

# WATER LEGISLATION AMENDMENT BILL 2008

## Fact Sheet

The *Water Management Act 1999* (WMA) was proclaimed on 1 January 2000. The WMA provides the framework for the sustainable management and allocation of Tasmania's water resources.

In 2005, the then Minister for Primary Industries, Water & Environment presented a Report to Parliament on the operation of the Act over the first five years of its implementation. The Minister then invited submissions from interested parties on suggestions for improvements to the operation of the Act. Thirty-one submissions were received covering a wide range of issues. Around the same time, the Tasmanian Government signed on to the National Water Initiative (NWI) and prepared a NWI Implementation Plan. Stakeholder comment on both the WMA and the NWI Implementation Plan has led to a two stage process to change the WMA to improve the management and development of water resources in Tasmania. At the same time, legislative amendments have been required to improve efficiency in implementation of the Act and to address drafting issues.

Stage 1 of this process was completed in early 2007. This involved Parliament passing the *Dam Works Legislation (Miscellaneous Amendments) Act 2007* which introduced amendments to streamline the process for the assessment of applications for dam works permits, to provide for Water Supply Emergencies and to enable water licence conditions to cover matters relating to the use of water.

The *Water Legislation Amendment Bill 2008* represents the second stage of the process and amends the *Water Management Act 1999* and other related legislation in order to:

- 1. introduce a number of new provisions;**
- 2. enhance provisions relating to water licensing and allocation;**
- 3. introduce some further minor amendments to the dam approvals process;**
- 4. provide for more efficient operation and administration of Trusts in conjunction with the draft *Water Management (Trust Electoral and Polling) Regulations 2008* that are currently being drafted;**
- 5. clarify some existing provisions; and**
- 6. amend the *Irrigation Clauses Act 1973*, *Farm Water Development Act 1985 and Approvals (Deadlines) Act 1993*, *Inland Fisheries (Commercial Nets and Fees) Regulations 1999* and repeal the *Cressy Longford Irrigation Act 1969* and *Cressy-Longford Irrigation Water Act 1972*.**

## 1. New provisions introduced to the Water Management Act 1999

The Bill inserts into the WMA new powers to issue a Watercourse Authority, Well Works Permit and Well Driller's Licence.

### *Watercourse Authority*

A new Part 6A is inserted to provide for the issuing of an authority to convey water via a watercourse. The holder of a "watercourse authority" will be able to release water that has previously been taken into storage under a relevant authorisation, subject to necessary conditions to protect water quality, the aquatic environment and other water users. This will facilitate the trading of water through a physical transfer, where neither a licence nor an allocation changes ownership. Stored water is commonly sold by the owner of a dam and delivered to the downstream purchaser by releases of water into an adjacent stream. In such situations there is a trade in water but no trade of licences or allocations per se.

### *Well Works Permit*

The Bill also provides for a system of well works permits to be provided for by inserting Division 3 into Part 7 of the Act. It will be the responsibility of the landowner to obtain a permit to construct a well. The permit system will enable the Government to regulate how and where bores are drilled to protect the State's groundwater resources and the rights of other water users. Such a permit is valid for 2 years from the date of issue and requires the permit holder to undertake works in accordance with terms and conditions specified in the permit.

### *Well Driller's Licence*

A well driller's licensing system will be provided for by inserting Division 4 into Part 7 of the Act. The driller's licensing system will require a person to hold a Well Driller's Licence before they undertake well works. In order to become licensed, a prospective driller will have to demonstrate that they are qualified by training, skill or experience to undertake well works.

## **2. Enhancing Provisions Relating to Water Licensing and Allocation**

The Bill amends a number of the water licensing and allocation provisions in the *Water Management Act 1999*. Amendments are made to:

- Clarify the tidal area to the more measurable reference point of the watercourse below the mean high water mark. This is supported with powers to enable a Ministerial Order to declare that taking of water in a tidal area be subject to the Act.
- Amend various provisions relating to registered financial interests to meet Tasmania's obligations under the National Water Initiative.

- Remove the automatic requirement to advertise applications for, or applications to vary existing, stock and domestic licences that are for less than 0.01 Megalitre per day.
- Increase the maximum timeframe for which a temporary water allocation may be issued from three to six months, and to provide for authorisation for water users to take water in times of high streamflows to be given by radio broadcast or newspaper.
- Introduce provisions that will enable short-term water allocations to be made for up to 7 days to overcome a significant water shortage or to authorise the taking of water, the transfer of a water allocation or a watercourse authority for a period of 7 days.
- Amend various provisions relating to transfers of licences and water allocations to enable more effective operation of the WMA and to support the introduction of the new Part 6A (Watercourse Authority).
- Enable the renewal of a licence to be automatic so that licensees will not need to apply to the Department for renewal.
- Make provision for notification of intent to suspend or cancel a licence by newspaper or Gazette notice where their whereabouts is unknown.
- Clarify that an authorised officer has the power to require the release of all or part of any water that has been taken into storage illegally.
- Provide powers for the Minister to include subsidies and rebates in the water fees Regulations. Such powers would enable the fees to cater for hardship situations.

### 3. Further Minor Amendments to the Dam Approvals Process

The Bill makes a range of minor amendments to Part 8 of the WMA to build on the amendments to the Act made by the *Dam Works Legislation (Miscellaneous Amendments) Act 2007*.

Amendments are made to:

- Clarify that a notice can require an applicant to take “specified action”. For example, specified action could include the requirement on a notice for an applicant to submit design plans prepared by a professional engineer with particular qualifications.
- Enable variations to dam works permits applications to be made where it relates to the size, type, location or purpose of use for that dam. The Assessment Committee may amend the application without it being readvertised as long as certain requirements are met.

- Clarify that an extension of a dam permit under Section 159(9) can only be made by a formal application submitted by a permit holder.

#### 4. Provisions Relating to the Operation and Administration of Trusts

In conjunction with the draft Water Management (Trust Electoral and Polling) Regulations 2008 that are currently under development, amendments to the WMA are made to provide for more efficient operation and administration of Trusts. Amendments are made to:

- Allow for a Trust to consist of a board of such numbers as the Minister determines, rather than specifying 3, 5, 7 or 9 trustees.
- Clarify that the Minister may require that a specified number of the trustees be elected (as opposed to being appointed by the Minister). Furthermore, when a Trust is responsible for the administration of an Irrigation District and a Water Entity has a right to take water from within the district for a town supply, then the Minister can determine that one or more of the trustees be a nominee of that Water Entity.
- Stipulate that trustees must keep accurate minutes.
- Provides the power for a “Concerned Water Entity” to inspect the minutes. A Concerned Water Entity is one that administers a Water Supply District and has a right to take domestic water from within an Irrigation District administered by a Trust.

#### 5. Clarifying Existing Provisions

Some amendments are made to ensure that the WMA is internally consistent and give full effect to previous amendments. These amendments will not, however, change the operation of the WMA in any practical sense. Amendments are made to:

- Clarify that a Water Management Plan takes effect when a notice is published in the Gazette stating that the Minister has adopted the Plan and to ensure consistent terminology.
- Clarify the existing arrangements relating to metering and to ensure consistency with National Water Initiative requirements.
- Clarify the powers of an authorised person more clearly.
- Amend specific provisions of the WMA in relation to Water Entities including removal of the current blanket ban on watering of animals in water districts and providing greater powers to require a Water Entity to submit an annual report to the Minister where a report has not been provided.

## 6. Other Legislative Amendments

The Bill also amends the *Irrigation Clauses Act 1973*, *Approvals (Deadlines) Act 1993* and *Farm Water Development Act 1985*, *Inland Fisheries (Commercial Nets and Fees) Regulations 1999* to ensure consistency with the WMA.

The *Cressy Longford Irrigation Act 1969* and *Cressy-Longford Irrigation Water Act 1972* have been identified as redundant legislation and are repealed by the Bill.