted without consent - for landscape rehydration infrastructure.</p>	<p><b>Division 25 Waterway or foreshore management activities</b></p> <p>The intent is to provide a new Clause 129A in Division 25 as follows:</p> <p><b>129A (1)</b> Development for the purposes of landscape rehydration infrastructure may be carried out by any person without consent on land in a prescribed zone.</p> <p>(2) Before development to which this clause applies is carried out, the proponent of the development must—</p> <p>(a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land, and</p> <p>(b) take into consideration any response to the notice that is received within 21 days after the notice is given.</p> <p>(3) Nothing in this clause authorises the carrying out of development in contravention of:</p> <p>(a) any existing licences or approvals from a state agency in relation to the stream; and</p> <p>(b) any requirements of any other legislation.</p>
Question	
1. Should landscape rehydration infrastructure be restricted to specific stream sizes/orders?	



Proposed amendment	Effect of proposed amendment
<p>Add a sub clause to Clause 128 (Definition) to provide for “prescribed zones” in order to specify the zones in which such infrastructure would be permitted without consent.</p>	<p><b>Division 25 Waterway or foreshore management activities</b></p> <p>The intent is to provide in Clause 128 prescribed zones for the purposes of landscape rehydration infrastructure as follows:</p> <p><i><b>prescribed zone</b> for the purpose of landscape rehydration infrastructure means any of the following zones or a land use zone that is equivalent to any of those zones -</i></p> <p>(a) <i>RU1 Primary Production,</i></p> <p>(b) <i>RU2 Rural Landscape,</i></p> <p>(c) <i>RU4 Primary Production Small Lots.</i></p>
<p>Questions</p>	
<ol style="list-style-type: none"> <li>1. Should additional zones such as E2 Environmental Conservation, E3 Environmental Management, E4 Environmental Living or RU3 Forestry be included as prescribed zones?</li> <li>2. Are there regions/landscapes/parts of NSW where the planning pathway for landscape rehydration infrastructure should not be ‘development without consent’?</li> <li>3. Should landscape rehydration infrastructure be limited to existing eroded streams?</li> </ol>	

## Guide to approvals, licences and permits

In order to further assist landholders who want to undertake landscape rehydration infrastructure on their properties, a guide to the other approvals, licences and permits required has been prepared with input from relevant government agencies. The guide outlines who the relevant approval bodies are, and the information requirements for each approval (that is, content required in the environmental assessment documentation commonly referred to as a Review of Environmental Factors). Your feedback is also sought on the [Landscape Rehydration Infrastructure Guide](#).

## Further work - State Agency Best Practice Code

Although the current legislative framework of land management approvals provides an effective assessment and approval regime, and the draft Guide to approvals, licences and permits will assist landholders to better understand what they need to do to get approval, it is also proposed to develop a Best Practice Design Code for landscape rehydration infrastructure. This would give landholders technical advice about where it is suitable to locate landscape rehydration infrastructure (for example, types/sizes of streams), design parameters, types of structures, materials to use, and proximity to public infrastructure such as roads and bridges.

This will be prepared by an interagency group, coordinated by Department of Planning, Industry and Environment, to ensure that landscape rehydration infrastructure structures are designed to minimise environmental impact and maximise effectiveness in stream management. Development of the Code will take place in 2022 but should not delay the proposed amendment to provide a development without consent planning pathway for landscape rehydration infrastructure. The existing agency approval regime will continue to operate.

## How to get involved

This explanation of intended effect describes the potential effects of a proposed amendment to the Infrastructure SEPP Division 25 – Waterways and foreshore management. It is exhibited in line with the Department's Community Participation Plan, which aims to involve more people in decisions relating to the NSW planning system.

To make a submission on the amendments proposed in this document please visit the [project page on the NSW Planning Portal](#).