Water Management Amendment Bill.

Second Reading

Mr CRAIG KNOWLES (Macquarie Fields—Minister for Infrastructure and Planning, and Minister for Natural Resources) [10.16 a.m.]: I move:

That this bill be now read a second time.

We live on a continent whose rivers and aquifers provide life to unique environments, generate wealth for regional communities, provide substantial employment opportunities in rural areas, and support the supply of food and fibre for a nation and growing exports. We live in an arid continent, and the drought that we are still experiencing has reinforced how critical water is to our daily lives. However, we have only begun in recent years to develop a better understanding of our nation's rivers and groundwater sources. It has become clear that the way in which we are using these systems cannot be sustained, particularly given other external pressures on the resource resulting from climatic change, population growth and land use changes. In turn, these pressures are threatening the regional industries and communities that depend on water for their survival and continued prosperity.

This is the backdrop to one of the most significant policy challenges faced by the Commonwealth and State governments in recent times. As custodians of the water resource, governments and the communities they represent have an obligation to ensure that the water resource is used sustainably, so that the regional communities and industries, as well as ecosystems that depend on them, can survive and flourish into the future. The Water Management Amendment Bill sets part of the framework for a new era of water management in this State, which will deliver far-reaching benefits for the economy, the environment and the prosperity of communities. The new framework will provide strong incentives to use water profitably and efficiently, thereby creating not only business opportunities and jobs for Australians but also opportunities for more water to be allocated to the environment.

The bill will establish New South Wales as a leader in implementing the principles of the National Water Initiative and place us in the league of world's best practice. The key objectives of the new legislation are: to establish secure water access entitlements to drive investment in sustainable agriculture, to give clear legal status to environmental water and the capacity of catchment management authorities to administer environmental water as an integral part of total catchment management, to provide a transparent water planning process where any future changes to access share entitlements are based on an independent assessment of catchment outcomes and socioeconomic impacts and to create streamlined and robust administrative arrangements to facilitate trade in water to generate greater economic returns and assist industry adjustment. By focusing on these key drivers for sustainable management, New South Wales will build on its reputation for world's best practice in water management.

Before I turn to the amendments in detail, it is worth mentioning briefly the context in which this bill has been brought forward. When this Government was elected to office in 1995 it embarked on the most significant water reform process ever undertaken by a government in this country. In the period 1995 to 1999, we commenced the process of returning much needed water to the environment by establishing environmental objectives and minimum environmental flows. It was clear, however, that if we were to achieve these objectives without compromising the ability of irrigator and farming communities to plan ahead with confidence, we needed a new framework for managing our water resources. The old Water Act 1912 provided no certainty: not for farmers, not for irrigators, not for the environment.

The passage of this Government's Water Management Act on 8 December 2000 heralded a new approach to water management in New South Wales. Four features of this legislation should be emphasised. First, the Act established fundamental objects and principles for protecting, enhancing and restoring water sources and their associated ecosystems. Second, the Act created the platform for a more certain investment climate and a fully functioning water market through three things: water sharing plans to set the rules for the allocation of water between environment and water users for the next 10 years; clearly defined access share entitlements in available water which are separate from land ownership; and a register to record all water entitlements, the ownership of these entitlements, and third party interests.

Third, the Act established the principle of adaptively managing the resource in light of new information, so that the way in which the resource is shared between the environment and water users is informed by the environmental condition of the resource and overall catchment health. Fourth, the Act provided for the introduction of a more inclusive process for making decisions on allocating water, providing the opportunity for community-based groups to submit their views on water allocations and for a comprehensive assessment of environmental and socioeconomic considerations as part of the decision-making process.

Under the Water Management Act 2000, New South Wales has built the foundations of its new water management framework. Thirty-six water-sharing plans have been developed through extensive consultations with regional-based

communities. These plans account for 80 per cent of water use in New South Wales. We have developed access share entitlements to replace the old water licences, to be issued to water users in areas covered by the water sharing plans, and a comprehensive access entitlement register has been installed at the New South Wales Land Titles Office. As honourable members would know, I have deferred the commencement of New South Wales's new water management framework. I did so with good reason.

One of my primary objectives since coming into the Natural Resources portfolio has been to ensure that these significant reforms are ready to be put into operation. These reforms offer great economic and environmental benefits to New South Wales. When the Deputy Prime Minister, John Anderson, promoted the idea of a national water initiative [NWI] last year, I saw the opportunity to do four things: first, to enhance and build upon our reforms so that they align with the major elements of the initiative; second, to secure the support of the Commonwealth, stakeholders and communities for our reforms—reforms that enjoy such support will have far greater success than those that do not—third, to participate in a truly national reform process that will deliver nation-wide benefits. If jurisdictions can act under a common water framework, the environmental, economic and social outcomes of water reform will be vastly improved. The fourth action was to forge an agreement on tackling the environmental problems of the Murray River under the umbrella of the initiative. New South Wales and four other governments have jointly committed $500 million to achieve improved environmental outcomes for six icon sites on the Murray River. This is a first step in providing up to 500,000 megalitres of extra water for the health of those six sites, with a view to improving bird breeding in wetlands and maintenance of red gum forests and floodplain ecosystems.

It is true to say that the work over the past year on the national water initiative sets a strong foundation for our nation to get the sustainability agenda right for future generations. It has been groundbreaking work and in the case of the Murray, the shift to focus on tangible results rather than bog down in arguments about volumes of water represents a major advance in the thinking about water and sustainability. It is now time to commence our new water management framework. With the exception of water-sharing plans for six groundwater sources, to which I shall turn in a moment, we are committed to commencing our new framework on 1 July 2004, so that water users can get on with what they do best: planning their futures to create wealth and opportunities for regional New South Wales. I wish to make four further points before detailing the amendments.

First, the bill is consistent with the fundamental principles agreed to by the Council of Australian Governments [COAG] in March 2003 and which underpin the NWI. The bill reflects those elements of the NWI on which there is broad consensus. By making these changes now, we will hit the road running in meeting our commitments under the NWI, and confirm beyond doubt this State's leadership on water reform and its commitment to world's best practice. Second, one issue awaiting resolution through the NWI is how the costs of any future changes in water access will be apportioned between governments and users. This bill cannot and does not attempt to address the issue of management of risk until the public debate on the matter has advanced further. The governments of Australia are yet to finalise a position on the question of risk. We will attempt to do so in the coming weeks in the lead up to the June COAG meeting. In the meantime, it is fair to indicate the range of options currently on the table for discussion.

So far, one model has been proposed by the Senior Officers Group on Water, a combined State, Territory and Commonwealth task force, which shared risk according to whether a change in access to water was due to government decision, climate change or based on science. The National Farmers Federation has put forward a proposal that would involve a different method for determining whether changes were science based or policy based. Whilst both models are worthy pieces of work, neither provides the degree of surety necessary for investment security and certainty. We must remember that providing certainty and security to both water users and the environment is paramount. That is why New South Wales put forward a further possible model under which the amount of uncompensated change which users could face within a 10-year period would be capped. I say upfront that while I am in no way wedded to this model, I consider that it offers some advantages over other proposals which suggest that the costs of reduced access be apportioned differently according to whether such reductions were prompted by science or by changes in policy.

Whatever the outcome of the continuing national discussion about risk sharing, the principles which will form the basis of a successful risk assignment model will involve the following four features: one, an acceptable limit on the rate of adjustment that is feasible for water users to accommodate, both within a plan period and between plans; two, the overall level of change in the long term which could be expected to be made without triggering significant adjustment assistance and/or compensation; three, clarifying the extent to which it is feasible to differentiate risk on the basis of whether it is driven by science or by policy; and, four, a high degree of certainty and security to enable water users and the environmental representatives to make sound decisions.

These principles are important for investors, for lending institutions, for government and for the environment. Without this certainty there will be no confidence to invest and very little investment for either production or the environment. I believe I speak for other governments and jurisdictions, State and Commonwealth, that we welcome additional ideas about the risk-sharing issue before arriving at a final position. In New South Wales this may require further amendments to the Act. Honourable members may be aware that the State's major inland groundwater sources, the Namoi, Gwydir, Murrumbidgee, Murray, Lachlan and Macquarie, are among the most stressed in New South Wales. It is clear that reductions in access are necessary in those systems to ensure their sustainability of groundwater sources and the survival of their dependent communities. However, the Government is reviewing its approach to reducing water access in those systems, and is considering ways of assisting users in those systems to ease the burden of change and avoid causing social dislocation.

Our work has been assisted by the high levels of co-operation and advice from numerous water user groups and individuals. In this Government's view, Commonwealth involvement in the adjustment process is necessary if the burden of change for regional communities is to be minimised. The Government is holding discussions with the Commonwealth Government on this very issue. I am pleased to say that these discussions have been very constructive, and am confident that an announcement will be made in the near future. Both governments support this approach because it allows us to work through complex issues of history of use, environmental sustainability and sustaining regional communities. To allow time for those issues to be resolved, water-sharing plans for those six groundwater sources will not commence until July 2005. I am sure that honourable members would agree that this is a sensible approach to this most difficult issue. I know, from my personal discussions, that it has the support of the Deputy Prime Minister.

We must recognise that water for any purpose is not a free good. It comes at a cost. Without securing the capacity to invest in water efficient practices and to invest in infrastructure, there can be no real, lasting and substantial change to the way water is managed in this nation. The overwhelming bulk of water is in private hands and without the confidence and security delivered by these measures, there is little prospect of changing farm practices and almost no prospect of large scale gains for the environment. The old notion that it is possible to simply take away components of a property right, in this case water, that has underpinned regional economies is highly misplaced. The fact is that so-called water rights have been tenuous since 1912. The Water Act of 1912 allowed Ministers to take away a water access right without compensation. By moving over recent years towards a regime of water-sharing and planning, the governments of Australia have put a spotlight on these historic assumptions; especially the assumptions that have underpinned bank lending practices. In doing so, we now have a responsibility to confirm the security that has been implied for more than 100 years.

I turn now to the Water Management Amendment Bill 2004. In my view, the elements of effective water management policy include water access entitlements and water planning frameworks, water resource accounting, water markets and trading, and integrated management of water for environmental outcomes. These elements are reflected in the water management principles on which the Premier signed off in August 2003 at the Council of Australian Governments. These principles underpin the national water initiative and are the focus of this bill. Together with best practice water pricing, which was implemented through the provisions of the Water Management Act 2000, this bill contains bold changes to enable a new water economy where the rights of the environment and users are preserved in perpetuity and the market in water can assist in enhancing economic, social and environmental outcomes.

The amendments fall into three main areas. The first is water planning processes and water access share entitlements. This first group of amendments deals with the building blocks of our water management framework and those issues of primary significance under the national water initiative. These amendments provide for clearer water planning processes, to ensure access share entitlements and a more robust entitlement register. The second is integrated management of water for environmental outcomes. These amendments consist of a number of complementary initiatives that will help to achieve our objectives of moving to a more market-oriented, innovative and less bureaucratic approach to water management in which the knowledge of regional communities is harnessed to achieve good environmental and economic outcomes.

These amendments will confirm the role of regionally based catchment management authorities in environmental management, provide the authorities with the ability to use innovative approaches to returning water to the environment, facilitate water trading, reduce red tape in the administration of approvals relating to the taking of water through pumps and bores and the use of water for particular purposes on land, and provide improved management of domestic and stock rights. The third is implementation of the water-sharing plans. These amendments primarily correct a number of miscellaneous matters relating to the operation of the water-sharing plans. These amendments are necessary to ensure that the water-sharing plans operate from 1 July 2004 in the manner intended.

Water-sharing plans apply to individual water sources or systems. They set clear rules for providing water to the environment and for sharing the water available for use between different categories of water user—towns, industry and irrigation—for the next 10 years. The water-sharing plans also set rules for water trading. The water-sharing plans therefore play a vital role in protecting the environment, are a principal determinant of access to the resource, and are a key mechanism for fostering certainty and confidence amongst water users. Because so much rides on the plans, we need to ensure that the processes around making future water allocation decisions provide for two things: first, robust and independent assessment of priority catchment health and relevant social and economic issues; and, second, certainty to farmers and rural communities.

The key reference point for making a determination on future water sharing should be the overall health of the catchment. Catchment health is not just affected by water-sharing arrangements. It can also be affected by numerous factors, including water extraction, water contamination, changes to native vegetation, land use and salinity. This is explicitly recognised in this Government's work to integrate its natural resource reforms, including the establishment of catchment action plans. The catchment action plans will contain standards and targets for environmental health and will provide the framework within which a number of natural resource reforms can interact to deliver good outcomes. Given this whole-of-catchment approach to natural resource management, it is logical and appropriate that the water-sharing plans be reviewed in the context of the achievement or non-achievement of standards and targets that have been set for individual catchments.

Unfortunately, the current legislative regime does not allow for an approach that is based on an assessment of overall

catchment health. At present, under the Water Management Act 2000, when a water-sharing plan reaches the end of its 10-year life, a new 10-year plan needs to be made. There are no exceptions. This means that our efforts are potentially wasted on remaking plans when there is no compelling reason to do so and when other environmental health issues deserve our attention. Under this bill New South Wales will adopt a clear, transparent and cost-effective process for making future decisions about allocating water between consumptive use and the environment, consistent with a best practice adaptive management approach.

The recently established Natural Resources Commission will provide advice to me on progress in achieving the targets and standards in catchment action plans. Within this context the Natural Resources Commission would also look at water-sharing plans and advise me on whether the provisions in these plans are materially affecting the achievement or non-achievement of targets and standards in catchment action plans. In conducting its reviews, the Natural Resources Commission may refer to information provided by other agencies, along with statewide and regional government policies or agreements that apply to the catchment management area. It will also call for and have regard to relevant public submissions. It will also be able to examine the socioeconomic impacts of the current water-sharing plans and the impacts of any proposed changes to those plans. Once it has concluded its review, the Natural Resources Commission will report the results to me and may submit recommendations on whether a water-sharing plan and/or catchment action plan should be remade or extended.

The Natural Resources Commission is ideally placed to perform the task at hand. It is an independent body, which will advise me on a number of natural resource issues and will ensure that the Government's decision is informed by the requisite degree of scientific rigour. I will make the Natural Resources Commission's report public within six months of receiving it. I will only extend a water-sharing plan or catchment action plan if this is consistent with the recommendations of the Natural Resources Commission. I will only amend or remake a water-sharing plan if I have the concurrence of the Minister for the Environment. Through this process users will gain considerably more certainty from the knowledge that future decisions on water will be based on the best available scientific and socioeconomic information, collected by regionally based catchment management authorities and assessed through open review processes conducted by the Natural Resources Commission. The Government will be able to determine the priority issues affecting catchment health and how they should be targeted. In terms of protecting investors and the environment, this process is a significant leap forward over the current provisions in the Act.

In August 2003 the Premier and other leaders at the Council of Australian Governments agreed to the principle of defining entitlements as "open-ended, or perpetual, access to a share of the water resource available for consumption". The principle has a firm foundation. Perpetual entitlements are a more robust, bankable and attractive asset. Water users will have more certainty and confidence in planning for the long term, including investing in water efficient infrastructure that is dependent upon access to water. Banks and other lending institutions will be more prepared to assist users on the basis of solid collateral. The value of water is primarily determined by its availability. However, perpetual entitlements will also enhance the value of entitlements, thereby providing strong incentives to conserve water. Those who want to enter the water economy, those who want increased access through buying more entitlements or those who want to profit from selling excess entitlements will need to manage their use efficiently. This will help to ensure that one of our country's most valuable resources—water—is directed towards more efficient and productive agricultural uses.

Amendments to the Water Management Act 2000 will therefore be introduced to give most categories of access share entitlement perpetual duration rather than the 15 years duration currently provided for. There will be some uses for which perpetual access share entitlements will not be granted. Supplementary water access, for example, will not be made perpetual, as under our water management framework such access will only continue for as long as a water-sharing plan provides for it. Previously known as off-allocation water, this is water that is opportunistic in its availability. It is important that a distinction be made between this type of water and other water such as general and high-security water. It would undermine the value of general and high-security water if supplementary water were treated in the same way. It would send the wrong signal to the industry that it would have the right to obtain access to this water in perpetuity. This may not always be the case. It is therefore important for industry to take this into account when making future investment decisions.

Likewise, some categories of access entitlement are issued for specific purposes at specific locations, and will not be tradeable. Such entitlements are not appropriate to be granted in perpetuity. These would include: major utility access entitlements; local water utility access entitlements; basic domestic and stock access entitlements, which are tied to land and not subject to embargo; and access entitlements in any other category issued for a specific purpose. In relation to perpetual access share entitlements, I need to make three important observations. First, it has been suggested in some quarters that in creating perpetual access share entitlements we are effectively privatising the resource by guaranteeing a particular volume of water to users. This view is premised on a misunderstanding of the rights attaching to an access share entitlement. Indeed, the tenure of the access share entitlement does not affect the ownership of the resource.

The water of New South Wales remains vested in the Crown and the Crown retains ultimate control over the resource. Water users are given the privilege of access to the water by way of an entitlement. Underpinning New South Wales' new water management framework and the national water initiative is the principle that the environment and users share the resource made available by the Crown. Foremost, the rules of water-sharing plans provide and protect water for the environment. They also govern the sharing of the water available for extraction among users. A perpetual access share entitlement gives the entitlement holder a perpetual share of the available pool of water for extraction. It

is important to emphasise that last point because what the water user gets is a perpetual share of the available water, not a guaranteed volume of water.

Under New South Wales' new water management framework, the actual volume of water that a water user receives will vary depending on the amount of water in the water source, as affected by climate, the pool of water available for extraction, as determined by the Minister from time to time, according to the rules of the water-sharing plan, and the water user's share of the water available for extraction, as specified on the access share entitlements which he or she holds. Our amendments will reinforce that water users have a share of the available pool of water for extraction by allowing for the access entitlement to specify unit shares in the available pool rather than a volume of water in megalitres.

The specification of entitlements as shares rather than a volume of water in megalitres neither diminishes nor increases the water user's rights. Rather, the intention is to communicate the nature of each person's entitlement with clarity, and this is important not only for future investment but also for the environment. Unit shares are a far more accurate and reliable indication of the nature of the entitlement than a volume because, as we know, the actual volume of water that a user can extract will vary depending on the total amount of water available to users. Users will have a clear signal about what their entitlement gives them, thus avoiding any misunderstandings about the true availability of the resource.

Second, the introduction of perpetual access share entitlements will not affect the Government's ability to provide water for the environment. This is because environmental water is determined by the rules of the water-sharing plan. The tenure of access share entitlements has no bearing on the operation of these rules. Third, it has been suggested that a perpetual access share entitlement will allow water users to use water ad infinitum for potentially damaging environmental purposes. Again, this is a misconception. The access entitlement only governs access to the available pool of water for extraction. It governs neither the construction of works to take water nor the actual use of water on land for a specific purpose. These activities are governed by completely separate instruments—approvals—issued by the Government. The Government retains the power to impose a variety of conditions and other environmental controls on these instruments, as and when appropriate.

A robust entitlement register is integral to encouraging investment in sustainable water industries and water trading. Accordingly, New South Wales will place access entitlement dealings on the same footing as land dealings. The security interests of lending institutions and other third parties will be recorded on the register. Moreover, lending institutions will have the ability to exercise the same powers that they currently exercise under the Real Property Act, for example, in relation to defaults on mortgages. The provision of indefeasibility of title for interests recorded on the register will confirm the register's world-class status. Indefeasibility of title is an absolute guarantee that the details on the register provide a complete and accurate account of the nature of an entitlement, the entities that hold it and all interests associated with it.

At this stage, the register has not been fully validated, as ownership details are still being verified and lending institutions need time to record their interests on the register. I have used the process of converting the old system title to Torrens real property title as a parallel example of the process involved—a complex and exhausting process for about 60,000 licences that will take time. As a result, it is not possible for the register to offer indefeasibility of title immediately. The Government, however, will use its best endeavours to work with lending institutions to provide a model of indefeasibility of title within three years, and will review progress on this front in two years.

People need to be able to develop and implement local solutions for issues that they are often in the best position to understand. As catchment management authorities will be small, skills-based bodies drawn from local communities, they are well placed to be involved in developing future water management plans and in evaluating the achievement of outcomes in existing water-sharing plans and catchment action plans. This will ensure that water management decisions are tailored to address local circumstances and that there is strong local ownership of the reforms. The Water Management Amendment Bill proposes amendments to give the catchment management authorities the capacity to undertake these responsibilities.

Moreover, the catchment management authorities will have the capacity to address some water management issues through catchment action plans rather than through the establishment of new water management plans. Water quality or water quality monitoring could be more fully integrated into the catchment activities within a catchment action plan, thus obviating the need to develop new regulatory plans. This will save time and costs. Those water management issues such as water sharing, floodplain management or water use—that involve the definition of basic statutory rights—will continue to require stand-alone regulatory plans.

In line with world's best practice, innovative approaches for recovering water for the environment will be developed so that governments and communities have greater flexibility to meet their environmental objectives. The Water Management Act 2000 will be amended to enable catchment management authorities to establish trust funds for the purposes of acquiring and managing adaptive environmental water; that is, water which is primarily intended for environmental purposes but which may be taken and used for non-environmental purposes when it is not needed by the environment. Catchment management authorities will be able to hold access licences to which such adaptive environmental water may be credited.

Under these measures, for example, water could be sold to users counter-cyclically: the sale or loan of water to users

during droughts on the understanding that more will be returned in wetter periods to achieve the maximum environmental benefit. This type of innovative practice is already occurring with very positive effects in the Murray Basin under the management of the Murray Wetlands Group. The model should be extended. To minimise potential conflicts of interest in the management of environmental water, catchment management authorities will operate according to strict governance procedures requiring, among other things, catchment management authority members to declare financial interests and to provide the Government with annual business plans setting out prospective environmental water management projects.

Setting up mechanisms for new and clever ways of recovering water is an important part of the formula for sustaining environmental assets. Without continuing good information and knowledge, the best results will not be achievable. To this end, the Water Management Amendment Bill provides for the creation of a Water Innovation Council to advise the Minister and catchment management authorities in identifying and pursuing a range of water conservation and environmental protection opportunities, including opportunities for environmental water recovery, water reuse and water use efficiency. It will be in a good position to identify the most promising opportunities having regard to the latest national and international developments and the initiatives of other players.

There will be a number of water recovery schemes under way over the coming years. The Snowy Joint Government Enterprise has commenced operations to allocate increased flows down the Snowy through water savings schemes in the Murray. Once operational, the Living Murray Initiative will also be funding substantial water recovery measures. The council will be in a good position to advise catchment management authorities and the Government on how various schemes might be co-ordinated to achieve the optimal environmental and economic results for every dollar that is spent.

Water trading is the key vehicle for moving water to more productive and efficient uses and assisting water users to adjust to changes in water availability. A robust water-planning regime, secure access rights to water and a strong access entitlement register are necessary to provide users with the confidence to engage in water trading. In order for a water market to operate effectively, however, barriers to trade must be minimised or removed, where appropriate, and users must be furnished with the necessary information and tools to enable them to engage in a range of water dealings. In line with world's best practice, the bill will facilitate water trading as far as possible within environmental limits, through the following initiatives.

Information on volumes of water traded and prices paid will be vital for instilling the necessary confidence for trading to occur. The bill contains amendments to ensure that such information can be made publicly available, as is the case with land dealings under the Real Property Act. Giving water users maximum flexibility to deal with their perpetual access share entitlements in the most profitable way, just as landowners have considerable flexibility to deal with their assets, is one of the key objectives of New South Wales current water reforms. To this end the bill provides for entitlement holders to transfer or assign their access share entitlements for a limited period of time, similar to the way in which a lease operates for land, and for entitlement holders who are tenants in common to transfer their access share entitlements, as can happen with land. There are often delays between settlement and registration, particularly if there are mortgages involved. Under the bill, entitlement holders will be able to gain access to current allocations ahead of a water dealing being registered.

When ownership of an access share entitlement changes, environmental issues only arise if there is also a change in the location at which water is extracted in association with that share entitlement. Under the Water Management Act 2000, all changes in ownership of a licence currently require the Minister's consent, even if the change in ownership does not involve a change in the location at which water is extracted. The effect of this is to burden simple changes in ownership that do not involve a change in the location at which water is extracted with an administrative process. That is unnecessary red tape. In most cases this should not be necessary. This comes at a cost to the Government and to users. The Water Management Act 2000 will therefore be amended to remove the requirement for the Minister's consent to a change of ownership of a licence which does not involve a change in the location at which water is extracted. The Minister, however, will retain the ability to review simple changes in ownership when it proves to be necessary.

The bill allows for perpetual access share entitlements from one State to be used to supply water in another State. The great advantage of this arrangement is that it removes the need for perpetual access share entitlements to be converted, involving the cancellation of an entitlement in one State and the issuing of a new entitlement in another. This will reduce costs. An example of when this could easily and effectively be used is when a Victorian irrigator on the Murray River purchases a New South Wales Murray River access share entitlement and uses it through pumps on the Victorian side of the river. The same could apply on the border rivers between New South Wales and Queensland.

In addition to an allocation, anybody wishing to use water for a particular purpose or to construct works to take water needs a separate approval. The approval system is the key mechanism for ensuring that rivers and groundwater systems are protected against activities that may result in salinisation or soil degradation, and that the environmental effects of water use and associated development are properly considered. An inefficient or slow approvals system can hinder investment planning. Decisions about buying or selling water will often be influenced by the choices available to water users in relation to the permitted use of water and the ability to construct works. The aim of the approvals system should be to focus on those activities that pose significant environmental risks. The current provisions of the Water Management Act 2000, however, require a full environmental assessment for every use and works approval, irrespective of the environmental risk posed. While such an assessment is appropriate for new uses and works, it is

unnecessary in relation to existing uses and works that are submitted for renewal.

In line with world's best practice, the Water Management Amendment Bill allows a risk-based approach to be adopted in relation to the renewal of uses and works. Mechanisms will be employed to identify those uses and works in specified areas which pose substantial environmental risks and which therefore require full environmental assessment. Uses and works that do not fall into this category will not require assessment. This will save time and costs, but it will not compromise the Government's ability to maintain adequate environmental controls over potentially harmful activities. The powers of the Minister to deal with environmentally damaging activities or breaches of approval conditions through direction notices, or suspending and cancelling approvals, will remain in place. Other measures to simplify the approvals system and reduce costs and delays will be implemented, including giving all approvals—works, use and other approvals identified in the Water Management Act 2000—a standard 10 years duration, except for approvals held by major and local water utilities which would be for 20 years, allowing the Minister to issue one approval to cover a range of different water use developments, and allowing approvals to be amended, rather than requiring completely new approvals to be issued.

Mining operations that take place near groundwater sources will normally require an aquifer interference approval. Under the Water Management Act 2000, however, the range of activities that can be authorised by an aquifer interference approval are too narrow. For example, they do not allow for incidental removal of water which frequently occurs during mining operations. Mining operators are therefore forced to obtain an access licence to remove such water. This is unnecessarily cumbersome, and amendments to the Water Management Act 2000 will be made to enable aquifer interference approvals to be issued to permit incidental removal of water. Regulations will be developed to specify in detail the circumstances in which aquifer interference approvals can be issued for this purpose, having regard to the impacts on other water users.

Currently, under the Water Management Act 2000, people who live next to a river or lake can take water without a licence. This is a stock and domestic right. There are no plans to change this basic right. However, there is a problem that growth in these rights through land subdivisions and inefficient or excessive use of stock and domestic rights can have potentially significant impacts on the rights of other licensed water users and the environment. This is a particular problem on the coastal strip where, through subdivision, a single right suddenly expands 20 or 30 times, without any real thought of the overall impact. The Government is determined to take a fair and practical approach to this issue. Under this bill, the Minister will be able to formulate guidelines on the reasonable use of stock and domestic rights. The preparation of such guidelines will involve extensive public consultation; indeed, it will require a partnership with farmers and their representatives to formulate the guidelines and successfully implement them. The guidelines will provide a standard for reasonable use of the resource which landholders will apply to themselves.

The Act sets out three classes of environmental water—environmental health water, supplementary environmental water and adaptive environmental water—and requires water-sharing plans to include rules for the identification, establishment and maintenance of each class of environmental water. Currently the Act limits the purposes for which each class may be used. Environmental health water is only permitted to be used for fundamental ecosystem health purposes while supplementary environmental water and adaptive environmental water are only permitted to be used for specified environmental purposes. The distinction between environmental water provided for fundamental environmental purposes and water provided for specified environmental purposes, however, is artificial and is causing unnecessary confusion. Such water is essentially rules based and is necessary to achieve the environmental objectives of each water-sharing plan.

It is also unclear whether the environmental health water rules must specify a particular flow that must be present at all times, or that the rule must be operative at all times. It would be environmentally damaging in many rivers to require that all plans specify some constant flows that must be maintained at all times. Natural river ecosystems depend on variability in flows. Therefore, the bill amends the Water Management Act 2000 so that there are two kinds of environmental water: environmental water that is provided according to rules in a plan, or planned environmental water; and environmental water that is provided by water licences, or adaptive environmental water. All water-sharing plans must have rules for planned environmental water and provisions for adaptive environmental water. The amendments will also clarify that a minimum quantity of water does not necessarily always have to be present in a water source.

The changes will not affect the rules in plans that have already been gazetted, and will not affect the amount of water these rules provide for the environment. The changes will, however, remove some of the confusion and artificial distinctions that the words in the current Act have caused and provide a little more flexibility with respect to the design of environmental rules in future plans. As indicated above in relation to adaptive environmental water, the catchment management authorities will be the primary vehicle for acquiring and managing this water through the development of environmental water trust funds.

The Act allows the Minister to suspend the rules applying to the making of an available water determination if the Minister is satisfied that there is a severe water shortage. This will only occur in extreme situations. While a severe water shortage is in force, the following rules apply to the making of available water determinations: first priority is given to major utilities and local water utilities in relation to domestic water supply and to basic landholder rights; second priority is given to the environment; third priority is given to major utilities and local water utilities in relation to commercial water supplies, and to high security licences; and fourth priority is given to major utilities and local water utilities otherwise than in relation to domestic and commercial water supplies, and to other categories of access licences.

To allocate fourth priority to stock and domestic licences is inconsistent with the fundamental design of the Act, in which access to water for stock and domestic purposes comes as first priority after water for the environment. Further, water for electricity production is a high value and important activity and should have a higher priority. The bill therefore amends the Act to give first priority to domestic water and essential town sources, whether under a basic right or a licensed entitlement, and to elevate the priority given to major utilities in relation to electricity generation needs and industries in towns. In this way secure access to water for essential human needs can be provided and the important benefits of electricity generation will be recognised and better safeguarded. To give effect to these priorities, it is necessary to allow available water determinations to be made to individual licensed entitlements in accordance with the specified priorities. These provisions will give the Minister the necessary powers to act in the public interest during times of severe water shortage.

Water-sharing plans covering the upper Namoi, Murrumbidgee, Murray, lower Darling and Hunter regulated river water sources include rules intended to permit regulated river, general security licences to take uncontrolled flows—that is, flows that come into the system below the regulating dam—without debit to the respective water allocation account when water allocations are low. The amount of water that can be taken under these rules is limited to a proportion of the access licence share component volume. These rules continue longstanding water management practices. Such rules are necessary to continue to provide entitlement holders with the ability to make up loss of water supply during times when allocations are reduced because of low water levels in dams. Currently the Act does not explicitly provide for this; the bill corrects this.

With the separation of access licences from land, powers to recover unpaid charges and water taken in excess of that authorised under a licence were lost. Although powers to suspend a licence or prosecute the holder remain, these will often be ineffective for dealing with these matters. It will be possible for water users to exceed their water allocations and incur penalties instead of purchasing the additional water on the market. The bill includes mechanisms to correct this. For example, any charge or fee in respect of an access licence will be payable by the water user from time to time. The Minister will be able to suspend or cancel nominated works for non-payment of fees and charges of the related access entitlement.

Schedule 6 to the bill incorporates savings and transitional regulations to provide for the conversion of existing licences under the Water Act 1912 to the new licences under the Water Management Act 2000. This bill will herald a new level of performance in the way we manage scarce water resources for the good of the community, farmers and the environment. We need to leave behind the conflict between competing users and the environment and recognise that the rights of all users need to be provided for. Water is a zero sum game. Overallocation can wreck the viability of industries and lead to painful restructuring as well as damage to the health of our rivers and wetlands. The way ahead is to achieve the right balance between healthy rivers and competitive industries working efficiently within the sustainable limits of the resource. I commend the bill to the House.