

WATER MANAGEMENT AMENDMENT (EASEMENTS FOR INUNDATION) BILL 2025

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The amendments in the Bill are needed to support the delivery of constraints relaxation projects under the Murray Darling Basin Plan, including the Reconnecting River Country Program and the Reconnecting Watercourse Country Program. These projects seek to relax physical, operational and policy constraints to enable more frequent and higher environmental flows that will reconnect floodplains and wetlands, restore and protect our river systems and reducing reliance on water buybacks by the Australian Government.

Delivering environmental water under these projects may result in overbank flows that inundate public and private land. To ensure that river operators have an enduring right to deliver environmental water that causes inundation and to compensate affected landholders for the impacts of inundation, the Reconnecting River and Reconnecting Watercourse Country Programs are seeking to acquire easements in gross that permit inundation of land for environmental purposes (inundation easements).

For these easements to achieve their intended purpose, river operators responsible for delivering environmental water must be beneficiaries. However, under current legislation, this is not possible.

This Bill proposes amendments to the *Water Management Act 2000* to allow WaterNSW to be the beneficiary of inundation easements. This is key to the successful delivery of the both the Reconnecting River Country Program and the Reconnecting Watercourse Country Program, where WaterNSW is the river operator.

The Bill also introduces a regulation-making power under the *Water Management Act 2000* to enable other river operators and interstate water authorities to be registered as the beneficiaries of inundation easements on the NSW side of the Murray. This provision anticipates the potential future commencement of a constraints relaxation project on the Murray, where environmental water delivery involves multiple jurisdictions. Including this power now avoids the need for further legislative amendments should such a project proceed.

In accordance with the Landholder Negotiation Scheme set out in the *Water Management (General) Regulation 2025*, the Water Administration Ministerial Corporation (WAMC) is required to negotiate with landholders affected by proposed changes to environmental water releases. This means that, where an agreement is reached and WAMC has acquired an easement to permit inundation for environmental purposes, the easement must be transferred to WaterNSW. This transfer enables WaterNSW to inundate land in accordance with the terms of the easement.

To support this process, the Bill establishes a cost-effective and administratively efficient process for transferring these easements from WAMC to WaterNSW. This avoids the complexity often associated with vesting orders and ensures that WaterNSW can immediately benefit from the easements and the implementation of programs such as the RRCP and RWCP.

Objectives: What is the policy's objective couched in terms of the public interest?

Constraints relaxation projects under the Murray Darling Basin Plan seek to make more efficient use of environmental water to protect and restore river systems and reduce the need for water buybacks by the Australian Government. The NSW Government is committed to implementing the Murray Darling Basin Plan and the Reconnecting River and Reconnecting Watercourse Country Programs in NSW.

The Bill serves the public interest by supporting the delivery of constraints relaxation projects by ensuring that previous policy and government decisions to compensate landholders on just terms through the negotiation of easements can be effectively implemented.

The Bill ensures that any easements acquired can serve the intended purpose of providing river operators with an enduring right to inundate land for environmental purposes. Without this Bill, river operators cannot be the beneficiaries of inundation easements which would provide them with rights and protections to deliver environmental water releases that cause overbank flows.

The immediate transfer of inundation easements will ensure that administrative costs associated with transferring easements from WAMC to WaterNSW are minimised.

Without the amendments included in this Bill, the successful delivery of constraints relaxation projects is uncertain.

Options: What alternative policies and mechanisms were considered in advance of the bill?

An alternative non-legislative approach was considered, whereby WAMC would acquire inundation easements and appoint WaterNSW as its agent through the easement terms. Under this arrangement WaterNSW would act with the same rights and liability protections as WAMC. This approach has been adopted as an interim measure for the Reconnecting River Country Program to allow easement negotiations to commence prior to the passage of this Bill. However, it is not considered viable as an enduring approach as it may not provide adequate legal protections for WaterNSW over the long term.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The non-legislative agent-based approach offers a temporary workaround but is not recommended as an enduring strategy for acquisition of inundation easements and exercising the rights under them. It lacks the legal durability and clarity required for long-term implementation. Specifically, it does not provide WaterNSW with direct legal rights under the easement, which could complicate future environmental water delivery and liability arrangements. Legislative amendment is preferred to ensure enduring and effective use of inundation easements.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

- The Bill is introduced during the sitting week commencing 18 November 2025.
- The Bill will commence by Proclamation in mid-2026. This timing is to provide for the introduction of a range of administrative and financial arrangements which are required to facilitate the transfer of the easements from WAMC to WaterNSW.
- The administration of the process to acquire and ultimately transfer the easements to WaterNSW is being undertaken by the Department of Climate Change, Energy, the Environment and Water.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

- WaterNSW and the Office of the Registrar General were consulted as part of drafting the Bill.
- An information session will be held with relevant Commonwealth, Victorian and South Australian river operators during the week the Bill is introduced into Parliament to inform them of the intent of the bill, with a focus on the regulation-making power that may be utilised for a future constraints relaxation project on the Murray.