



New South Wales

# Water Management Amendment (Transfer of Water) 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 *Water Management Act 2000* (the *WM Act*) to restrict the transfer of water access licences to the Commonwealth or the State unless certain conditions are met.

## 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.

## Schedule 1      Amendment of Water Management Act 2000 No 92

**Schedule 1** inserts proposed section 71ZA into the WM Act to give effect to the object of the Bill.

The proposed section applies to transfers of water access licences to the Commonwealth and the State and to Ministers, public servants, agents, public authorities, agencies or subsidiaries of the Commonwealth and the State.

The proposed section prevents the Minister for Water from registering a transfer of this type in the Access Register under the WM Act unless an assessment has been undertaken and a report on the assessment has been published on a publicly available website that demonstrates the transfer causes neutral or positive socio-economic impacts and neutral or positive environmental impacts

in the locality, being the relevant NSW water tagging zone or, if there is no relevant zone, the State.

The assessment of socio-economic impacts must have regard to the following criteria—

- (a) production output levels,
- (b) employment levels and diversity,
- (c) individual and business incomes,
- (d) costs of carrying on businesses,
- (e) changes to working conditions, including hours worked and health and safety conditions,
- (f) psychological wellbeing levels, including in relation to stress, happiness, security, family harmony and the ability to undertake leisure activities,
- (g) access to, and the level of provision of, social services.

The proposed section also contains provisions dealing with possible inconsistencies with the *Water Act 2007* of the Commonwealth.



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New South Wales

# Water Management Amendment (Transfer of Water) Bill 2023

No. , 2023

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## A Bill for

An Act to amend the *Water Management Act 2000* to restrict the transfer of a water access licence to the Commonwealth or the State unless certain conditions are met; and for related purposes.

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**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Water Management Amendment (Transfer of Water) Act 2023*.

3

**2 Commencement**

4

This Act commences on the date of assent to this Act.

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## Schedule 1      **Amendment of Water Management Act 2000 No 92**

### Section 71ZA

Insert after section 71Z—

#### **71ZA Regulation of registration of certain transfers of access licences**

- (1) This section applies to a transfer of an access licence to—
  - (a) the Commonwealth or the State, or
  - (b) a Minister, public servant, agent, public authority, agency or subsidiary of the Commonwealth or the State.
- (2) The Minister must not register a transfer to which this section applies in the Access Register unless—
  - (a) an assessment has been undertaken that demonstrates the transfer causes neutral or positive socio-economic impacts and neutral or positive environmental impacts in the relevant area, and
  - (b) a report on the assessment has been published on a publicly available website.
- (3) The assessment of socio-economic impacts referred to in subsection (2) must have regard to the following criteria—
  - (a) production output levels,
  - (b) employment levels and diversity,
  - (c) individual and business incomes,
  - (d) costs of carrying on businesses,
  - (e) changes to working conditions, including hours worked and health and safety conditions,
  - (f) psychological wellbeing levels, including in relation to stress, happiness, security, family harmony and the ability to undertake leisure activities,
  - (g) access to, and the level of provision of, social services.
- (4) If this section is inconsistent with a provision of the *Water Act 2007* of the Commonwealth that relies on the referral in the *Water (Commonwealth Powers) Act 2008*, the referral is modified to the extent necessary so that it does not include the making of laws inconsistent with this section.
- (5) The prohibition in subsection (2) is declared to be an excluded matter for the purposes of the *Water Act 2007* of the Commonwealth, section 250C in relation to the whole of the Commonwealth water legislation.
- (6) This section is declared to be a Commonwealth water legislation displacement provision for the purposes of the *Water Act 2007* of the Commonwealth, section 250D.
- (7) In this section—

**Commonwealth water legislation** has the same meaning as in the *Water Act 2007* of the Commonwealth.

**NSW water tagging zone** means a NSW water tagging zone specified in the *Access Licence Dealing Principles Order 2004*, Schedule 1, as in force immediately before the Bill for the *Water Management Amendment (Transfer of Water) Act 2023* was introduced into Parliament.

- relevant area*, in relation to a water access licence, means— 1
- (a) the NSW water tagging zone to which the access licence relates, or 2
  - (b) if the access licence does not relate to a NSW water tagging zone—the 3  
State. 4