

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.28 p.m.]: I move:

That this bill be now read a second time.

The Water Management Act 2000 is the primary legislation for the management of the State's water resources. The Act, which was introduced in 2000 by the Carr Labor Government, provides for an integrated approach to water management by recognising that water is vital for the health of our river systems and the environment while also being a valuable resource for industry and communities. The Act remains the pivotal legislative mechanism for the protection and sustainable management of our State's water resources, and the key instruments empowered by the legislation—that is, water sharing plans—remain the key water management tool in New South Wales.

Under the Act, 45 water sharing plans have now been commenced. These plans detail the rules for water use, allocation and trading for roughly 90 per cent of water used in New South Wales. These are great achievements and these reforms have led Australia and the world in water management. New South Wales was the first State to separate land and water rights, to allow water to be traded to higher value uses. New South Wales was the first State to corporatise our irrigation districts. New South Wales was the first State to allocate a share of water to the environment.

Last year the Government introduced two pieces of legislation to continue the proud tradition of water reform in this State. The Water Management Amendment Act 2008 has enacted tougher penalties, stronger offences and better investigation and evidence provisions to improve compliance with the Water Management Act 2000. The Water (Commonwealth Powers) Act 2008 has established the arrangements needed to implement the historic 3 July 2008 Intergovernmental Agreement on Murray Darling Basin Reforms. The Water Management Amendment Bill 2009 represents the next step in the continuous improvement and constant renewal that is necessary to ensure we have the best possible systems for water management in New South Wales. The bill makes amendments to the Water Management Act 2000 and to the State Water Corporation Act 2004.

There are three main aspects to the bill. First, I refer to amendments in relation to metering. The bill confers power to install, maintain and replace metering equipment on the Water Administration Ministerial Corporation and clarifies the powers of State Water Corporation in this regard. It also clarifies existing powers to give directions in relation to metering equipment. These amendments will establish the necessary mechanisms to enable the rollout of metering projects totalling approximately \$250 million in the Murray-Darling Basin and in the Hawkesbury Nepean catchment in New South Wales. Second, the bill provides for certain instruments made under the Water Management Act 2000 to be notified on the New South Wales legislation website, rather than being published in the *Government Gazette*. Third, the bill makes some other consequential and minor amendments in light of the Commonwealth Government's water market rules.

I will now outline each of these areas in turn, starting with the metering amendments. The Office of Water is currently administering a \$28.6 million Commonwealth Government funded program of water meter installation in the Hawkesbury-Nepean catchment. That program involves the purchase and installation of up to 2,000 state-of-the-art metering systems as well as a data management system for the Hawkesbury-Nepean catchment. In addition, New South Wales has received in principle approval to undertake a major \$221 million Commonwealth Government funded metering program in the Murray-Darling Basin. Of that amount, it is proposed that \$131 million will be dedicated to installing meters in groundwater and unregulated water sources in the Murray-Darling Basin. This part of the project is to be administered by the New South Wales Office of Water. The remaining \$90 million is proposed to be used to replace existing meters in regulated water sources—that is, rivers that have a major dam in their headwaters. This part of the project is to be administered by State Water Corporation.

If the Commonwealth Government finally approves it, this project will be a significant capital injection to deliver cutting-edge metering technology throughout the basin. Measuring the amount of water extracted from our rivers is critical to ensuring that the resource is shared fairly amongst users and the environment. Currently installation of meters is the responsibility of water users, where that is required as a condition of their access licence or approval. However, while meter coverage on regulated rivers and in some groundwater areas is relatively good across the State, it is less widespread in unregulated rivers. The rolling-out of meters in the Hawkesbury-Nepean catchment and in the Murray-Darling Basin will significantly benefit those water users who are currently unmetred, as well as those users whose meters are getting on a bit and may not comply with the forthcoming national metering standards.

To support the New South Wales Office of Water and State Water Corporation in these metering projects, the bill contains amendments to the Water Management Act 2000 and the State Water Corporation Act 2004 with respect to the installation, maintenance and replacement of meters. The amendments will principally affect section 326 and part 2 of chapter 8 of the Water Management Act 2000, and part 3 of the State Water

Corporation Act 2004. The bill essentially does two things to allow for these metering projects to progress. First, it confers the power to install, maintain and replace metering equipment on the Ministerial Corporation and clarifies the powers of the State Water Corporation in this regard. Second, the bill clarifies the Minister's power under section 326 of the Water Management Act 2000 to issue directions to install, replace or maintain metering equipment.

I will now explain these concepts in a little more detail, starting with the powers to install. The bill confers powers on the Ministerial Corporation to install, test and remove metering equipment generally across the State. This will apply to works covered by the Water Management Act 2000 and the Water Act 1912. The bill does not extend to create any interest in land for the Ministerial Corporation as a result of the installation, operation or maintenance of works on land. As the installation of meters on land by the Ministerial Corporation will not create any interest in the land itself, the bill clarifies that no compensation is payable in relation to the removal of metering equipment installed by the Ministerial Corporation. In relation to State Water Corporation, the bill makes it clear that State Water is the owner of all metering equipment it installs and confers on State Water the same powers in respect of metering equipment that it already has with respect to works under its legislation. This includes installing, operating, repairing and replacing metering equipment.

The bill also extends the powers of State Water Corporation in relation to metering equipment to include metering equipment that State Water does not own, if this is provided for under the State Water Corporation operating licence. The bill provides for the Ministerial Corporation and State Water Corporation to take over the exclusive operation and maintenance of prescribed classes of meters in areas or water sources prescribed by regulation. Such regulations may, for example, limit the application of functions to a particular water source, or area, or to a particular class of access licence or approval, or a particular class of work. This means that existing obligations, such as licence conditions or directions under section 326 of the Act, requiring landholders to maintain meters will be overridden in certain areas while such a regulation is in force.

In addition, the bill allows for regulations to be made under the State Water Corporation Act 2004 to limit the application of State Water's powers in relation to metering equipment or for such functions to be conferred, or not conferred, exclusively on State Water. The power will enable alterations to be made and operation and maintenance to occur on existing meters where these are almost in line with the National Water Metering Standards and do not need to be replaced altogether. Alterations may, for example, include the installation of telemetry equipment which will allow a meter to provide real time data back to the Ministerial Corporation or State Water Corporation, and save the effort and cost of making a site visit to read the meter.

In relation to the second aspect of this part of the bill, the bill clarifies the Minister's powers under section 326 of the Water Management Act 2000 to issue a direction to install, replace or maintain metering equipment. This will enable the Minister to clarify that a direction may be made solely in respect of the installation, replacement or maintenance of a meter. Currently the section focuses only on installation, which could be problematic if something needs to be done to a meter that is already installed. We need to specify who can install, replace, maintain or seal the metering work. For example, this will allow the Minister to specify that a work needs to be installed by a person listed on a panel of certified installers.

The bill also makes some consequential amendments to the offence provisions of the Water Management Act that relate to metering. The bill extends the offence of taking water when metering equipment is not working contained in section 911 of the Act to include equipment that has been installed by or with the written authority of the Ministerial Corporation or State Water. It also excludes things done to metering equipment by or with the written authority of the Ministerial Corporation and State Water from the offence of tampering with metering equipment contained in section 91K of the Act. Finally, it inserts a new section 91 MA to make it clear that the Ministerial Corporation and State Water are not required to hold an approval to construct or use metering equipment.

These amendments are necessary to ensure the New South Wales Office of Water will meet its obligations to roll out approximately \$250 million worth of Commonwealth funded metering projects in New South Wales. By allowing these projects to progress, the bill will contribute to the further evolution of the water management system in New South Wales. The bill is also a further step in the process begun by this Government last year to significantly improve arrangements for enforcement and compliance under the Act. Better compliance means less water theft and that is good for our farmers, and our precious riverine environments, as they both get the water they are legally entitled to.

These improvements remain timely as the record drought continues across much of the State. At this time the Government and the community are focused as never before on doing everything possible to sustain our inland rivers, and the communities they support. More widespread use of the latest metering technology will improve the operation of the Act to deliver more secure and sustainable water supplies, which is a key goal of the State Plan. Better metering will ensure users are only taking the amount of water they are legally entitled to. This means that downstream users will benefit because water will be shared equitably between water users, and between users and the environment, in accordance with the established rules of the water sharing plans. Water users, as a whole, are broadly in agreement with the principle of metering, and the need to be able to demonstrate a more transparent, accurate and accountable system for monitoring the extraction of this precious

resource.

Some concerns have been raised in relation to increased business costs, particularly as a consequence of the requirement to install water metering equipment that is telemetry enabled. However, telemetry equipment, while having initially higher costs, provides for significantly improved efficiency in gathering the information required and will, in the medium term, result in lower metering costs to Government and hence to irrigators. By allowing for the rollout of these major metering projects, if finally approved by the Commonwealth Government, the bill will facilitate a massive investment of funds into regional New South Wales, and contribute to the further evolution of the water management system in New South Wales. Consultation has commenced with users and stakeholder groups regarding water meter upgrades and replacement. This will continue as part of the rollout of the metering projects in the Hawkesbury-Nepean and the Murray-Darling Basin.

I will now turn briefly to the second main aspect of the bill, namely amendments to provide for certain instruments to be notified on the New South Wales legislation website. Briefly, this aspect of the bill relates to the publication of certain statutory instruments made under the Water Management Act 2000 on the New South Wales legislation website. These amendments are intended to implement the requirements of Premier's Memorandum 2009/02 in relation to the online notification of new statutory instruments, to ensure public access to all instruments of a legislative nature.

The bill contains amendments to provide for certain instruments made under the Water Management Act to be published on the New South Wales legislation website, rather than in the *Government Gazette*. The amendments apply only to instruments under the Water Management Act that have a relatively permanent nature. These include water management plans, harvestable rights orders, access licence dealing principles orders and mandatory guidelines for the taking and use of water for domestic consumption and stock watering. The real benefits of this part of the bill are transparency and for members of the public to have easier access to instruments made under the Water Management Act 2000.

Lastly, the third aspect of the bill makes some other consequential and minor amendments to the Water Management Act in light of the Commonwealth Government's water market rules. On 3 July 2008, the historic Intergovernmental Agreement [IGA] on the Murray-Darling Basin reforms was signed by the basin jurisdictions. The Murray-Darling Basin is critical to New South Wales. Fifty-seven percent of the basin is within New South Wales. Irrigated agriculture across the basin is valued at \$9 billion a year. Almost all of inland New South Wales is within the basin.

Last year the Water (Commonwealth Powers) Act 2008 established the arrangements needed to implement the July IGA. That Act fulfilled New South Wales obligations under the July IGA by referring powers to the Commonwealth. In June of this year the Commonwealth Minister for Climate Change and Water made water market rules for the Murray-Darling Basin under Commonwealth legislation. The aim of the water market rules is to enable people who hold water rights as a member of an irrigation infrastructure operator to convert the right to an individually held entitlement. This will facilitate trade in water rights, by recognising the water right as a valuable asset, and will allow those individuals to make use of their water rights, for example, as collateral when seeking finance.

The free trade of water within interconnected water sources is consistent with the National Water Initiative and is supported by New South Wales. It requires the States to reduce barriers to permanent trade in water entitlements and to ensure a level playing field in the southern Murray-Darling Basin. If implemented well, trade will benefit New South Wales communities by enabling water to be used where it is of greatest value. This means that even with potentially less water available in the future, we may nevertheless be able to expand water dependent regional economic activity. On the other hand, many of our towns and regional centres have grown around the existing irrigation communities. To mitigate the impacts on regional economies of any rapid movement of water out of an area, the National Water Initiative enables the States to impose an interim trade threshold limit on permanent trade in water entitlements out of all water irrigation areas.

The agreed limit, or "cap" on trade, is currently set at 4 per cent per year of the total water entitlement, however work is underway to increase the cap, with a view to removing it entirely by 2014. New South Wales implemented the requirement to enable 4 per cent trade out of irrigation areas through section 71 ZA of the Water Management Act, which was introduced by an amendment to the Act in December 2005. This amendment enabled civil penalties to be imposed on irrigation corporations if they prevented the first 4 per cent of permanent trade out of their area.

The water market rules approved by the Commonwealth Minister in June this year provide a detailed framework for transformation. In addition, the Commonwealth Water Act 2007 has a framework for enforcing these rules, which will be administered by the Commonwealth Government. As the Commonwealth is now responsible for this area, I am concerned to avoid duplication of responsibility. Accordingly, this bill seeks to remove section 71 ZA of the Water Management Act, which relates to the 4 per cent cap on trade out of an irrigation corporation area. For now, the intention is to maintain the current cap through a trade order to ensure that regional economies continue to be protected.

The New South Wales Office of Water has commenced consultation on the terms of a trade order under section 71 Z of the Water Management Act to maintain the 4 per cent cap. This is consistent with the National Water Initiative and is also consistent with the Memorandum of Understanding in relation to Water for the Environment signed by the New South Wales Premier and the Acting Prime Minister on 23 September 2009. However, this is a very complex issue. Trade is good for business flexibility and good for the environment and, for these reasons, New South Wales leads the world with a free and flexible water trading regime. However, the Government also recognises the need to maintain communities and infrastructure based on historical levels of use, and that is the purpose of the 4 per cent limit.

An order made under section 71 Z will enable the Government to keep the issue under review and to modify the order if trading restrictions in other States are lifted more quickly than currently planned, or if it is no longer needed to support our irrigation industries and communities. The Government needs to carefully balance the needs of regional economies with the needs of water users and the environment. This is particularly important while trade barriers continue to exist in other States. The Government will carefully consider stakeholder views and keep the issue closely under review.

In conclusion, this bill is necessary to make amendments in relation to metering to establish the mechanisms by which metering projects totalling approximately \$250 million may be rolled out in the Murray-Darling Basin and in the Hawkesbury-Nepean catchment in New South Wales, to allow for certain instruments made under the Water Management Act to be published on the New South Wales legislation website and to make consequential amendments in light of the Commonwealth Government's water market rules. The bill contributes to the ongoing reform of water management in New South Wales, to safeguard the future of our rivers and river communities and to support our irrigation industries and riverine environments. I commend the bill to the House.