

Controlled Allocation Order 2022

This document answers frequently asked questions about the Controlled Allocations Order gazetted in October 2022

1. What is the controlled allocation order?

Controlled allocation orders make new water access licences available. The order made in October 2022 makes aquifer access licences available in specific groundwater sources that have unassigned water. The order does not include any groundwater sources where current water requirements have reached or are close to reaching the long term average annual extraction limit set in a water sharing plan.

The Minister or delegate can make a controlled allocation order at any time under section 65 of the *Water Management Act 2000*. Anyone can apply for a water access licence if they have acquired that right under a controlled allocation order.

Buying a licence through a controlled allocation gives the new licence holder a share in a groundwater source. One share equals one megalitre based on an available water determination of one megalitres per share. Even though you may hold a licence and shares you will also need one or more approvals to take the water (unless an exemption applies). The process of obtaining an approval so you can take the water is separate to the process of buying a water access licence and will incur additional fees and require an impact assessment that may affect how much water you can take from a particular location (see FAQ 15 'What approvals do I need before I can take and use my groundwater?')

Before participating in a controlled allocation process you should investigate whether you will be able to extract the amount and the quality of groundwater at your proposed location to suit your intended purpose (see FAQ 5). This is because groundwater yield and quality can vary within a groundwater source.

Detailed information about the controlled allocation process is available in the Order's 'Terms and Conditions'. Please ensure you have read and understand the order and the Terms and Conditions before making an application.

2. How is unassigned water calculated?

Unassigned water is calculated by first subtracting current water requirements (the sum of all licensed shares plus water required to meet basic landholder rights) from the long term average annual extraction limit (LTAAEL). Factors such as shares reserved for licences yet to be converted/issued and future urban water supply needs may also affect the amount of unassigned water.

For more information on how unassigned groundwater is determined, see the [Strategy for the controlled allocation of groundwater](#).

3. How many shares are released under the 2022 Controlled Allocation Order?

Schedule 1 of the Order specifies the groundwater sources included in the order and the number of shares available in each groundwater source.

The department takes a precautionary approach in each controlled allocation by releasing a small amount of unassigned groundwater to prevent over-allocation of groundwater resources.

Under this approach, the level of commitment is reviewed as it approaches 80% of the LTAAEL, consistent with the *Strategy for the controlled allocation of groundwater*. This Strategy aims to ensure enough groundwater remains available to meet future priority water needs such as urban water supply and growth in basic landholder rights.

For groundwater sources in the Greater Metropolitan Region the Department has taken an even more conservative approach in the October 2022 controlled allocation as the water sharing plan for that area is currently being developed and will be re-made in 2023. To be conservative until the new plan has been made, the lower of the LTAAELs under the existing (2011) and draft (2023) water sharing plans, and the higher of the 2011 and 2023 estimates for basic landholder rights have been used to safely calculate unassigned water.

4. How do I know if shares are available in my groundwater source under a controlled allocation?

Schedule 1 of the Order lists the groundwater sources (and water management zones where availability is restricted to a particular zone in a groundwater source) where shares are available. The map [Groundwater Covered by Controlled Allocation Order October 2022](#) shows these groundwater sources. Before making an application we suggest you contact WaterNSW (1300 662 077) to confirm which groundwater source(s) or water management zone(s) apply to you.

If your groundwater source isn't included in the controlled allocation order, you may be able to buy shares or temporary allocation in your groundwater source through the water market.

5. How can I tell if the groundwater at my location is of suitable yield or quality for my needs?

If you want more information about the potential depth to groundwater, water quality or yield in your area, you may be able to get some information about existing bores from the Government's groundwater database. Contact WaterNSW (1300 662 077) or send a request for bore details in your area to: waterdataservices@waternsw.com.au

Alternatively you can arrange privately for groundwater investigations at your location. WaterNSW can also advise you about the licensing and approval requirements if you want to drill a bore (test bore) to investigate the groundwater prospects in your area.

6. How do I get a licence and shares through the controlled allocation process?

Under a controlled allocation order a person (or other legal entity) can register their interest in acquiring the right to apply for a licence with a specified number of shares in a particular groundwater source.

The right to apply for a licence is won based on the highest price offered per share. Other terms and conditions also have to be met to acquire this right.

More detail on how to register your interest in a licence and shares under this process is in the 'Terms and Conditions for the Controlled Allocation Process' in Schedule 2 of the Controlled Allocation Order (Various Groundwater Sources) 2022.

7. What type of licence will I get following the 2022 controlled allocation process?

If successful in the controlled allocation, you can apply for and receive a water access licence of the category 'aquifer access licence', which is granted in perpetuity.

Once your new access licence has been granted, it must be registered with NSW Land Registry Services on the Water Access Licence Register to become legally effective. Registration must occur before taking or trading any water under the licence. Instructions on how to register will be provided when your licence is granted. For information about licence registration and fees please contact the Land Registry Services on 02 8776 3575 or 1300 396 076 (regional callers).

8. Can I trade the aquifer access licence I receive under the controlled allocation process?

Yes. You can trade your aquifer access licence in the same way that all other aquifer access licences can be traded under the rules of the relevant water sharing plan and the Access Licence Dealing Principles Order 2004.

9. Do I have to apply for an access licence if I already have one?

Yes, shares bought through a controlled allocation are new shares, so you receive a new access licence. If you would like to merge your new licence with an existing licence of the same category, you can do this later through a dealing. Contact WaterNSW on 1300 662 077 for more information on dealings.

10. Is there a limit to the number of shares I can buy?

Yes, each controlled allocation order specifies the number of shares released in each groundwater source. You can register interest in any number of whole shares up to the total number of shares specified in the order for a particular groundwater source.

11. What if I want more shares than are offered through the controlled allocation process?

The Minister may make further controlled allocation orders. Shares and temporary allocation can also be bought through the water trading market from existing licence holders.

12. Why are minimum prices set?

Minimum prices per share are set to encourage water use efficiency and the maximum economic benefit for the water. They also ensure that existing water markets are not disrupted. The minimum price is set based on prices paid in other similar groundwater sources through previous controlled allocations, water trading and other current market indicators. The registration of interest process will determine the final price to be paid.

13. Where can I take groundwater from under my new aquifer access licence?

The aquifer access licence will only allow water to be taken from the groundwater source in which you successfully acquired shares and that groundwater source will be specified on your licence. However, groundwater made available through the October 2022 controlled allocation order cannot be taken from these management zones within the water source(s):

- Lachlan Fold Belt Murray-Darling Basin (Mudgee) Management Zone in the Lachlan Fold Belt Murray-Darling Basin Groundwater Source.
- Spring Ridge Management Zone in the Gunnedah-Oxley Basin Murray-Darling Basin Groundwater Source.

14. How do water sharing plan rules apply to aquifer access licences and shares obtained through the controlled allocation?

All groundwater sources across NSW are managed under a water sharing plan and the requirements of the *Water Management Act 2000* apply (unless exempt). Water sharing plans set rules and mandatory conditions that are specific to each groundwater source for activities that involve groundwater extraction and apply to these aquifer access licences in the same way they apply to any other aquifer access licence in the groundwater source.

Water sharing plans set limits on water extraction (the long term average annual extraction limit) for all water in a water source, including saline or contaminated water. These legally binding plans include rules for water trading, water accounts and for how water is shared by different users and the environment. The plans also set out the mandatory approval conditions that apply to water supply work approvals (see FAQ 15), including rules to minimise impacts on other groundwater users, dependent ecosystems, water quality and groundwater sources.

The release of unassigned groundwater under the October 2022 controlled allocation order will not result in any long term average annual extraction limits in water sharing plans being exceeded.

You can find out more about water sharing plans at: www.industry.nsw.gov.au/water/plans-programs/water-sharing-plans/how-water-sharing-plans-work

15. What approvals do I need before I can take and use my groundwater?

In most cases you will need to hold one or more approvals under the *Water Management Act 2000* before you can use a water supply work to take water from the groundwater source. Before you take water, you will need to apply to link your water access licence to an approval. This is done by applying for a dealing to amend your water access licence under section 71W of the Act to nominate a specified water supply work or extraction point under your licence. This application is done through WaterNSW or the Department of Planning and Environment.

Under the *Environmental Planning and Assessment Act 1979*, you may be exempt from the need to hold an approval under the *Water Management Act 2000* for State significant development authorised by a development consent or for a State significant infrastructure approved by the Minister for Planning (or delegate).

Where you are required to hold an approval to take water, Government will undertake an impact assessment as part of the application process. This involves assessing the likely impacts on the

groundwater source, connected water sources, the users of these water sources and dependent ecosystems.

An approval application may be refused, or an extraction limit applied at a volume that is less than what you may want to take. If you take more water under your licence than the amount allowed by the approval, you may be in breach of the *Water Management Act 2000*.

Contact WaterNSW (1300 662 077) for more information about approvals and dealings under the *Water Management Act 2000*.

Contact the Department of Planning and Environment (1300 305 695) for more information about the *Environmental Planning and Assessment Act 1979*.

16. When can I start taking my groundwater?

Water is credited to licence accounts at the start of each new water year (1 July) on the basis of the available water determination. Generally this is 1 megalitre per share (also known as 100% allocation) unless it must be reduced for some reason, such as severe water shortage.

For licences and shares granted under a controlled allocation process part-way through a water year, the shares are credited on a pro-rata basis, in accordance with section 85 (4) of the *Water Management Act 2000*. For example, if you successfully bid for 100 shares in a groundwater source and your licence is granted at the end of December (halfway through the water year) then your account will be credited with half the year's allocation, that is 50 megalitres. The full 100 megalitres will be allocated to your water account at the start of the new water year (1 July) and again each subsequent water year.

You can start taking groundwater up to the amount of volume in your water account once you have registered your licence with NSW Land Registry Services (see FAQ 7 on registering your new licence) and have obtained the required approval(s) (see FAQ 15 on approvals to take and use water).

17. What happens if I don't find suitable groundwater when I drill a bore at my location?

If this happens, you may be able to sell some or all of your shares on the water market. This is known as permanent trade. Alternatively you can sell some or all of your account water (allocation), which is known as temporary trade (see FAQ 8 about trading your licence).

18. Can I combine my surface water with my groundwater?

Generally no. Groundwater is not normally combined with, or stored, in surface water infrastructure and water licences cannot be combined if they are different categories.

Contact WaterNSW (1300 662 077) to discuss your options.

19. Will the release of water under a controlled allocation process allow water to be taken from connected surface water systems?

No. All groundwater systems that are highly connected to surface water are fully committed and do not have unassigned water. Under this order, shares are only being released from groundwater sources that are not fully committed or highly connected to surface water.

20. Can the controlled allocation order be extended or repealed?

The controlled allocation order remains in effect until it is repealed by the Minister (or delegate). We expect the order to be repealed once the controlled allocation process is complete.

21. How does a controlled allocation order relate to the Murray Darling Basin Plan?

In March 2014, NSW signed up to implement the Basin Plan. This Plan sets sustainable diversion limits for groundwater resources in the Murray Darling Basin Plan. These limits equate to the long term average extraction limits in water sharing plans. The release of unassigned groundwater under a controlled allocation order will not result in any of the sustainable diversion limits in the Basin Plan being exceeded.

22. How does a controlled allocation order relate to the NSW Aquifer Interference Policy?

The [NSW Aquifer Interference Policy](#) covers aquifer interference activities including dewatering for mining, exploration, quarrying and construction.

This Policy sets out the water licensing requirements for aquifer interference activities to ensure the water taken by them is properly licensed and accounted for in all affected water sources. Anyone who takes water when carrying out an aquifer interference activity must hold a water access licence unless an exemption applies.

The Policy defines the minimal considerations that must be taken into account when assessing the impacts associated with aquifer interference activities.

The minimal impact considerations are also used to assess the impacts of State significant development and State significant infrastructure proposals that are aquifer interference activities and form the basis for the advice that is provided to the relevant approval body – generally the Planning and Assessment Division of the Department of Planning and Environment.

23. Will the release of licences with a share component under this controlled allocation process affect the water available for food production or the environment?

No. The process will not affect existing licences and shares held in a groundwater source and will not impact on planned environmental water or reduce the amount of water able to be taken and used to grow food.

Under this order water licences are only made available in groundwater sources with unassigned water. Only a portion of the unassigned water is released to ensure that the total water extractions in a groundwater source remain below the limits set in the relevant water sharing plan.