



New South Wales

Natural Resources Access Regulator Bill 2017

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to constitute the Natural Resources Access Regulator (the **Regulator**) as a statutory corporation having functions relating to the enforcement of natural resources management legislation (including determining whether proceedings for offences under that legislation should be instituted),
- (b) to provide for the Regulator to have a governing Board comprising 3 part-time members appointed by the Minister,
- (c) to authorise the exchange of information and records relating to the administration of natural resources management legislation between the Regulator and other agencies or persons (including Water NSW) responsible for the administration of that legislation,
- (d) to provide for the transfer of compliance and enforcement staff in Water NSW to any Public Service agency in which the staff of the Regulator are employed or in which persons are employed in connection with the administration of natural resources management legislation.

Outline of provisions

Part 1 Preliminary

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 a day or days to be appointed by proclamation.

Clause 3 defines certain words and terms used in the proposed Act. The term *natural resources management legislation* includes the *Water Management Act 2000* as well as any other legislation administered by a relevant Minister that is prescribed by the regulations under the proposed Act. The Minister for Primary Industries, the Minister for Regional Water and the Minister for Lands and Forestry are *relevant Ministers*.

Part 2 Natural Resources Access Regulator

Division 1 Constitution and management of Regulator

Clause 4 constitutes the Regulator as a body corporate and provides that it is a NSW Government agency (which has the effect of conferring the status, privileges and immunities of the Crown on the Regulator).

Clause 5 establishes a Board of the Regulator which will consist of 3 part-time members appointed by the Minister. The Board may establish committees to give advice and assistance to the Board.

Clause 6 provides that the Board acts for the Regulator.

Clause 7 provides that the Minister may give directions of a general nature to the Regulator with respect to its functions if the Minister is satisfied it is in the public interest to do so.

Clause 8 provides that the Chief Regulatory Officer of the Regulator will be responsible for the day to day management of the activities of the Regulator.

Clause 9 provides that persons (including the Chief Regulatory Officer) may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Regulator to exercise its functions.

Division 2 Functions of Regulator

Clause 10 specifies the functions of the Regulator. The Regulator's functions will include any functions under any natural resources management legislation administered by a relevant Minister that are prescribed by the regulations made under the proposed Act with the concurrence of the relevant Minister.

Clause 11 provides that the Regulator is to determine, based on legal advice, whether proceedings for offences under the natural resources management legislation should be instituted by the Crown.

Clause 12 requires the Regulator to report annually to the Minister on its work and activities.

Clause 13 enables the Regulator to delegate its functions.

Part 3 Miscellaneous

Clause 14 provides that the Minister may transfer to the relevant Public Service agency designated Water NSW employees who are required for the purposes of enabling the Regulator to exercise its functions or who are required to exercise enforcement powers under the natural resources management legislation. The *relevant Public Service agency* to which the designated Water NSW staff may be transferred is the agency in which persons are employed to enable the Regulator to exercise its functions or any other agency in which persons are employed in connection with the administration of the natural resources management legislation.

Clause 15 authorises the exchange of information or records relating to the administration of the natural resources management legislation between the Regulator and other agencies or persons (including Water NSW) responsible for the administration of that legislation. The information or records that may be exchanged includes information or records relating to the exercise of enforcement powers, and the institution of proceedings for offences, under the natural resources

management legislation. The Regulator may also require Water NSW to provide the Regulator with (or with access to) relevant information or records (which includes any database or system containing relevant information or records).

Clause 16 limits personal liability for matters or things done or omitted to be done in good faith in exercising the Regulator's functions.

Clause 17 enables the Governor to make regulations for the purposes of the proposed Act (including regulations of a savings or transitional nature consequent on the enactment of the proposed Act or any Act that amends the proposed Act).

Schedule 1 Members and procedure of Board

Schedule 1 contains standard provisions with respect to the members and procedure of the Board of the Regulator.