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SPECIAL SUPPLEMENT

WATER MANAGEMENT ACT 2000

Order under section 71Z(1)

Access Licence Dealing Principles

PURSUANT to section 71Z(1) of the Water Management Act 2000 (“the Act”), I, Phillip Costa, the Minister for Water, do, by this Order:

1. repeal the order under section 71Z made on 29 May 2009; and
2. establish the access licence dealing principles in Schedule 1 to this Order to regulate or prohibit the kinds of dealings that may be effected under Division 4 of Part 2 of Chapter 3 of the Act.

This Order takes effect on Gazettal.

Signed at Sydney this 6th of July 2009.

PHILLIP COSTA,
Minister for Water

Schedule 1 To The Order Establishing Access Licence Dealings Principles

- (1) Subject to paragraph 2 all dealings under Division 4 of Part 2 of Chapter 3 of the Act are prohibited unless:
 - (a) the transferee will use any water obtained as a result of the dealing:
 - (i) in accordance with a water use approval under the Act which authorises the use of water for the purpose of irrigation or town water supply or recreation; or
 - (ii) for any of the purposes in clause 38(1) of the Water Management (General) Regulation 2004;
 - (iii) for an activity that has been approved under Part 3A of the Environmental Planning and Assessment Act 1979;
 - (b) the transferee has certified in writing, if the water is not to be used in the State of NSW, that:
 - (i) the water will be used for irrigation or town water supply or recreation purposes; or
 - (ii) the water will be used for a purpose which, if undertaken in NSW would be exempt from the requirement of a use approval by clause 38(1) of the Water Management (General) Regulation 2004;
 - (iii) the water is required for an activity that has been approved under interstate legislation equivalent to a provision of Part 3A of the Environmental Planning and Assessment Act 1979;
 - (c) the transferee is:
 - (i) a statutory person, body or entity which has the function of supplying water to other persons for consumptive or economic purposes (including domestic, industrial, commercial, and agricultural purposes) and the dealing is otherwise allowed by or under the Act; or
 - (ii) a statutory person, body or entity which has the function of bulk water supply or electricity generation and the dealing is otherwise allowed by or under the Act;
 - (d) the proposed dealing is pursuant to section 71T or section 71W and the Minister has approved in writing for the purposes of this Order an environmental watering plan for the allocation or works the subject of the application; or
 - (e) the Minister for Water is satisfied that works completed after 29 May 2009 to improve the transferor’s conveyance, storage or use of water taken pursuant to the access licence have reduced or will reduce losses from that conveyance, storage or use equal to or greater than the entitlement or allocation the subject of the dealing.

- (2) This order does not apply to:
- (a) dealings under section 71O, section 71P, section 71R, section 71S, or section 71X;
 - (b) dealings to give effect to contracts executed by both parties to the dealing on or before 29 May 2009 where the Minister for Water:
 - (i) is notified in writing of the contract on or before 17 July 2009; or
 - (ii) is notified in writing of the contract after this date but is satisfied that there are exceptional circumstances for the failure to notify by the required date;
 - (c) dealings to transfer to a member of a water supply scheme that member's entitlement under the operator's access licence where:
 - (i) the transferee was a member of the water supply scheme on or before 29 May 2009; or
 - (ii) the transferee was not a member on 29 May 2009 but on that date had a contract executed by both parties to either purchase a member's entitlement or otherwise become a member of the water supply scheme; and
 - (iii) for the purposes of subclause 2(c)(ii) the Minister for Water is either notified in writing of the contract on or before 17 July 2009; or is notified in writing of the contract after this date but is satisfied that there are exceptional circumstances for the failure to notify by the required date;
 - (d) dealings which in the reasonable opinion of the Minister for Water are necessary to meet the New South Wales Government's existing commitments in the Funding Agreement with the Commonwealth entitled "Funding Agreement in relation to Funding from the Australian Government Water Fund for the following Water Smart Australia Project: NSW Rivers Environmental Restoration Program"; and
 - (e) dealings for which consent had been granted on or before 29 May 2009 but had not yet taken effect under section 71B.
- (3) Except in so far as the contrary intention appears in this Order, words and expressions in this Order have the same meaning as they have in the Act.
- (4) For the purpose of this order:
- (a) "environmental watering plan" means a plan for specified land that commits water to achieve specified environmental outcomes and includes:
 - (i) identification of the timing and volumes of water to be delivered to the site;
 - (ii) measures for reporting on water actually delivered to the site or location (in addition to water that would have been delivered in the absence of the plan);
 - (iii) measures for monitoring and reporting environmental outcomes at the site;
 - (b) "member of a water supply scheme" means:
 - (i) in relation to an irrigation corporation a shareholder in the irrigation corporation;
 - (ii) in relation to a private irrigation board the holder of an irrigated holding;
 - (iii) in relation to private water trust a ratepayer of the Trust;
 - (c) "operator" means an irrigation corporation, private irrigation board or private water trust;
 - (d) "transferee" means a transferee, an assignee or, in relation to applications under section 71W, the applicant;
 - (e) "water supply scheme" means a scheme for delivery of water by an irrigation corporation, private irrigation board or private water trust to members of the water supply scheme.
- (5) For the purposes of clause (1)(b)(ii) references in clause 38 to:
- (a) NSW legislation are to be construed as references to the equivalent interstate legislation; or
 - (b) persons, bodies or entities established under NSW legislation are to be construed as references to persons, bodies or entities established under the equivalent interstate legislation.

CONSTITUTION ACT, 1902

Ministerial arrangements during the absence of the Treasurer

PURSUANT to section 36 of the Constitution Act, 1902, Her Excellency the Governor, with the advice of the Executive Council, has authorised the Hon DA Campbell MP, Minister for Transport, and Minister for the Illawarra, to act for and on behalf of the Treasurer, as on and from 9 July 2009, with a view to his performing the duties of the Honourable EM Roozendaal MLC, during his absence from duty.

NATHAN REES, M.P.,
Premier

Department of Premier and Cabinet,
Sydney 2009

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