



A Guide to the  
Water Sharing Plan for the  
**Ourimbah Creek Water Source**

(as amended 1 July 2004)

## Additional information

This publication is a guide only. It is not intended to set out all the requirements of the water sharing plan. Anyone requiring details of how their legal rights are affected should refer to the gazetted water sharing plan.

If you require further information on water sharing in the Ourimbah Creek Water Source, or a copy of the statutory plan, please contact:

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## Introduction

This guide provides an explanation of the main sections of the Water Sharing Plan for the Ourimbah Creek Water Source gazetted on 7 February 2003 and including the amendments gazetted on 1 July 2004.

The Plan commenced on 1 July 2004 and applies to 30 June 2014. It is a legal document made under the *Water Management Act 2000*. The Plan is implemented by the Department of Infrastructure, Planning and Natural Resources (DIPNR).

The water sharing rules allocate water for the environmental needs of the water source and direct how water is to be shared among different water users. For commercial water users, the water sharing rules are quite different to the pre-plan arrangements. The changes are necessary to provide adequate protection for the environment, particularly during periods of low flow when the demand for water is greatest, and to more clearly define the rights of individual water access licence holders. However, a number of the Plan's provisions will be phased in over time as the required gauging and metering systems are put into place.

Many technical aspects of the water sharing rules are quite complex, and are not fully addressed in this summary guide. For specific details of the rules you will need to refer to the statutory plan (see *Additional information*). In some cases, new terminology has been introduced to ensure that the Plan is consistent with the Act. These new terms are highlighted in the text (**bold text**) and are explained in the glossary provided at the back of this guide.

## Background

Ourimbah Creek is located on the central coast of NSW, covering an area of some 153 square kilometres. The Ourimbah Creek Water Source is one of the major tributaries of Tuggerah Lakes, with the main arm running southeast for a distance of 31 km to meet Tuggerah Lake at Chittaway Bay. The major tributaries of Ourimbah Creek include Elliots Creek, Bumbles Creek, Toobys Creek and Bangalow Creek, which drain the southern most corner of the water source.

Two sets of flow data are available for Ourimbah Creek. One set of records is for gauge 211005, located near the end of the Ourimbah Creek where it becomes tidal just upstream of the Lower Ourimbah Creek Weir. The other set of records is for gauging station 211013 in the central reaches of the water source. The period of record (1965 to 1989) at the end-of-system gauge 211005 was extended using rainfall run-off modelling to cover the period from 1895 to 1992.

Gauging station 211005 was discontinued in 1989. Gauging station 211013 is still operating and a new gauge is to be installed downstream of the Bangalow Creek confluence.

The water source has considerable variation in its annual and daily flows. In some years there have been periods of very low or no flow. Essentially the water source is perennial and ceases to flow less than 1% of the time.

At the start of the Plan, there were 96 water access licences in the water source. Of these, 72 were for irrigation, 2 for farming purposes, 2 for industrial purposes, 4 for recreational purposes, 17 for domestic and stock purposes and 1 for local water utility. Domestic and stock access licences are required for intensive stock raising purposes and for those landholders whose property does not front a river or creek.

The Plan recognises the water source as an area of importance for the Dharug, Darkinjung, Awabakal and Kuringai people. In the past the water source has been not only a source of food but of spiritual and cultural significance.

## Development of the Plan

A draft plan was prepared by the Central Coast Unregulated Rivers Management Committee and placed on public display mid 2002. The Committee included representatives of water users (horticulture, turf, coal and seafood industries), the Regional Development Corporation and Central Coast Tourism, environmental interests, indigenous communities, the Central Coast Catchment Management Board, local councils and the Water Authority, and government agencies (the then Department of Land and Water Conservation, Environment Protection Authority, NSW Agriculture and NSW Fisheries). During the development of the draft plan, the Committee held public forums with the local community and discussions were held with the local Aboriginal community.

The Plan was made by the Minister for Land and Water Conservation in February 2003. It was based on the recommendations of the water management committee, the submissions arising from the public display of the draft plan and agreed Government policy. Some subsequent amendments were made to the Plan and it commenced on 1 July 2004.

## Area of the Plan

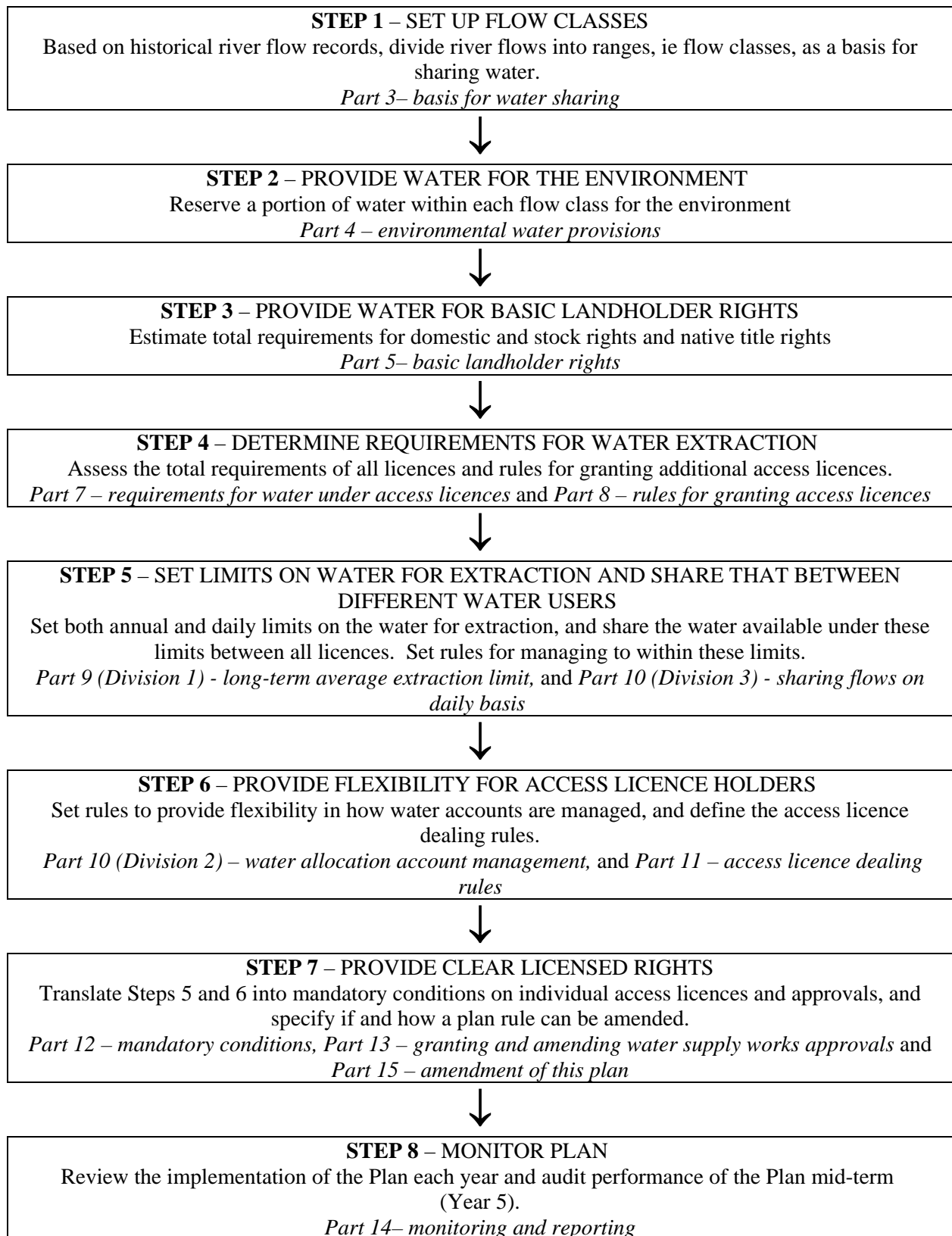
The Plan applies to the Ourimbah Creek, including its tributaries as shown on the following map.

### MAP: Ourimbah Creek water source



## How is water shared in unregulated rivers?

This chart shows how the rules of the Plan are put into effect and relates these 8 key steps to the *relevant section* in the statutory water sharing plan.



## Vision

The vision of the Plan is the sustainable, equitable and efficient use, through integrated management of water in the Ourimbah Creek Water Source to preserve, enhance or rehabilitate the environmental, social, cultural and economic uses of water for the present and the future.

## Basis for water sharing

Ourimbah Creek is regarded as a stressed river. This means that, relative to the natural flows in the water source, the potential demand for extraction by water users is high. If everyone pumped water at the same time, there would not be enough water for all existing water users and the environmental needs of the river.

Climate and flows and therefore the water available to meet all competing needs, vary from year-to-year and from day-to-day. The Plan sets a limit, or a cap, on overall extractions on an annual basis (the long-term average **extraction limit**) and also limits on daily extractions - the **total daily extraction limit** (TDEL).

The long-term average extraction limit is determined as one figure for a number of related unregulated rivers, not just for an individual water source such as Ourimbah Creek. Extractions across this whole area – the Tuggerah Lakes **Extraction Management Unit** – will be monitored and any controls on annual extractions will be implemented across the Unit (this is discussed further in the section on the *Long-term average extraction limit*).

Over time, daily extractions will also be managed and controlled within the water source using a series of **flow classes** that can occur in the water source on a daily basis. These flow classes will be introduced as the appropriate gauges and meters are installed. DIPNR will notify licence holders when the flow classes will commence.

The flow classes, as measured at the **flow reference point** located at the downstream end of the water source are:

### Very low flow class:

flows at or less than 4 megalitres per day (ML/day) (on a falling river) and at or less than 6 ML/day (on a rising river) at the end of the creek (the flow reference point shown on the map).

### Low flows or A class:

flows greater than 4 ML/day and at or less than 7 ML/day on a falling river  
flows greater than 6 ML/day and at or less than 7 ML/day on a rising river

### Moderate flows or B class:

flows greater than 7 ML/day and at or less than 25 ML/day

### High flows or Class:

flows greater than 25 ML/day and 60 ML/day

### Very high flows or D class:

flows greater than 60 ML/day and at or less than 160 ML/day

### Extremely high flows or E class:

flows greater than 160 ML/day

Within each of these flow classes, the Plan defines how much water can be extracted under each category of licence. This is the **Total Daily Extraction Limit** (TDEL).

## Environmental health

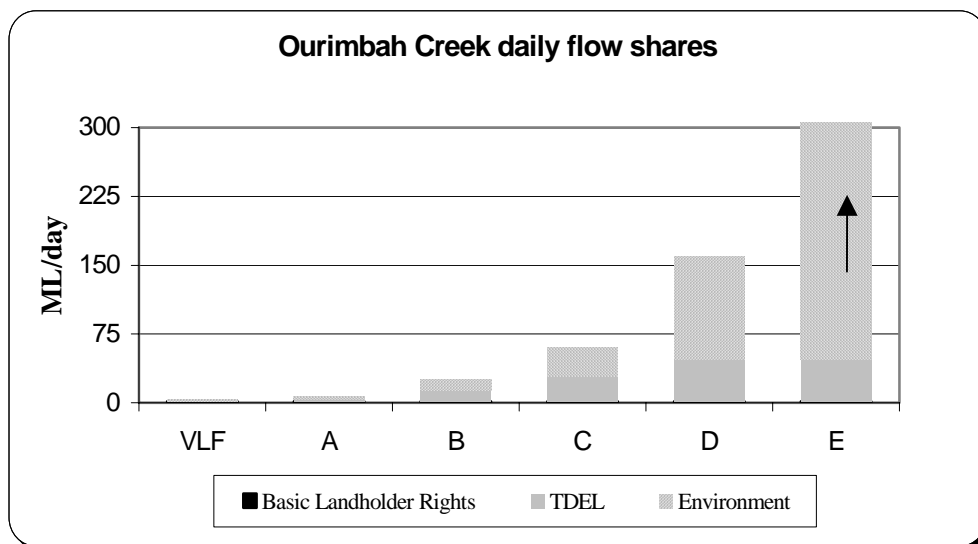
The *Water Management Act 2000* requires that water be allocated for the fundamental health of a river and its dependent ecosystems, such as wetlands and floodplains, as a first priority. The Plan does this by setting aside a proportion of each flow class for environmental needs.

In particular, the maintenance of water in the water source during the very low flow periods is essential to provide refuge areas for fish and other aquatic species. A cease to pump condition is specified in the Plan for the majority of licences (those known as unregulated river access licences which cover irrigation, farming, industrial and recreational uses) when the flow is at or below 4 ML/day on a falling river and 6 ML/day on a rising river (measured at the flow reference point). This will be implemented when the flow reference gauge at the end of the system is operational. In the interim, licence holders have been notified of a cease to pump condition when flow is at or below 2.7 megalitres per day (on a falling river) and 4 megalitres per day (on a rising river) as measured at the existing gauge at Ourimbah Creek upstream of Weir River (gauge no 211013).

Limited volumes are available below this cease to pump threshold for basic landholder rights (1.37 ML/day) and for licence holders that require continued access to water for hygiene and health purposes, that is, those listed on **Schedule 6** of the Plan. A standard amendment was made to all unregulated river water sharing plans allowing licence holders who historically required water for dairy washdown, fruit washing, poultry watering and animal hygiene to extract up to 20 kilolitres per day during very low flows periods. At the start of the Plan there were no such licence holders identified in the water source, however, provision exists for licence holder to be added to Schedule 6 if they are identified at a later stage. Only licence holders existing at the start of the plan can be added to Schedule 6.

In the other flow classes (A, B, C, D and E), the TDEL will set how much water can be taken by extractive water users. Other than extraction for basic rights, the rest will remain in the water source for the environment.

The following diagram illustrates the broad relationship between the shares to the environment (at maximum flow) and to extractive water users in each flow class. The upper limit for the 'E class' is dependent on river height.



Managing the water source within the overall long-term average extraction limit ensures that the environmental provisions are protected from increases in water extraction. The environmental health water provisions also protect the water source for traditional Aboriginal use and contribute to improved water quality.

## Basic landholder rights

The Plan makes provides for domestic and stock rights and native title rights – both forms of **basic landholder rights** which extract water from the water source and do not need to be licensed.

At the start of the Plan, the water requirements for domestic and stock rights were estimated at 1.37 ML/day. Currently there are no extractions for native title rights from the water source. However, both forms of right may increase during the Plan's ten- year term. Any such increase will be accommodated by reduced access by unregulated river access licences.

Basic landholder rights can be restricted during dry times to protect the environment or for reasons of public health.

## Requirements for water under access licences

Other than basic landholder rights, water extraction is authorised under a water access licence. There is a range of different categories of water access licences. These include:

- local water utility – for town water purposes,
- domestic and stock – for those who cannot access water under basic landholder rights (ie their property does not directly front a river),
- unregulated river – this is a general category that covers purposes such as irrigation, industry, mining, recreation and general farming. Irrigation is the major use of water in the water source, and
- Aboriginal cultural – a specific sub-category of unregulated river access licences which allows water to be taken by Aboriginal persons or communities for personal, domestic and communal purposes (up to 10 ML/year per licence).

Each water access licence specifies a **share component**. The share component of specific purpose licences such as local water utility, domestic and stock, and Aboriginal cultural are expressed as a number of megalitres. The share components of general unregulated river access licences are expressed as a number of shares.

At the start of the Plan, the requirements identified for all categories of water access licences from the water source totalled approximately 6,529 ML/year (1 share at the start of the plan is considered equivalent to 1 megalitre per year). Whether these annual volumes will be available in a **water year** will be dependent on climate and creek flows.

The total share component within this water source may change during the term of the Plan as a result of the granting or cancellation of licences, or because of variations to local water utility access licences. Towns may be granted an increased share component as a result of population growth and they may receive credits for water returned to the water source from treated effluent, in certain circumstances.

## Granting access licences

Applications can only be made for licences for additional local water utility, domestic and stock or Aboriginal cultural purposes.

## Long-term average extraction limit

It is important that the total of annual extractions is managed to within the limit specified in the Plan. Exceedence of the limit would threaten the environmental provisions of the Plan and the water available to established water extractors. In general, water extractions increase through:

- existing access licence holders using more of their share component,
- the sale of currently unused share components of access licences
- the granting of additional share components to permitted access licences eg local water utility.

As mentioned earlier, the long-term average extraction limit will be determined and managed across the entire Tuggerah Lakes Extraction Management Unit. If extractions are exceeding the limit, then they must be reduced until they are brought back into line with this figure. This will be done through

reductions in the volume of water that can be extracted in the subsequent year by unregulated river access licences.

## Available water determinations

Each year an available water determination is made defining how much of the share component is available under each category of water access licence.

Except in years of exceptional drought:

- domestic and stock access licences receive 100% of their share component, and
- local water utility access licences receive 100% of their share component.

The available water determination for unregulated river access licences may be less than 1 megalitre per share if the long-term average extraction limit is being exceeded.

For 2004/2005 a special AWD of 2 megalitres per share or volume was made to accord with previous agreed rules. This, combined with the carryover rules (see next section on *Water allocation accounts*), enables licence holders to use up to twice their water allocation in a year provided that over a consecutive three year period they do not exceed the sum of their water allocations for those three years. Assignments of water allocation can provide additional water.

## Water allocation accounts

A water allocation account has been established for each water access licence. Water is credited to the account when an available water determination is made and debited when water is extracted. The maximum unused water allocation that can be carried over from one water year to the next is 100% of the share component.

For example, if a licence holder has a share component of 50 shares and the available water determination is 1 megalitre per share, then 50 ML is credited to the account at the start of the water year. If only 30 ML is extracted, 20 ML can be carried over to the following water year. If the available water determination remains at 1 megalitre per share, then up to 70 ML is available for extraction in the following water year. On an annual basis, licence holders cannot extract more water than is held in their account. As explained in the next section, once daily flow shares are introduced in the water source, a daily limit in addition to the annual limit will apply.

## Sharing flows on a daily basis

For water to be shared fairly amongst all water users and the environmental, limits need to be set on how much water can be extracted from a particular flow class on a daily basis. This is called the total daily extraction limit or TDEL. However, before these flow classes and daily extraction limits can be fully implemented, the establishment of additional gauging stations and the metering of extractions are required. This will be phased in over the term of the plan. The ban on pumping (ie cease to pump rules) when flows drop to the very low flow class will be the first stage of the implementation of the daily flow sharing arrangements.

The TDEL for all water access licences in each flow class as set in the water sharing plan are:

- 0 ML/day, that is, no pumping during the very low flow class (Note: Schedule 6 licence holders may access limited volumes of water from the very low flows, however, none has been identified in this water source at the start of the Plan),
- 2 ML/day for A class,
- 12.5 ML/day for B class,
- 27 ML/day for C class,
- 46 ML/day for D class, and
- 46 ML/day for E class.

The TDEL assigned to various categories of licence for each flow class at the start of the Plan is shown in the following table.

**TABLE: Daily flow sharing arrangements – Total Daily Extraction Limits (ML/day)**

Flow Class	Local water utility access licences TDEL	Domestic & Stock access licences TDEL	Unregulated river access licences TDEL	All licences TDEL*
<b>Very low flows</b> ≤4 ML/day (falling river) ≤6 ML/day (rising river)	0	0	0	0
<b>A Class</b> >4 and ≤7 ML/day (falling river) >6 and ≤7 ML/day (rising river)	0	0.14	1.86	2
<b>B Class</b> >7 and ≤25 ML/day	8.5	0.14	3.86	12.5
<b>C Class</b> >25 and ≤60 ML/day	22	0.14	4.86	27
<b>D class</b> >60 and ≤160 ML/day	41	0.14	4.86	46
<b>E class</b> > 160 ML/day	41	0.14	4.86	46

\* Water for basic landholder rights has been estimated at 1.37 ML/day for each flow class. This is in addition to the licensed TDELs.

When the A to E flow classes are to commence, the Department will formally notify each licence holder of their **individual daily extraction limits** (IDELs) in each flow class. This will form part of the **extraction component** on the water access licence.

## Group management

As daily flow sharing is introduced, the plan provides for a system of group management to provide access licence holders with more flexibility in managing their individual daily extraction limits. This will operate similar to a formal rostering system. It permits a licence holder to exceed their individual daily extraction limit provided the group as a whole does not.

Group management will enable more flexible pumping regimes. In turn, licence holders will be required to maintain accurate records of their pumping times and rates, to enable total water extraction within the water source to be monitored.

## Access licence dealing rules

**Access licence dealings** or water dealings can include the following:

- sale or transfer of the ownership of a licence (called a ‘transfer’),
- change in the location where a licence can be used,
- sale (called an ‘assignment’) of the share component or extraction component of a licence,
- subdivision or consolidation of access licences,
- sale of account water (called an ‘assignment of water allocation’),
- change in the category of an access licence (called a ‘conversion’),
- rental of an access licence (called a ‘term transfer’),

For more information on the types of access licence dealings and their application forms refer to the information on *Water dealings* on DIPNR’s website.

The main provisions are:

- share components and water allocations may be traded within this water source. Note: metering is required before water allocation assignments can occur, and
- share components and water allocations may be traded with other water sources within the extraction management unit provided the water sharing plan for the other water source allows this.

Conversion factors for some dealings may apply. These are intended to protect environmental health and water availability to all licences in the water source.

## **Mandatory conditions**

The Plan sets out a number of conditions that are applied to water access licences and **water supply work approvals**. These conditions are designed to protect the rights of all users in the water source and the environmental water rules of the Plan. They cannot be removed or altered unless the Plan itself is amended.

## **Monitoring and reporting**

The Plan includes performance indicators against which the performance of the Plan will be monitored to determine if it is meeting its objectives. The Plan will be audited every five years. The Natural Resources Commission must undertake a review of the Plan prior to any decision to extend its term or to make a new plan.

In addition, an Implementation Program is to be established setting out the means by which the provisions of the Plan will be achieved. This Implementation Program will be reviewed each year and the results reported in the Department's Annual Report.

## **Plan amendments**

An important aspect of the Plan is that it provides certainty to water users in terms of their access to water. This is because the rules for the next decade are defined and documented in the Plan. However, during the term of the Plan, some amendments may be needed. The Plan allows an amendment to:

- the very low flow provisions based on field verification,
- the long-term extraction limit as a result of the issue or cancellation of additional licences or share component, particularly for Gosford and Wyong Councils,
- the TDEL for unregulated river access licences, if necessary, as a result of growth in basic landholder rights and the granting of any new licences.

## Glossary of terms

**access licences** provide the holder with a share of available water in a water source. The access licence is separate from the approvals required for water use or the supply works eg. pump, dam.

**access licence dealings** refer to a range of changes to an access licence or the water held in the account for that licence. These include a change in the ownership of all or part of the licence, a change in the location from which water is extracted, movement (assignment) of water allocations between licences, or a change in the category of the licence.

**available water determinations** (AWDs) determine how much water a licence holder can extract in a year. An AWD adds water to the accounts of all access licences in that category. The AWD will also ensure that long-term extraction does not exceed the extraction limit.

**basic landholder rights** cover three types of rights that do not require an access licence. The first allows rural landholders along the riverfront to extract water for domestic household and stock watering purposes (*domestic and stock rights*). Domestic and stock rights replace riparian rights under the *Water Act 1912*. The second right allows landholders to capture a portion of the runoff from their land in farm dams (*harvestable rights*). Harvestable rights do not involve extraction directly from the river and so have not been provided for in the plan. The third right allows Aboriginal native title holders (as determined under the *Commonwealth Native Titles Act 1993*) to extract water for a range of domestic and non-commercial communal purposes (*native title rights*).

**extraction component** of the access licence specifies the sections of the water source from which water may be taken. It may also set the times and rates at which water can be taken, such as IDELs.

**extraction limit** is the average yearly volume of water that can be extracted by all licences.

**extraction management unit** is the grouping of water sources for the purpose of managing annual average extraction.

**flow classes** describe the range of daily flow levels in the rivers and provide the framework for sharing water on a daily basis.

**flow reference point** is the site from which the flows are calculated to determine the flow class.

**harvestable rights** allow landholders to capture and use 10 per cent of the average regional rainfall runoff on their land in farm dams. Harvestable rights are intended to satisfy essential farm needs such as stock watering, and house and garden requirements, but can be used for any purpose including commercial irrigation.

**individual daily extraction limit (IDEL)** is the daily volume limit for a particular licence holder for each flow class. The IDEL will be specified as part of the extraction component on the access licence. It is a share of the total daily extraction limit.

**schedule 6** identifies those licence holders that may continue to access water during periods of very low flows in order to comply with the requirements of the *Food Production (Safety) Act* or the *Prevention of Cruelty to Animals Act*. This covers fruit washing, cleaning of dairy plant and equipment for the purpose of hygiene, poultry watering and misting, and cleaning of enclosures used for intensive animal production for the purposes of hygiene.

**share component** of the access licence is similar to the entitlement volume on previous water licences. The amount of water an access licence holder is allocated in any year as a result of an available water determination is based on their share component. Other rules, such as carryover, are also based on the share component.

**total daily extraction limit (TDEL)** is the limit on the daily volume of water that access licence holders in a category can take from a particular flow class.

**water supply works approval** permits water supply works (pumps, dams) to be built and operated at specified locations.

**water year** is the 12 months running from 1 July to 30 June.