



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: PLC/RIC:JBgl040425

4 April 2025

Department of Climate Change,
Energy, the Environment and Water
Locked Bag 5022
Parramatta NSW

By email: water.enquiries@dpie.nsw.gov.au

Dear Sir/Madam,

WATER MANAGEMENT REGULATION REMAKE

Thank you for the opportunity to provide feedback on the draft Water Management (General) Regulation 2025 (**General Regulation**) and the draft Water Management (Water Supply Authorities) Regulation 2025 (**WSA Regulation**). The Law Society's Property Law and Rural Issues Committees contributed to this submission.

Our comments primarily relate to Part 7, Private water corporations and private water trusts, of the General Regulation.

1. Draft Water Management (General) Regulation 2025

1.1. Charges for water illegally taken and damage to works

In relation to proposed section 133 of the General Regulation, we suggest that the approach adopted in referencing clause 20 of the *Water Management (General) Regulation 2018* (NSW) (**2018 Regulation**) could be simplified by replicating the relevant parts of clause 20 in section 133 itself so that it stands alone. We also suggest that the substance of clause 20A of the 2018 Regulation, which sets out the method of determining the value of water illegally taken, needs to be similarly replicated in section 133.

1.2. Notification of sale of land

Proposed section 129 of the General Regulation, like clause 62 of the 2018 Regulation, deals with the notification of the sale of land by a member of a private water entity. It is important that the entity is made aware of the change of ownership, so a specific provision is appropriate in our view. We note that in the current clause 62, notification is required before and after the sale of the land. However, in proposed section 129 of the General Regulation, the vendor is only required to either provide notification of the *intention to sell* under proposed section 129(a), or some details *arising from the sale* under section 129(b). In our view, merely giving notice of the intention to sell is insufficient as this will not provide all the relevant information in relation to the actual change of ownership to the entity, in particular, the identity of the purchaser. We suggest that the member of the private water entity is obliged to provide *both* notifications in proposed section 129(a) and 129(b).

2. Draft Water Management (Water Supply Authorities) Regulation 2025

We note that there appears to be a typographical error in proposed section 2 of the WSA Regulation as we understand the intended commencement date is 1 September 2025.

3. Potential amendments to the *Water Management Act 2000* (NSW)

In reviewing Part 7 Private water corporations and private water trusts, of the General Regulation, we considered some of the practical conveyancing implications when a member of a private water entity sells their land. We suggest that in any review of the *Water Management Act 2000* (NSW) (**Principal Act**), consideration be given to amendments which would assist in providing more comprehensive information to the private water entity when there is a change in ownership of land to which the private entity provides water supply or drainage services and better informs the purchaser about the services provided by the private water entity.

Sections 161(2) and 239B(2) of the Principal Act currently only contemplate that the notification of the sale is to be made by the member of the private water entity. In our view it may be beneficial to revise these sections to provide for an obligation on the incoming member (purchaser) to provide notification of the sale and other important particulars, such as an address for service of notices, in accordance with any requirements of the regulations or the rules. If the purchaser does not provide this information, the vendor should be expressly permitted to do so.

Additionally, we suggest it would be helpful to expand sections 161(2) and 239B(2) of the Principal Act to provide an obligation on the member of the private water entity (vendor) to inform the purchaser that the entity provides, or is able to provide, water supply or drainage services to the land. This will better inform the purchaser about the private water entity and provide the necessary details for the purchaser to notify the private water entity of the sale.

We note that proposed section 130 of the General Regulation deals with the issuing of annual rates and charges notices by a private water entity. However there does not appear to be a provision in the General Regulation or the Principal Act for the issue of a certificate from the private water entity as to the status of the payment of those fees, that is, the equivalent of a certificate under section 603 of *Local Government Act 1993* (NSW) for Council rates. We suggest consideration be given to amending the Principal Act, possibly sections 163 and 239E, to make provision for such certificates. When the land is sold, these certificates would be helpful in apportioning the rates and charges levied by the private water entity between the vendor and the purchaser.

Any questions in relation to this letter should be directed to Gabrielle Lea, Senior Policy Lawyer on 9926 0375 or gabrielle.lea@lawsociety.com.au.

Yours faithfully,



Jennifer Ball
President