



New South Wales

Order amending Water Sharing Plan for the Ourimbah Creek Water Source 2003

under the

Water Management Act 2000

Amendment to Management Plan

Water Sharing Plan for the Ourimbah Creek Water Source 2003

Pursuant to section 45(1)(a) of the *Water Management Act 2000*, I, PHILLIP COSTA, MP, Minister for Water, with the concurrence of the Minister for Climate Change and the Environment, being satisfied it is in the public interest to do so, do, by this Order, amend the *Water Sharing Plan for the Ourimbah Creek Water Source 2003* in the manner set out in Schedule 1.

This Order takes effect from the date it is published in the *NSW Government Gazette*.

Dated this 14th day of July, 2009.

PHILLIP COSTA, MP
Minister for Water

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[1] Clause 35 Long term average extraction limit

Omit clause 35. Insert instead:

35 Long-term average annual extraction limit

- (1) For this unit there will be separate long-term average annual extraction limits applying to extractions under:
 - (a) basic landholder rights and access licences, other than those local water utility licences held by Gosford and Wyong Councils, and
 - (b) local water utility access licences held by Gosford and Wyong Councils (hereafter *the local water utility long-term average annual extraction limit*).
- (2) The long-term average annual extraction limit established under subclause (1) (a) is equal to the total of:
 - (a) the sum of share components of access licences in the Ourimbah Creek Water Source at the commencement of the Water Sharing Plan for Ourimbah Creek Water Source 2003, excluding local water utility entitlements held by Gosford and Wyong Councils,
 - (b) an estimate of annual extraction of water under domestic and stock rights and native title rights in the Ourimbah Creek Water Source at the commencement of the Water Sharing Plan for Ourimbah Creek Water Source 2003,
 - (c) the sum of share components of access licences not held by Gosford and Wyong Councils, that have been issued for the purposes of stormwater harvesting in the Unit, and
 - (d) the sum of share components of access licences granted under clause 19 of the Regulation in all water sources, excluding local water utility access licences granted to Gosford and Wyong Councils.
- (3) The local water utility long-term average annual extraction limit established under subclause (1) (b) is equal to 36,750 ML/year minus:
 - (a) the long-term average annual extraction under local water utility access licences held by Gosford City Council and Wyong Shire Council in the Gosford Extraction Management Unit, and
 - (b) the long-term average annual extraction under local water utility access licences held by Gosford City Council and

Wyong Shire Council in any groundwater source, where the groundwater taken is not being passed through Mardi Water Treatment Plant.

Note. Water flowing from Hunter Water Corporation to Gosford/Wyong Councils will be accounted against the local water utility LTAAEL in the Tuggerah Lakes EMU. Water transferred from Gosford/Wyong Councils to Hunter Water Corporation will be accounted against the major utility LTAAEL in the Hunter EMU.

Note. The LTAAEL of 36,750 ML/year is based on demand projections to 2013. This is the expected date that releases will commence from Tillegra Dam and upgrade works will be finalised for Grahamstown Dam. At this time operation of the water supply system will vary and a number of relevant plan provisions within the Water Sharing Plan for the Hunter Unregulated and Alluvial Water Sources and this Plan will need to be reviewed to determine their appropriateness in line with the new operations.

Note. Any groundwater extraction that is being passed through Mardi Water Treatment Plant will effectively be counted as surface water extraction against the LTAAEL.

- (4) After commencement of releases from Tillegra Dam or after 1 July 2013, whichever occurs sooner, the local water utility long-term average annual extraction limits established under subclause (3) for this Unit will be reviewed, taking into consideration:
 - (a) instream habitat and estuary requirements, and
 - (b) local water utility long-term demand requirements.
- (5) The Minister may, amend the local water utility long-term average annual extraction limit specified in subclause (3) in accordance with the outcomes of the review specified in subclause (4).
- (6) The Minister may amend subclause (1) (b) and the local water utility long-term average annual extraction limit specified in subclause (3) following the granting of access licences to Gosford or Wyong Councils for the purpose of stormwater harvesting.
- (7) The Minister may amend the local water utility long-term average annual extraction limit specified in subclauses (3) in accordance with the outcomes of the review specified in clause 36A (10) of this Plan.

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[2] Clause 36 variation of the long term average extraction limit.

Omit clause 36. Insert instead:

36 Variation of the long-term average annual extraction limit

- (1) The long-term average annual extraction limit for this extraction management unit may be varied by the Minister following the purchase and cancellation of an access licence in the extraction management unit.
- (2) The long-term average annual extraction limit for this extraction management unit may be varied by the Minister if dealings under Part 11 of this Plan result in issuing or cancellation of access licences in the respective extraction management unit.

[3] Insert new clause

36A Compliance with the long-term average annual extraction limit

- (1) In this Unit the total water extractions under basic landholder rights and access licences, other than local water utility or any future major utility access licences held by Gosford City Council and Wyong Shire Council, will be monitored each water year to determine if there is any growth in volumes extracted above the long-term average annual extraction limit established under clause 35 (2), based on comparison of the extraction limit against the average extraction within this Unit over that year and the preceding 2 years.
- (2) For the purposes of auditing extraction against the long-term average annual extraction limit established under clause 35 (2), the taking of water pursuant to an access licence that has been committed as adaptive environmental water pursuant to section 8C of the Act, shall not be accounted for as extraction under subclause (1).
- (3) For water sources in this Unit, if the 3 year average of total water extractions under basic landholder rights and access licences, other than local water utility or any future major utility access licences held by Gosford City Council and Wyong Shire Council, exceeds the long-term average annual extraction limit established under clause 35 (2) by 5% or greater, then the available water determinations made for unregulated river access licences under clause 37 (8) for the following water year shall be reduced by an amount that is assessed as necessary by the Minister to return subsequent total water extractions under basic landholder rights

and access licences, other than those held by Gosford and Wyong Councils, in this Unit to the long-term average annual extraction limit.

- (4) For water sources in this Unit if the 3 year average of total water extractions under basic landholder rights and access licences, other than local water utility or any future major utility access licences held by Gosford City Council and Wyong Shire Council, is less than 95% of the long-term average annual extraction limit established in clause 35 (2), the available water determinations made for unregulated river access licences under clause 37 (8) for the following water year for unregulated river access shall be increased to such an extent as to allow total water extraction under basic landholder rights and access licences in this Unit to increase to the respective long-term average annual extraction limit.

Note. The effect of this subclause and clause 37 (8) is that available water determinations for unregulated river access licences can never be greater than 1 ML per unit share, except for the available water determinations made for the first year of the Plan. Therefore this allows for adjustment back towards 1 ML per unit share if a previous growth in use response under 36A(3) resulted in extractions significantly below the LTAAEL.

- (5) Any reduction or increase to the available water determinations made under clause 37 (8) for unregulated river access licences in the Ourimbah Creek Water Source as a result of subclause (3) or (4) shall be equivalent to the corresponding reduction or increase made to available water determinations for unregulated river access licences in the Wyong River Water Source, Tuggerah Lakes Water Source and the Jilliby Jilliby Creek Water Source and should be repeated for each of the subsequent two water years.
- (6) The average annual volume of water taken under all local water utility access licences, held by Gosford City Council and Wyong Council, in any 10 consecutive water years in this Unit may not exceed a volume equal to the long-term average annual extraction limit specified in clause 35 (3).
- (7) In this Unit the total water taken under local water utility or any future major utility access licences held by Gosford City Council and Wyong Shire Councils will be monitored each water year to determine if there is any growth above the local water utility long-term average annual extraction limit established under clause 35 (3), based on a comparison of the long-term average annual extraction limit against the average annual amount of

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water taken within this Unit over a rolling ten year period commencing from the start of this Plan, except where subclause (8) applies.

- (8) If the long-term average annual extraction limit specified in clause 35 (3) is amended under clause 35 (5) then growth in the 'water taken' above the respective local water utility long-term average annual extraction limit specified in clause 35 (3) shall be determined based on a comparison of the extraction limit against the average water taken under local water utility or any future major utility access licences held by Gosford City Council and Wyong Shire Council within the Tuggerah Lakes Extraction Management Unit over a rolling ten year period commencing from the water year in which the amendment was made.

Note. The effect of subclause (8) is if a new long-term average annual extraction limit for the local water utility is required after Tillegra Dam is built within the term of this Plan then a new ten year rolling accounting period will commence.

- (9) For the purpose of assessing growth above the local water utility long-term average annual extraction limit the water taken in the Tuggerah Lakes Extraction Management Unit under local water utility or major utility licences within these water sources will be determined as:
- (a) the water passing the outlet of Mardi Water Treatment Plant minus any water passing the boundary meter from Gosford/Wyong Councils to Hunter Water Corporation, plus
 - (b) any water passing the boundary meter from Hunter Water Corporation to Gosford Wyong Councils, plus
 - (c) water taken by any other local water utility infrastructure nominated by Gosford and Wyong Water Supply Authority and agreed to by the Minister.
- (10) If monitoring of the water taken under local water utility or any future major utility access licences held by Gosford City Council and Wyong Shire Council indicates growth above the local water utility long-term average annual extraction limit as specified in clause 35 (3), then a review shall be undertaken which considers:
- (a) the Councils' urban water supply requirements, and
 - (b) the impacts associated with an increase to the respective local water utility long-term average annual extraction limit.
- (11) The Minister may amend this clause to take account of access licences issued for the purpose of stormwater harvesting.

[4] Clause 37 Available water determinations

Omit clause 37. Insert instead:

37 Available water determinations

- (1) This Division is made in accordance with section 20 (2) (b) of the Act.
- (2) All available water determinations in these water sources shall be expressed as either:
 - (a) a percentage of the share component for all access licences where share components are specified as ML/year, or
 - (b) megalitres per unit share for all access licences where share components are specified as a number of unit shares.
- (3) An available water determination for each category of access licence in these water sources should be made at the commencement of each water year.
- (4) The available water determination made at the commencement of each water year for domestic and stock access licences in these water sources shall provide an allocation of 100% of share components, except where the available water determination is made under subclause (5).
- (5) The available water determination made at the commencement of the first year of this Plan, for domestic and stock access licences in these water sources should be 200% of those licences' share components.
- (6) The available water determination made at the commencement of each water year for local water utility access licences in these water sources should be 100% of those licences' share components.
- (7) If major utility access licences are established in these water sources the available water determination made at the commencement of each water year for major utility access licences should be 100% of those licences share components.
- (8) The available water determination made at the commencement of each water year for unregulated river access licences in these water sources should be equal to 1 megalitre multiplied by the number of unit shares in the share component, or such lower amount as results from clause 36A (3) except where the available water determination is made under subclause (9).
- (9) The available water determination made at the commencement of the first year of this Plan, for unregulated river access licences in

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these water sources, should be equal to 2 megalitres multiplied by the number of unit shares in the share component.

[5] Clause 39 Water allocation account management

Omit clause 39. Insert instead:

39 Individual access licence account management rules

- (1) Water taken from this water source, excluding that taken by local water utility access licences, in any 3 consecutive water accounting years under an access licence may not exceed a volume consisting of:
 - (a) the water allocations accrued under the licence in those years,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 G of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocation assigned to another licence, by a water allocation assignment under section 71 G of the Act in those years.
- (2) Notwithstanding subclause (1), water taken under an access licence from this water source, excluding local water utility access licences, in the first 3 water accounting years of this Plan may not exceed a volume consisting of:
 - (a) 3 times the share component of the access licences,
 - (b) plus any water allocations assigned from another licence by a water allocation assignment under section 71 T of the Act in those years,
 - (c) plus any water allocations recredited in accordance with section 76 of the Act in those years, and
 - (d) minus any water allocation assigned to another licence, by a water allocation assignment under section 71 T of the Act in those years.
- (3) Water allocation in the accounts of local water utility or major utility access licences shall not be permitted to be carried over from one water year to the next.

[6] Clause 40 Water allocation accounts

Omit clause 40.

[7] Clause 41 Accrual of water accounts

Omit clause 41.

[8] Clause 42 Annual accounting for water extraction

Omit clause 42.

[9] Clause 43 Three year accounting for water extraction

Omit clause 43.

[10] Clause 61 Mandatory conditions on access licences

Insert additional clause (3).

- (3) All local water utility access or any future major utility access licences in this water source must have a mandatory condition specifying that water must not be taken if it were to cause the respective local water utility long term average annual extraction limit as specified in clause 35 to be exceeded.