



New South Wales

# Waste Recycling and Processing Corporation (Authorised Transaction) Amendment 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 enable the Waste Assets Management Corporation (*WAMC*) to—

- (a) manage legacy sites containing hazardous and contaminated materials, such as heavy metals, radioactive materials, poly-fluoroalkyl substances (PFAS) and asbestos, and
- (b) mitigate risks to the environment and the public.

## 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 Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010 No 8

**Schedule 1** contains provisions to give effect to the overview of the Bill as follows—

- (a) **Schedule 1[1]** updates the name of the *Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010* to the *Waste Assets Management Corporation Act 2010*,
- (b) **Schedule 1[2], [11] and [12]** move and update certain definitions,
- (c) **Schedule 1[3]** provides for—

- (i) the constitution of the WAMC, including its functions and funding, and
  - (ii) the dealings with contaminated land owned or acquired by the WAMC, and
  - (iii) the transfer of land to or from the WAMC, and
  - (iv) certain other matters relating to the sale and effect of the dealings or transfer of land,
- (d) **Schedule 1[4]–[9] and [13]–[15]** make consequential amendments,
- (e) **Schedule 1[10] and [16]** provide for saving and transitional provisions.

## **Schedule 2      Amendment of other legislation**

**Schedule 2** makes consequential amendments to update certain references to the Waste Recycling and Processing Corporation and the *Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010*.



New South Wales

# Waste Recycling and Processing Corporation (Authorised Transaction) Amendment Bill 2023

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New South Wales

# Waste Recycling and Processing Corporation (Authorised Transaction) Amendment Bill 2023

No. , 2023

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## **A Bill for**

An Act to amend the *Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010* to enable the Waste Assets Management Corporation to manage legacy sites containing contamination; and for other purposes.

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

1

**1 Name of Act**

2

This Act is the *Waste Recycling and Processing Corporation (Authorised Transaction) Amendment Act 2023*.

3

4

**2 Commencement**

5

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

6

<b>Schedule 1</b>	<b>Amendment of Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010</b>	1
	<b>No 8</b>	2
		3
<b>[1] Section 1 Name of Act</b>		4
	Omit “ <i>Waste Recycling and Processing Corporation (Authorised Transaction)</i> ”.	5
	Insert instead “ <i>Waste Assets Management Corporation</i> ”.	6
<b>[2] Section 3</b>		7
	Omit the section. Insert instead—	8
	<b>3 Definitions</b>	9
	The dictionary in Schedule 1, clause 1 defines words used in this Act.	10
	<b>Note—</b> The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	11
		12
<b>[3] Part 1A</b>		13
	Insert after Part 1—	14
	<b>Part 1A Waste Assets Management Corporation</b>	15
	<b>Division 1 Constitution of WAMC</b>	16
	<b>3B Functions of WAMC</b>	17
	(1) The WAMC has the following functions—	18
	(a) to acquire, control and manage contaminated land if, in the Chief Executive’s opinion, the land presents a risk of harm to human health or the environment,	19
		20
		21
	(b) to provide services and do other things for the following purposes in relation to contaminated land acquired, controlled or managed under paragraph (a)—	22
		23
		24
	(i) the remediation of the land,	25
	(ii) the use or development of the land,	26
	(iii) activities that relate to or are incidental to the management, use or development of the land.	27
		28
	<b>Examples—</b>	29
	1 using the land for landfill operations before the land is remediated	30
	2 following remediation of the land, using the land for use as a public recreation facility until the land is sold to another person	31
		32
	(c) to enter into arrangements with a person or body in connection with its other functions, including arrangements for third parties to carry out development for the WAMC on land owned by the WAMC,	33
		34
		35
	(d) functions conferred on the WAMC by this Act or another Act,	36
	(e) functions supplementary or incidental to the exercise of its other functions, including the following—	37
		38
	(i) entering contracts or arrangements,	39
	(ii) charging fees for services,	40

(iii)	conducting business, for example, generation of renewable energy or creation and sale of carbon credits or biodiversity credits,	1 2 3
(f)	other prescribed functions in relation to land owned or managed by the WAMC.	4 5
(2)	In carrying out development on contaminated land, the Chief Executive must be satisfied the development will—	6 7
(a)	prevent further contamination of the land, or	8
(b)	be compatible with action taken to mitigate or minimise the risk of harm to human health or the environment presented by contaminants on the land.	9 10 11
<b>Division 2</b>	<b>Dealings with land</b>	12
<b>3D</b>	<b>Acquisition of land</b>	13
	The WAMC may, for this Act, acquire land or other property, or an interest in land or other property—	14 15
(a)	by agreement, or	16
(b)	in accordance with section 3F.	17
<b>3E</b>	<b>Transfer of land to WAMC</b>	18
(1)	The Minister may, by order published in the Gazette, transfer land comprising, wholly or in part, contaminated land—	19 20
(a)	from the State or a government agency to the WAMC, or	21
(b)	from a council to the WAMC.	22
(2)	The Minister may transfer land under subsection (1) only if—	23
(a)	both parties to the transfer have consented to the transfer, and	24
(b)	the Treasurer has approved the transfer or the transfer is in accordance with a Treasurer’s direction under the <i>Government Sector Finance Act 2018</i> .	25 26 27
(3)	On the day the order is published in the Gazette (the <b>transfer day</b> ), the land vests in the WAMC for an estate in fee simple—	28 29
(a)	without the need for further conveyance, transfer, assignment or assurance, and	30 31
(b)	subject to the trusts, estates, interests, dedications, conditions, restrictions and covenants to which the land was subject immediately before the day the order is published.	32 33 34
(4)	On the transfer day, the following provisions have effect—	35
(a)	the rights or liabilities of the transferor in relation to the land become the rights or liabilities of the WAMC,	36 37
(b)	all proceedings relating to the land commenced before the transfer day by or against the transferor and pending immediately before the transfer day are taken to be proceedings pending by or against the WAMC,	38 39 40
(c)	an act, matter or thing done or omitted to be done in relation to the land before the transfer day by, to or in relation to the transferor is, to the extent to which the act, matter or thing has force or effect, taken to have been done or omitted to be done by, to or in relation to the WAMC,	41 42 43 44

- (d) a reference in an Act, in an instrument made under an Act or in a document to the transferor is, to the extent it relates to the land or the rights or liabilities, to be read as, or as including, a reference to the WAMC. 1  
2  
3  
4
- 3F Transfer of land from WAMC** 5
- (1) The WAMC may, by written notice, advise the Minister that certain land is no longer required to be owned or managed by the WAMC for risks to human health or the environment to be properly managed in relation to the land. 6  
7  
8
- (2) The Minister may, by order published in the Gazette, transfer the land specified in the order from the WAMC to— 9  
10
- (a) for land transferred to the WAMC from the State or a government agency—the State, the government agency or, with the agreement of both parties to the transfer, another government agency, or 11  
12  
13
- (b) for land transferred to the WAMC from a council—the council. 14
- (3) On the day the order is published in the Gazette (the *transfer day*), the land vests in the transferee for an estate in fee simple— 15  
16
- (a) without the need for further conveyance, transfer, assignment or assurance, and 17  
18
- (b) subject to the trusts, estates, interests, dedications, conditions, restrictions and covenants to which the land was subject immediately before the day the order is published. 19  
20  
21
- (4) On the transfer day, the following provisions have effect— 22
- (a) the rights or liabilities of the WAMC in relation to the land become the rights or liabilities of the transferee, 23  
24
- (b) all proceedings relating to the land commenced before the transfer day by or against the WAMC and pending immediately before the transfer day are taken to be proceedings pending by or against the transferee, 25  
26  
27
- (c) an act, matter or thing done or omitted to be done in relation to the land before the transfer day by, to or in relation to the WAMC is, to the extent to which the act, matter or thing has force or effect, taken to have been done or omitted to be done by, to or in relation to the transferee, 28  
29  
30  
31
- (d) a reference in an Act, in an instrument made under an Act or in a document to the WAMC is, to the extent it relates to the land or the rights or liabilities, to be read as, or as including, a reference to the transferee. 32  
33  
34  
35
- 3G Effect of transfer of land under this part** 36
- (1) Land may be transferred under this part despite a requirement of another Act or law that relates to dealing with or disposing of the land. 37  
38
- (2) No compensation is payable to a person or body in connection with the operation of this section. 39  
40
- (3) The operation of this section must not be regarded as— 41
- (a) a breach of contract or confidence or otherwise as a civil wrong, or 42
- (b) a breach of a contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or 43  
44
- (c) giving rise to a remedy by a party to an instrument, or causing or permitting the termination of an instrument, because of a change in the beneficial or legal ownership of an asset, right or liability. 45  
46  
47



(4)	Duty under the <i>Duties Act 1997</i> is not chargeable for or in relation to—	1
(a)	a vesting or transfer of land effected under this section or in accordance with arrangements entered into under this Act, or	2 3
(b)	anything certified by the Minister as having been done in consequence of the vesting or transfer or under the arrangements.	4 5
<b>3H</b>	<b>Sale of land by WAMC</b>	6
	The WAMC may, with the consent of the Minister, sell or exchange land owned by the WAMC, including by disposing of a fee simple estate in the land.	7 8 9
<b>[4]</b>	<b>Section 7 WAMC Landfill Rehabilitation Fund</b>	10
	Omit “Minister for Finance, Services and Property” from section 7(1), (3)(a) and (b), (4) and (7).	11 12
	Insert instead “Minister”.	13
<b>[5]</b>	<b>Section 7, as amended by item [4]</b>	14
	Re-number as section 3C and transfer after section 3B, as inserted by item [3].	15
<b>[6]</b>	<b>Section 16 Waste Assets Management Corporation</b>	16
	Omit “Minister for Finance, Services and Property” from section 16(2).	17
	Insert instead “Minister”.	18
<b>[7]</b>	<b>Section 16(3)</b>	19
	Omit the subsection.	20
<b>[8]</b>	<b>Section 16, as amended by items [6] and [7]</b>	21
	Re-number as section 3A and transfer before section 3B, as inserted by item [3].	22
<b>[9]</b>	<b>Section 20 Delegation</b>	23
	Omit section 20(2). Insert instead—	24
(2)	The Minister may delegate to the following any function of the Minister under this Act, except this power of delegation—	25 26
(a)	an officer of the Department in which this Act is administered,	27
(b)	another officer of a government sector agency.	28
<b>[10]</b>	<b>Section 29 Savings and transitional regulations</b>	29
	Omit the section.	30
<b>[11]</b>	<b>Schedule 1 Interpretative provisions</b>	31
	Omit clause 1, heading.	32
	Insert instead—	33
<b>1</b>	<b>Dictionary</b>	34
<b>[12]</b>	<b>Schedule 1, clause 1</b>	35
	Omit the definitions of <i>authorised transaction</i> , <i>Waste Assets Management Corporation</i> , <i>WSN</i> and <i>WSN assets</i> .	36 37
	Insert in alphabetical order—	38

<i>authorised transaction</i> means the transfer of WSN assets authorised by Part 2.	1
<i>contaminated land</i> means—	2
(a) land that is contaminated within the meaning of the <i>Contaminated Land Management Act 1997</i> , or	3 4
(b) land subject to a licence or notice issued under the <i>Protection of the Environment Operations Act 1997</i> , or	5 6
(c) land subject to ongoing management or maintenance to mitigate or minimise the risks to human health and the environment presented by the contamination of the land, or	7 8 9
(d) land adjacent to or adjoining land referred to in paragraph (a) or (b) on which it is reasonably necessary to carry out works—	10 11
(i) to contain or prevent further contamination, or	12
(ii) to mitigate the risks of contamination, or	13
(iii) to establish a buffer around the land to manage the risks to human health and the environment in relation to the land.	14 15
<i>contamination</i> has the same meaning as in the <i>Contaminated Land Management Act 1997</i> , section 5.	16 17
<i>WAMC</i> or <i>the Corporation</i> means the Waste Assets Management Corporation constituted by section 3A.	18 19
<i>WSN</i> means the Waste Recycling and Processing Corporation constituted by the <i>Waste Recycling and Processing Corporation Act 2001</i> .	20 21
<i>WSN assets</i> means assets, rights and liabilities of WSN.	22
<b>[13] Schedule 5 Waste Assets Management Corporation</b>	23
Omit “Minister for Finance, Services and Property” wherever occurring in clauses 3(3) and 5(2).	24 25
Insert instead “Minister”.	26
<b>[14] Schedule 5, clause 5(3)</b>	27
Omit the subclause.	28
<b>[15] Schedule 5, clause 6</b>	29
Omit “Treasurer”. Insert instead “Minister”.	30
<b>[16] Schedule 6</b>	31
Insert after Schedule 5—	32
<b>Schedule 6 Savings and transitional provisions</b>	33
<b>Part 1 Preliminary</b>	34
<b>1 Regulations</b>	35
(1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—	36 37
(a) a provision of this Act, or	38
(b) a provision amending this Act.	39
(2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.	40 41

(3)	A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.	1 2
(4)	A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—	3 4
(a)	for a provision of this Act—the date of assent to this Act, or	5
(b)	for a provision amending this Act—the date of assent to the amending Act.	6 7
(5)	A savings or transitional provision taking effect before its publication on the NSW legislation website does not—	8 9
(a)	affect the rights of a person existing before the publication in a way prejudicial to the person, or	10 11
(b)	impose liabilities on a person for anything done or omitted to be done before the publication.	12 13
(6)	In this section—	14
	<i>person</i> does not include the State or an authority of the State.	15
<b>Part 2</b>	<b>Provisions consequent on Waste Recycling and Processing Corporation (Authorised Transaction) Amendment Act 2023</b>	16 17 18
<b>2</b>	<b>Definition</b>	19
	In this part—	20
	<i>amendment Act</i> means the <i>Waste Recycling and Processing Corporation (Authorised Transaction) Amendment Act 2023</i> .	21 22
<b>3</b>	<b>References to Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010</b>	23 24
	On the commencement of the amendment Act, Schedule 1[1], a reference in an Act, instrument or other document to the <i>Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010</i> is taken to include a reference to the <i>Waste Assets Management Corporation Act 2010</i> .	25 26 27 28
<b>4</b>	<b>Treasurer may declare completion of authorised transaction</b>	29
(1)	The Treasurer may, by order published in the Gazette, declare the completion of the authorised transaction on a specified day.	30 31
(2)	On the specified day, the authorised transaction provisions are repealed.	32
(3)	In this section—	33
	<i>authorised transaction provisions</i> means the following—	34
(a)	Parts 2 and 3, as amended by the amendment Act,	35
(b)	sections 19 and 21–27,	36
(c)	Schedule 1, clauses 2 and 3,	37
(d)	Schedules 2–4,	38
(e)	Schedule 5, clause 5.	39

<b>Schedule 2</b>	<b>Amendment of other legislation</b>	1
<b>2.1</b>	<b>Electricity Network Assets (Authorised Transactions) Act 2015 No 5</b>	2
[1]	<b>Schedule 7 Savings, transitional and other provisions</b>	3
	Omit “ <i>Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010</i> ” from clause 8, definition of <i>authorised transaction Act</i> .	4 5
[2]	<b>Schedule 7, clause 8</b>	6
	Omit “Waste Assets Management Corporation established by the <i>Waste Recycling and Processing Corporation (Authorised Transaction) Act 2010</i> ” from the definition of <i>existing MHC</i> .	7 8 9
<b>2.2</b>	<b>Environmentally Hazardous Chemicals Act 1985 No 14</b>	10
	<b>Schedule 1 Provisions relating to the Committee</b>	11
	Omit “Waste Recycling and Processing Corporation” from clause 2(f).	12
	Insert instead “Waste Assets Management Corporation”.	13
<b>2.3</b>	<b>Land and Environment Court Act 1979 No 204</b>	14
	<b>Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement</b>	15 16
	Omit “ <i>Waste Recycling and Processing Corporation Act 2001</i> ” from section 20(3)(a).	17
	Insert instead “ <i>Waste Assets Management Corporation Act 2010</i> ”.	18
<b>2.4</b>	<b>Subordinate Legislation Act 1989 No 146</b>	19
	<b>Schedule 4 Excluded instruments</b>	20
	Omit item 34.	21