



New South Wales

Constitution Amendment (Water NSW and Local Water Utilities) Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Constitution Act 1902* to ensure the continued public ownership of Water NSW and certain local water utilities and their main undertakings.

It is also an object of the Bill to prohibit certain water corporations from leasing critical assets from non-public entities, or entering agreements or arrangements with non-public entities for the use of critical assets, without the authorisation of an Act of Parliament.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Constitution Act 1902 No 32

Schedule 1[5] and [6] make amendments to the *Constitution Act 1902* to provide that section 57, which prohibits the sale or disposal of certain water corporations and their main undertakings, extends beyond the Sydney Water Corporation and the Hunter Water Corporation to other bodies that exercise water functions or hold assets in connection with the exercise of water functions, including the following bodies—

- (a) Water NSW,
- (b) a water supply authority within the meaning of the *Water Management Act 2000*,

- (c) a local council or county council exercising water supply functions under the *Local Government Act 1993*, Chapter 6, Part 3, Division 2, but only in relation to the exercise of water functions.

Schedule 1[4] inserts a provision to make it clear that a partial acquisition by a water corporation of an asset, being an asset necessary to enable the water corporation to carry out its principal functions under an Act as a water corporation, if the remainder is owned by an entity that is not a public entity, is also taken to be a sale or disposal of a main undertaking of the water corporation.

Schedule 1[7] inserts proposed section 58 to provide that a water corporation must not, unless authorised by an Act of Parliament—

- (a) lease a critical asset from an entity that is not a public entity, or
(b) enter into an agreement or arrangement with an entity that is not a public entity for the use of a critical asset owned by the entity.

Schedule 1[1]–[3] make consequential amendments.