

Allocation trading rule for incidental water take by mines in the Sydney Catchment Special Areas

What is the trading rule?

The trading rule allows WaterNSW to trade water allocation from water access licences it holds in the Sydney Drinking Water Catchment, to unregulated river access licences held in relation to coal mines in the Sydney Drinking Water Catchment Woronora and Metropolitan Special Areas. The receiving licence must be held for the purpose of accounting for incidental surface water take only.

What are the Sydney Drinking Water Catchment Special Areas?

The Special Areas surround the major dams, reservoirs and canals used for drinking water supply in the Sydney water catchment. In these areas, access and certain types of activities are restricted to protect water quality and maintain ecological integrity. The water allocation trading rule only applies to mines located within two of these Special Areas - the Woronora and Metropolitan Special Areas. The Metropolitan Special Area surrounds the Cataract, Cordeaux, Avon and Nepean Dams, and the Woronora Special Area surrounds Woronora Dam. These Special Areas overlie the coal measures of the Southern Coalfield.

More information on the Special Areas, including maps, can be found on the [WaterNSW website](#).

When did the trading rule come into effect?

The trading rule was introduced via an amendment to the Access Licence Dealing Principles Order 2004. The trading rule commenced when the Access Licence Dealing Principles (Special Areas) Amendment Order 2023 was published on the NSW Legislation website on 2 March 2023.

Minor updates were made to the trading rule in December 2023 to correct numbering errors and make necessary updates needed following the 2023 remake of the relevant water sharing plan, which included amendments relevant to the names of the water sources. These changes commenced when the Access Licence Dealing Principles (Special Areas No. 2) Amendment Order 2023 was published on 8 December 2023.

Where can I find the trading rule?

Copies of the Access Licence Dealing Principles Order 2004 and both amendment orders can be found on the [NSW Legislation website](#).

Will allowing WaterNSW to trade with the mines impact Sydney's water supply?

No, it will not impact water supply to Sydney. WaterNSW will not be required to trade with mines if there is not enough allocation available.

Why was the trading rule introduced?

The rule was developed in response to recommendations made by the [Independent Expert Panel for Mining in the Catchment](#), which was established to provide advice on the impacts of mining in the Special Areas with a focus on risks to the quantity of water in the catchment.

The trading rule was introduced to provide a way for mines in the Special Areas of the Sydney Drinking Water Catchment to account for their incidental surface water take. The mines are unable to secure enough water allocation through the water market to authorise their incidental surface water take, with most of the entitlements in the relevant water sources held by WaterNSW. It is important that these mines account for and pay water management charges for the water they take, so that the incidental surface water take can be better quantified and better inform water resource planning.

Is this rule in the relevant water sharing plan?

No change to the relevant water sharing plan (the Water Sharing Plan for the Greater Metropolitan Region Unregulated River Water Sources 2023) was needed to give effect to this trading rule. Rules in the Access Licence Dealings Principles Order 2004 prevail over water sharing plan rules.

Which mines can WaterNSW trade water allocation to?

The mines this rule relates to are specified in the Access Licence Dealings Principles (Special Areas No. 2) Amendment Order 2023 - available on the [NSW Legislation website](#). Mining leases listed in the Amendment Order relate to the Russell Vale, Wongawilli, Metropolitan and Dendrobium coal mines. The Amendment Order also applies to any mining leases related to coal mines within the Metropolitan and Woronora Special Areas that are granted development approval in the future.

What kind of trades can be made between WaterNSW and the mines under this rule?

The rule only allows water allocation trades/dealings under section 71T of the *Water Management Act 2000*. These are also known as 'temporary water transfers' or 'unregulated water assignments'.

Do any limitations apply to the trades?

Trades can only be made to specific licences held by eligible mining lease holders for the purpose of accounting for incidental surface water take resulting from mining activities. These licences must

have conditions which are set out in Clause 17(9) of the Access Licence Dealing Principles Order 2004 or the trade is prohibited.

Water traded from licences held by WaterNSW to licences held by specified mining lease holders under the rule cannot be further traded to another water access licence by the mining lease holder. Water cannot be traded back to WaterNSW from the mining lease holder's licence.

Who determines how much water each mine needs/can request to trade under the new rule?

The mines will determine how much water is required to account for their incidental water take and will request the required amount of water to be traded from WaterNSW. It is the mines' responsibility to ensure they hold sufficient water entitlement/allocation to account for the water they take. All mines in NSW are required to determine their water needs (including their incidental water take) and to obtain sufficient water entitlement or allocation to account for this take.

Do the mining companies have to pay for the water traded to them?

As the seller, WaterNSW may charge the miners for any water traded. The maximum price WaterNSW may charge the miners is set by the Independent Pricing and Regulatory Tribunal (IPART) and is the same price WaterNSW charges Sydney Water for bulk water services. IPART pricing is transparent and subject to community consultation.

How will the government ensure the rules are being complied with?

The Natural Resources Access Regulator is responsible for the enforcement of water laws in NSW through monitoring compliance and education.

How many and what mines can trade with WaterNSW?

There are currently four mines in the Special Areas that are covered by the new rule. South32's Dendrobium Mine, Metropolitan Coal's Metropolitan Mine, Wollongong Resource's Russell Vale Mine (all currently operating) and Wollongong Resource's Wongawilli Mine (not currently operating but has approval to recommence operations).

The rule will also apply to mining leases related to coal mines within the Metropolitan and Woronora Special Areas that are granted development approval in the future.

Where should I direct enquiries relating to the new trading rule?

Any enquiries relating to the new trading rule should be directed to water.enquiries@dpie.nsw.gov.au or 1300 081 047.