



August 2021

Legal limits



Legal limits protect water resources, ecosystems and communities from over-extraction. Expressing a limit as a formula or definition rather than a volume makes it adaptable. Limits have evolved over time to improve environmental outcomes. Less water is available for legal extraction than it used to be.

Legal limits for water take

Legal limits apply to all types of surface water take within a water source. This includes water taken from rivers and lakes, floodwater or rainfall runoff. Governments are responsible for ensuring compliance with legal limits and reducing water extraction when limits are exceeded.

Legal limits have evolved over time to become stricter. This means that less water is taken for consumptive use since the first legal limit was set. The amount of water taken under sustainable diversion limits (SDLs) will be less than the amount taken under long term average annual extraction limits (LTAAELs), which is less than or equal to the amount taken under the Cap limits. This is when the same types of water use are compared.

The 'Cap'

The Cap on surface water diversions (the Cap) was the first limit established in 1997 under the Murray-Darling Basin Agreement. The Cap limits average long-term take to the volume of water that could have been taken with the infrastructure and rules that existed in 1993/94.



Legal limits are for:

Water sources

Legal limits are set for water sources and apply to all surface water taken in that area. They ensure the long-term objectives of NSW water sharing plans and the Basin Plan 2012 can be met.



Individual licence limits are for:

Landholders

Water is allocated to individual licences according to rules in NSW water sharing plans. They set limits for how much water can be taken in a single or series of years. Licence holders cannot exceed these limits.



Long term average annual extraction limits

Water management rules have changed significantly since the 1993/94 conditions used by the Cap. NSW has introduced a number of rules to protect the environment and downstream communities including minimum daily releases, flow sharing and environmental water allowances. These rules are not included in the Cap limits.

A new set of legal limits were introduced (LTAAELs) in NSW water sharing plans to cater for these new rules. LTAAEL is the lesser of:

1. The Cap, or
2. The average volume of water that could have been taken with the rules and infrastructure that existed in 1999/2000.

As such, LTAAELs can only be the **same or smaller than Cap** for the same types of water use.

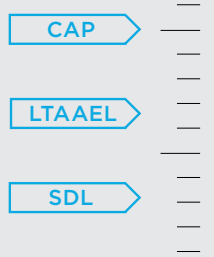
Sustainable diversion limits

Since 2008, the Commonwealth Government has recovered environmental water to ensure consumptive take is sustainable. Only consumptive take is accounted under SDLs.

SDL = LTAAEL (generally) minus environmental water

SDLs are enforceable only after water resource plans are accredited by the Commonwealth Government.

In an individual valley, the Cap is greater than or equal to the LTAAEL, which is greater than the SDL.



Does a legal limit change?

Legal limits do not change unless legislation is amended. Volumetric estimates of the legal limits may be updated with better information.

The legal limit is a formula or definition representing a point in time

All legal limits are based on a set of conditions at a particular point in time. As such, legal limits are **not a set volume**. Limits are volumetrically estimated using models that represent those time periods and are configured with best available information. Estimates can be updated with better information. This means that the output of a model at a certain time, which is the volumetric estimate of the limit, can change if better information becomes available.

The extraction limit definition does not change with an updated volumetric estimate.

Legal limits and floodplain harvesting

Water taken from the floodplain has always been included in the Cap limits, LTAAELs and SDLs.

Under the Healthy Floodplains Project, NSW has significantly improved how our models represent water taken from floodplains. Using this information to better represent conditions in 1993/94 and in 1999/2000 has updated the **volumetric estimates** of the Cap and LTAAEL respectively. We now have a more accurate picture of conditions at those points in time. These volumetric estimates will continue to be refined as better modelling information becomes available.

Floodplain harvesting will be licensed such that overall surface water take will be within legal limits. In valleys where floodplain harvesting has caused legal limits to be exceeded, licensed entitlements will reduce take. **Licensing floodplain harvesting will not give out any 'new water'**. It just brings existing take into the regulatory framework allowing the Government to meter, manage and maintain take within legal limits.

© State of New South Wales through Department of Planning, Industry and Environment 2021. Information contained in this publication is based on knowledge and understanding at the time of writing (August 2021) and is subject to change. For more information, please visit dpie.nsw.gov.au/copyright