



New South Wales

# Water Management Amendment (Transparency of Water Rights) Bill 2020

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Water Management Act 2000* (*the Act*), the *Water Management (General) Regulation 2018* (the *Water Regulation*), the *Constitution Act 1902* and the *Constitution (Disclosures by Members) Regulation 1983* as follows—

- (a) to facilitate public access to information relating to water access licences (within the meaning of the Act) and recorded in the Water Access Licence Register established by the Act (the *Access Register*),
- (b) to impose requirements relating to maintaining and updating the Access Register,
- (c) to provide for the independent audit of the Access Register,
- (d) to impose requirements relating to the information to be provided in applications for water access licences,
- (e) to require the public disclosure of interests in water access licences held by Members of Parliament and the spouses of Members of Parliament,
- (f) to make other consequential amendments,
- (g) to insert provisions of a transitional nature consequent on the enactment of the proposed Act.

## 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 Water Management Act 2000 No 92**

**Schedule 1[1]** amends section 71 to provide that the Minister for Water, Property and Housing (the *Minister*) may determine the form and manner of the Access Register subject to requirements imposed by substituted section 71J and proposed section 71JA. The proposed amendment also clarifies that the purposes of the Access Register include creating, maintaining and updating records relating to water access licences and licence holders and facilitating public access to those records.

**Schedule 1[2]** inserts proposed section 71CA, which provides for the independent audit of the Access Register by the Natural Resources Commission by 31 December 2020 and at subsequent intervals of 2 years.

**Schedule 1[5]** requires the Minister to ensure that the Access Register is kept up to date and, in particular, that the Access Register is amended to record changes of details of water access licences.

**Schedule 1[6]** regulates access to information recorded in the Access Register. Substituted section 71J provides for the information to be made publicly available through an electronic search facility and prohibits restrictions being placed on access to the information (other than a requirement for payment of an approved fee). The substituted section also creates a regulation-making power for or with respect to the authentication of searches and certification of search results. Proposed section 71JA requires the Access Register to be searchable by means of the entry of certain details relating to water access licences. **Schedule 1[3], [4] and [7]** make consequential amendments.

**Schedule 1[8]** inserts additional categories of information relating to water access licences that are to be recorded in the Access Register by the Minister when registering those licences.

**Schedule 1[9]** inserts a transitional provision requiring the holder or co-holder of a water access licence that is in force on the day on which the proposed Act commences, or for which an application was made but not determined by that day, to provide the Minister with additional information relating to that licence. The information corresponds with information that the proposed Act requires to be included in the approved form for a water access licence application. A failure to comply may result in the cancellation of the relevant water access licence and will make the holder or co-holder ineligible to apply for further water access licences for the duration of the non-compliance. The Minister is to ensure that the additional information is recorded in the Access Register.

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

**Schedule 2.1[1]** inserts proposed section 14A(1A) in the *Constitution Act 1902*. The proposed subsection clarifies that a regulation made under section 14A(1) of that Act may require the disclosure of pecuniary interests or other matters held by or relating to spouses of Members of either House of Parliament. **Schedule 2.1[2]** makes a consequential amendment.

**Schedule 2.2[3]** inserts proposed clause 8A in the *Constitution (Disclosures by Members) Regulation 1983*. The proposed clause requires a Member of Parliament to disclose, with limited exceptions, the water access licence number of each water access licence in which the Member or the Member's spouse (if any) has an interest (or had an interest at any time during the period of 5 years ending on the date on which the Member takes the pledge of loyalty) and the nature of that interest. **Schedule 2.2[1], [2] and [4]–[11]** make consequential amendments.

**Schedule 2.3[2]** amends the Water Regulation to require an application for a water access licence under Part 2 of Chapter 3 of the Act to be verified by statutory declaration.

**Schedule 2.3[3]** inserts proposed clause 9(1A) in the Water Regulation. The proposed subclause specifies information that is to be required by the approved form for an application for a water access licence under Part 2 of Chapter 3 of the Act. **Schedule 2.3[1]** makes a consequential amendment.

**Schedule 2.3[4]** amends the Water Regulation to require the holder or co-holder of a water access licence to notify the Minister of any change of details of the licence recorded in the Access Register within 28 days of becoming aware of the change.