

c2018-077D
GRNS--The Greens

LEGISLATIVE COUNCIL

Water Management Amendment Bill 2018

First print

Proposed amendments

No. 1 **Disallowance of water sharing plans**

Page 3. Insert after line 14:

[5] Section 41 Making of management plan

Insert after section 41 (3):

- (4) Part 6 of the *Interpretation Act 1987* (sections 39, 42 and 43 excepted) applies to a management plan that contains water sharing provisions in the same way as it applies to a statutory instrument.

No. 2 **Audit of management plans**

Page 3, Schedule 1 [7], lines 23–25. Omit all words on those lines.

No. 3 **Assignment of daily extraction component**

Pages 6 and 7, Schedule 1 [27], line 26 on page 6 to line 16 on page 7. Omit all words on those lines.

No. 4 **Assignment of daily extraction component**

Page 6, Schedule 1 [27], line 33. Insert “of the same category and relating to the same water source and (if applicable) within the same management zone” after “access licences”.

Note. Amendment no 4 is an alternative to ams nos 3, 5, 7, 19, 21 and 22.

No. 5 **Assignment of daily extraction component**

Page 7, Schedule 1 [29], lines 19 and 20. Omit all words on those lines.

No. 6 **Access licences**

Page 7. Insert after line 22:

[31] Section 77A Cancellation of access licences that can no longer be used or are no longer required

Omit “unless the access licence is a regulated river supplementary water access licence” from section 77A (1).

No. 7 **Assignment of daily extraction component**

Page 7, Schedule 1 [33], lines 38–42. Omit all words on those lines.

No. 8 **Access licences**

Page 8. Insert after line 15:

[35] Section 87 Compensation payable in certain circumstances for reductions in water allocations arising during initial period for which management plan is in force

Omit “that is not a regulated river supplementary water access licence” from section 87 (1).

No. 9 **Compensation**

Page 8. Insert after line 24:

[36] Section 87AA Compensation payable in certain circumstances for reductions in water allocations arising after initial period that management plan is in force

Omit section 87AA (1) (f1)–(f3).

[37] Section 87AA (1) (g)

Omit “excluded”.

No. 10 **Compensation**

Page 8. Insert after line 28:

[37] Section 87AA (11)

Omit the subsection.

No. 11 **Metering requirements**

Page 11, Schedule 1 [52]. Insert after line 10:

(2) It is a mandatory condition that the metering equipment is accurate to +/- 5%, complies with the standards prescribed by the regulations and is installed and in operation on or from:

- (a) 1 January 2021 or any earlier day prescribed by the regulations, or
- (b) the day on which the relevant water supply work is first operational, whichever is the later.

No. 12 **Mandatory conditions**

Page 11, Schedule 1 [56]. Insert after line 39:

(c) without limiting paragraph (b), for the purpose of protecting environmental water or managing water for environmental purposes, prohibiting or limiting the taking of water,

No. 13 **Trading in water entitlements**

Page 15. Insert after line 16:

[66] Section 348

Insert after section 347:

348 Water trading offence

A person must not take part in, or carry out (whether directly or indirectly and whether in this jurisdiction or elsewhere) a transaction

knowing that it has or is likely to have, or 2 or more transactions knowing that they have or are likely to have, the effect of:

- (a) creating an artificial price for trading in water entitlements, or
- (b) maintaining a price for trading in water entitlements that is artificial (whether or not it was previously artificial).

Tier 1 penalty.

No. 14 **Rebuttable presumptions for offence proceedings**

Page 16, Schedule 1 [73]. Insert after line 7:

- (e2) the fact that metering equipment:
 - (i) is installed in connection with a water management work on a landholder's land or in a river or lake within the landholder's land, and
 - (ii) is damaged, destroyed or inoperable, gives rise to a rebuttable presumption that the damage to or destruction or inoperability of the metering equipment was caused by the landholder, and
- (e3) the fact that a person cannot produce metering records that the person is required to keep under this Act gives rise to a rebuttable presumption that the person has not kept those records, and

No. 15 **Compensation**

Page 17, Schedule 1 [83], line 29. Insert "or as a consequence of the imposition of a mandatory condition, relating to the protection of environmental water, on an access licence or an approval by a regulation made under this Act" after "that section".

No. 16 **Recovery of enforcement costs**

Page 18. Insert after line 18:

[86] Section 400 Regulations

Insert after section 400 (1) (e):

- (f) the recovery of enforcement and compliance costs arising from the enforcement of this Act or instruments under this Act from licence and approval holders and other persons whose water usage is regulated by or under this Act.

No. 17 **Commonwealth water legislation**

Page 18, Schedule 1 [86], lines 19–46. Omit all words on those lines.

No. 18 **Taking of water from Barwon-Darling water source**

Page 20, Schedule 1 [90]. Insert after line 2:

11 Clause 42 (3) (a)

Omit "three times".

No. 19 **Assignment of daily extraction component**

Page 20, Schedule 1 [90], lines 21 and 22. Omit all words on those lines.

No. 20 **Flow information**

Page 38, Schedule 1 [90]. Insert after line 44:

Part 7 Amendment relating to inflow information

53 Management plans to be amended

This Part applies to the following management plans:

- (a) *Water Sharing Plan for the Bega and Brogo Rivers Area Regulated, Unregulated and Alluvial Water Sources 2011,*
- (b) *Water Sharing Plan for the Belubula Regulated River Water Source 2012,*
- (c) *Water Sharing Plan for the Gwydir Regulated River Water Source 2016,*
- (d) *Water Sharing Plan for the Macquarie and Cudgegong Regulated Rivers Water Source 2016,*
- (e) *Water Sharing Plan for the NSW Border Rivers Regulated River Water Source 2009,*
- (f) *Water Sharing Plan for the Paterson Regulated River Water Source 2007,*
- (g) *Water Sharing Plan for the Peel Valley Regulated, Unregulated, Alluvium and Fractured Rock Water Sources 2010,*
- (h) *Water Sharing Plan for the Richmond River Area Unregulated, Regulated and Alluvial Water Sources 2010,*
- (i) *Water Sharing Plan for the Upper Namoi and Lower Namoi Regulated River Water Sources 2016.*

54 Amendment of management plans

- (1) The management plans referred to in clause 53 are amended by omitting “historical flow information held by the Department when this Plan commenced” wherever occurring and by inserting instead “flow information held by the NSW Department of Industry”.
- (2) The management plans referred to in clause 53 (c), (d) and (i) are amended by omitting “historical flow information held by the Department as at 1 July 2004” wherever occurring and by inserting instead “flow information held by the NSW Department of Industry”.

No. 21 **Assignment of daily extraction component**
Page 41, Schedule 1 [92], lines 1–4. Omit all words on those lines.

No. 22 **Assignment of daily extraction component**
Page 41, Schedule 1 [93], line 22. Omit all words on that line.

No. 23 **Enforcement by Natural Resources Access Regulator**
Page 42, Schedule 2.3. Insert after line 12:

[1] Section 12 Regulator to determine whether proceedings for offences should be instituted

Insert after section 12 (2):

- (2A) The Regulator must take all reasonable steps to ensure that the natural resources management legislation is enforced.