

FIRST PRINT

**HUNTER WATER BOARD CORPORATISATION (WASTE
DEPOSITS) AMENDMENT BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

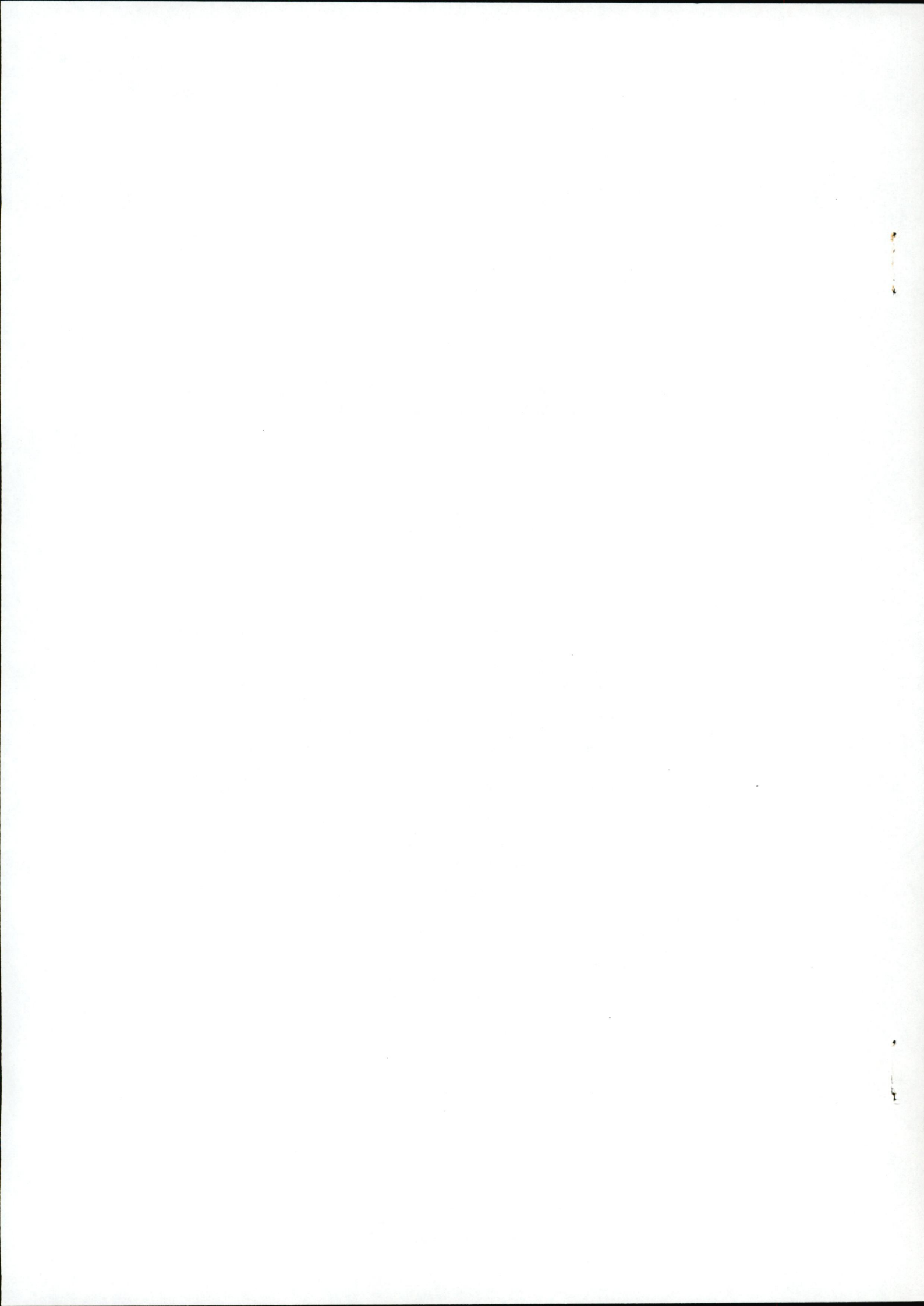
Section 61 of the Hunter Water Board (Corporatisation) Act 1991 authorises the Hunter Water Corporation Limited (subject to certain conditions) to deposit waste products from its sewerage treatment plants in disused underground mine workings. The section further provides that persons (who may be, for example, the owners of land above any such mine workings) are barred from recovering damages for trespass or nuisance or taking other legal action against the Corporation or its servants or agents on account of activities of the Corporation that are authorised under the section.

The object of this Bill is to provide that legal action (including proceedings for an injunction) may be taken by any person who can show loss or damage resulting or likely to result from the exercise by the Corporation of its powers under the section.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 repeals section 61 (3) and enacts a new section 61 (4) that restores rights of action against the Corporation. The new subsection contains a transitional provision concerning a person's right to sue the Corporation in respect of waste-dumping activities before enactment of this Bill. The effect of the provision is that, on the enactment of this Bill, the person has the same rights as he or she would have had if the new subsection (4) had been enacted originally instead of section 61 (3).



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No. , 1992

A BILL FOR

An Act to amend the Hunter Water Board (Corporatisation) Act 1991 to authorise actions for damages and other proceedings in respect of waste disposal by the Hunter Water Corporation Limited.

Hunter Water Board Corporatisation (Waste Deposits) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Hunter Water Board Corporatisation (Waste Deposits) Amendment Act 1992.

5 Commencement

2. This Act commences on the date of assent.

**Amendment of Hunter Water Board (Corporatisation) Act 1991
No. 53, s. 61 (Disposal of waste products)**

3. Section 61 of the Hunter Water Board (Corporatisation) Act 1991
10 is amended:

(a) by omitting subsection (3);

(b) by inserting at the end of the section the following subsection:

(4) Subject to any agreement, a person's rights and remedies are
not affected by any power conferred on the Corporation by this
15 section, except as follows:

(a) an exercise of the power does not constitute a trespass to land
unless there has been loss or damage sustained by the person
as a consequence; and

(b) an injunction cannot be granted to restrain the taking of any
20 intended action, or the continuation of any action already
commenced, by or on behalf of the Corporation unless the
court finds that loss or damage is likely to be sustained by
the person if the intended action is taken or the action is
continued.

25 A right of action that would, if this subsection had been in force at
the commencement of this section (1 January 1992), have accrued
to any person before the commencement of the Hunter Water Board
Corporatisation (Waste Deposits) Amendment Act 1992 on account
of any activity carried on by the Hunter Water Corporation Limited
30 under the authority of this section is taken to have accrued to that
person on the commencement of that Act.
