



## Water Management Amendment Bill 2014

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#### Second Reading

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [8.02 p.m.]: I move:

That this bill be now read a second time.

The Water Management Amendment Bill 2014 is an important comprehensive package of amendments to the Water Management Act 2000 designed to ease the regulatory burden on water users and help the Government meet challenges in managing the State's water resources that have arisen in recent years. The bill builds on the Government's commitment to achieve genuine sustainability in the water sector by amending the Water Management Act 2000 to facilitate issuing floodplain harvesting licences to increase business certainty for landholders who extract water from flood events; provide security for holders of supplementary water licences and floodplain harvesting licences through enhanced compensation rights; allow landholders increased flexibility to take advantage of their harvestable rights, especially with respect to urban stormwater harvesting; streamline the way that supplementary water is made available to users; clarify the scope of controlled allocation orders and further develop water markets through a new dealing to allow water allocations to be traded for a term of up to 10 years.

The bill will streamline licensing and trading processes so that water users' dealings with government are simpler, easier to understand and more efficient; reduce red tape by allowing water sharing plans to be consolidated; optimise the setting of storage reserves in dams to ensure equitable, economically efficient sharing of water between higher security licences and general security licences; improve offence provisions; and make miscellaneous refinements relating to the conversion of entitlements under the Water Act 1912 to the Water Management Act water licences. The bill will facilitate profitable and sustainable water access and use, improved client service and stakeholder engagement and a continuous improvement in knowledge for evidence-based water management decisions. All of that requires support from a robust regulatory framework. The bill introduces necessary improvements to the legislative framework for water in New South Wales that will help us deliver these outcomes.

I will now provide a brief overview of each significant element of the bill. I turn first to the amendments concerning overland flow water and floodplain harvesting. These amendments clarify that water flowing over the ground, called overland flow, which is not within a watercourse such as a stream or river, is part of the State's water rights and included within the definition of "water source". By defining overland flow water, we have ensured that consistent terminology is used across the legislative framework. It is important to have clear and consistent terminology for overland flow water to facilitate the licensing of floodplain harvesting. This terminology will also help the New South Wales Office of Water to manage urban stormwater harvesting in a way that allows proponents of urban stormwater harvesting projects to make full use of their harvestable rights.

The second set of amendments relates to compensation rights for supplementary water licences in regulated rivers and floodplain harvesting licences. Currently, supplementary licences are an anomaly among major commercial licence categories. Unlike holders of most commercial licences, supplementary water licence holders have no compensation rights if their allocations are reduced because of a change in a water sharing plan. The bill eliminates this anomaly by extending the compensation rights available under the Act to holders of supplementary water licences in regulated rivers and making the tenure of the licences perpetual. Similarly, the bill extends existing compensation rights to holders of floodplain harvesting licences. However, the amendments relating to compensation rights do not extend to supplementary water licences in groundwater sources as these are slowly being phased out as part of a process to reduce total entitlements.

This bill also introduces amendments that streamline the way that supplementary water is made available to users. Instead of using ministerial orders and announcements, access to supplementary water will be able to be provided more quickly by just using announcements. The third set of amendments introduces needed flexibility to the Act's provisions on harvestable rights. The bill will allow for the making of harvestable rights orders to set rules about using a single dam or multiple dams to store both harvestable rights water and licensed water. These amendments will ease the current unnecessary regulatory requirements that prevent landholders from storing harvestable rights water and licensed water in large capacity dams.

The harvestable rights amendments will also enable other types of works to be used to capture harvestable rights water, recognising the growing interest in urban stormwater harvesting where dams are not commonly used to capture water. As I have already said, the bill also includes amendments to facilitate the issuing of floodplain harvesting licences. Currently under the Act, licences can only be issued for a zero volume, for certain specific purposes, or through a controlled allocation. None of these mechanisms truly suits floodplain harvesting. These amendments will allow regulations to be developed that will prescribe the circumstances in which existing floodplain harvesting activities will give rise to a licence and the terms and conditions of such licences, including their water share component. The regulations will provide a clear framework within which licensing of this important water harvesting activity can proceed.

The fourth set of amendments clarifies that a controlled allocation order may set a minimum price for licences and defines the coverage of the order to be part of a water source. Setting a minimum price in a controlled allocation is a way of ensuring that water is allocated only in circumstances where the economic benefit to New South Wales justifies issuing new licences. Defining a controlled allocation order to cover part of a water source allows the order to be tailored more precisely to match water availability to demand.

The fifth set of amendments creates a new dealing to enable a licence holder to trade their water allocation over several seasons in one step. Under the proposed dealing, licence holders can transfer their water allocations for up to 10 years. During that time the shares under the licence still remain with the seller. This will make water that is currently underutilised more easily tradeable. In keeping with this Government's ongoing commitment to reducing red tape, the bill also proposes a number of amendments to streamline licensing and trading processes.

These will simplify processes for licence holders and applicants and reduce the costs associated with the administration of licences by allowing an applicant for a licence or approval to amend or withdraw their application at any time before it is determined, allowing a trade or other dealing to be approved and registered with Land and Property Information in a single step instead of separate steps as is now required, and allowing licences and approvals to take effect immediately instead of after the appeal period. Other streamlining provisions will reduce unnecessary red tape by clarifying when conditions can be imposed on licences and will provide greater flexibility to issue combined approvals. Again, these amendments recognise the concerns of licence holders who have told us that they would prefer more responsive, administratively flexible and streamlined processes for issuing and trading licences.

New provisions will also enable the Minister to refuse the surrender of a water access licence in certain circumstances. This sensible amendment will allow the Minister to ensure that licensees must continue to hold a licence for all of the water they take. To ensure that no person is disadvantaged by the new streamlining provisions, care has been taken to ensure that they will not reduce the appeal rights of applicants or other interested persons. New rights of appeal have also been created to support the new provisions, where appropriate.

An additional set of amendments aimed at reducing red tape relates to consolidation of water sharing plans. When the first water sharing plans were made in 2004, some of those plans covered very small portions of catchments, often imposing elaborate prescriptive rules. Experience with water planning has shown that we can obtain better triple bottom line outcomes by planning on a catchment-wide scale with simple, consistent, enforceable rules. These amendments allow those 2004 plans to be consolidated with more recent catchment-wide plans that were developed with the benefit of experience.

The final set of amendments relates to the sharing of water between high security and general security licences in regulated rivers. Regulated river water sharing plans currently require water to be set aside within a dam to ensure full or near full water allocations so high security licences can be maintained if there is a repeat of the worst drought on record. This water sharing rule was developed prior to the recent millennium drought.

When the millennium drought is taken into account, implementing this current water sharing plan rule would result in significant quantities of water being taken out of production and held in reserve in case an equally severe drought occurs again. Computer modelling indicates that the existing rule could reduce general security licence allocations by 8 per cent, on average, and up to 20 per cent in some years. The amendments proposed in this bill allow for the worst drought that occurred prior to the commencement of each of the current water sharing plans to continue to be used to determine the size of the storage reserve. This will have the effect of

maintaining the water shares between the environment, high security licences and general security licences as agreed when the water sharing plans were first developed.

In most years general security licences will benefit from these changes. The remainder of the amendments in this bill are directed at ensuring that water licensing allocation and use is carried out in a best practice modern regulatory environment. For this reason, the bill includes a package of new and refined offence provisions. Two metering offences have been changed to remove unnecessary requirements, making all metering offences in the Act consistent. New offences relating to bore drilling have been created to support a new framework for licensing bore drillers. This new framework will replace the drillers licensing provisions in the Water Act 1912.

New offence provisions relating to the taking of water make it an offence for a licence holder to take more than the combined total of water in all water allocation accounts held by the person. The proposed amendments will reduce costly and lengthy investigations which need to disaggregate water taken under the different licences. The bill will also replace uncommenced amendments in the Water Management Amendment Act 2008 to address more scenarios linked to the nomination of water supply works and water tagging zones. A new offence is introduced ensuring that the Minister is informed of works nominated on an interstate equivalent access licence.

The bill also includes important provisions to clarify the processes by which certain Water Act 1912 licences were converted to licences under the Water Management Act. One of these rules relates to situations where a person held a stock and domestic licence under the Water Act which has converted to a Water Management Act licence. This amendment ensures the validity of all such licences in cases where a domestic and stock right also applies. A second rule relating to conversion of licences from the Water Act 1912 allows for reconciliation and validation of water accounts where it was not possible to read meters precisely at the moment of conversion and thus account balances were determined after conversion. The amendments confirm existing practices and will not add to or subtract from the existing account balance of any licence holder. In order that the provisions of this bill can be implemented in an orderly fashion, the bill includes savings and transitional provisions to ensure that existing orders and instruments remain valid where appropriate and the amendment provisions apply to existing licences and instruments as appropriate.

Peak stakeholder groups have been briefed on all of the amendments and have indicated their support. Many of the amendments included in this bill are initiatives proposed by water users themselves. The bill exemplifies this Government's willingness to fix real-world problems faced by industry and communities throughout New South Wales. The bill makes improvements in every significant aspect of water management, from planning processes to licensing and trade through to compliance. Although the bill touches on highly complex and technical matters, at its core are simple, consistent principles that inform this Government's approach to water. These amendments promote triple bottom line outcomes, reduce red tape and the regulatory burden on water users, promote open markets and free trade in water so that our water resources can bring the greatest benefit to all residents of New South Wales, and provide the regulatory clarity and stability that is so important to continued investment and growth for water-dependent businesses. I commend the bill to the House.