



New South Wales

# Local Government and Valuation of Land Amendment (Water Rights) Bill 2005

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to amend the *Local Government Act 1993* so as:
    - (i) to allow land that for rating purposes is categorised as “farmland” to be sub-categorised according to its ability to be irrigated, and
    - (ii) to omit a provision that currently requires rates to be levied at a lower ad valorem amount on land that is categorised as “farmland” than the ad valorem amount for land of any other category, and to restrict the amount by which ordinary rates levied on land categorised as “farmland” may be increased during the first 5 years after the commencement of the proposed Act, and
    - (iii) to omit a provision that currently invalidates rates and charges that, for two or more successive years, exceed the maximum rates and charges allowable under that Act, and
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- (b) to amend the *Valuation of Land Act 1916* so as:
  - (i) to substitute the definition of **water right** for the purposes of that Act, and
  - (ii) to provide that the value of any water secured by, or referable to, a water right is to be ignored for the purpose of determining the value of that right, and
  - (iii) to preserve valuations made before the commencement of the proposed amendments to that Act, and
- (c) to amend the *Water Management Act 2000* so as to omit certain amendments to the *Valuation of Land Act 1916* that are rendered unnecessary by the amendments referred to in paragraph (b).

## 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 1 July 2005.

**Clause 3** is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Valuation of Land Act 1916* set out in Schedule 2.

**Clause 5** amends the *Water Management Act 2000* by omitting Schedule 8.29 [1], [2] and [8] to that Act, those items being amendments to the *Valuation of Land Act 1916* that are rendered unnecessary by the amendments set out in Schedule 2 to the proposed Act.

## Schedule 1      Amendment of Local Government Act 1993

### Sub-categorisation of farmland by reference to irrigability

The Act provides for four main categories of rateable land, namely, “farmland”, “residential”, “mining” and “business”. Section 529 currently allows a council to sub-categorise land in any of these categories. In relation to “farmland”, a council may sub-categorise according to intensity of land use or economic factors affecting the land. **Schedule 1 [4]** amends section 529 to enable “farmland” to be sub-categorised according to its irrigability. **Schedule 1 [5]** further amends section 529 to provide that land may be taken to be irrigable only if it is the subject of a water right within the meaning of the *Valuation of Land Act 1916*.

### Requirement for farmland to be rated at lowest ad valorem amount

Section 530 currently requires rates to be levied at a lower ad valorem amount on land that is categorised as “farmland” than the ad valorem amount for land of any other category. **Schedule 1 [6]** omits section 530. **Schedule 1 [8]** inserts a

transitional provision to restrict the amount by which ordinary rates levied on land categorised as “farmland” may be increased during the first 5 years after the commencement of the proposed Act.

### **Successive years of excessive rates and charges**

Section 512 currently provides that if a council contravenes section 509, 510, 511 or 511A in making a rate or charge for a year, the contravention does not affect the validity of the rate or charge but rates and charges for the following year are invalid, subject to the condition that they have been approved by the Minister and subject to a further condition that the council has not contravened section 509, 510, 511 or 511A in making them. **Schedule 1 [2]** amends section 512 to omit the second of these conditions, so ensuring that rates and charges are not invalidated by section 512 just because a council contravenes section 509, 510, 511 or 511A in successive years. **Schedule 1 [1]** is a consequential amendment.

### **Miscellaneous**

**Schedule 1 [3]** makes a consequential amendment to the note appearing after section 513.

**Schedule 1 [7]** amends Schedule 8 so as to enable savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

## **Schedule 2      Amendment of Valuation of Land Act 1916**

### **Substitution of definition of “water right”**

**Schedule 2 [1]** substitutes the definition of *water right* in section 4 (1). The existing definition extends to any right to take or use water. The new definition extends to any right to construct, install or use works of irrigation or to use water supplied by works of irrigation. The effect of the substitution of the definition affects the operation of section 6A (3), which provides for the land value of land to include the value of any water right that relates to the land.

### **Exclusion of value of water entitlement from valuation of water right**

Section 6A (3) provides for the land value of land to include the value of any water right that relates to the land. That right currently includes the value of any water secured by, or referable to, a water right. **Schedule 2 [2]** inserts proposed section 6A (4) so as to provide that the value of any such water is to be ignored.

### **Saving of existing valuations**

**Schedule 2 [4]** omits existing Part 4 of Schedule 2 (rendered unnecessary by the other amendments in the proposed Schedule) and inserts a new Part, including proposed clause 14, that preserves valuations made before the commencement of the amendments effected by the proposed Act.

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**Miscellaneous**

**Schedule 2 [3]** amends Schedule 2 so as to enable savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.