



New South Wales

# Water Management (General) Amendment (Miscellaneous) Regulation 2016

under the

Water Management Act 2000

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Water Management Act 2000*.

NIALL BLAIR, MLC  
Minister for Lands and Water

## Explanatory note

The objects of this Regulation are as follows:

- (a) to provide for the electronic service of certain notices imposing conditions on a licence or an approval after it has been granted,
- (b) to provide for the circumstances in which a licence may nominate a water supply work or an extraction point in another water management area or another water source (that is, other than that nominated by the licence) as a work or point by means of or from which water credited to the licence may be taken,
- (c) to provide for the manner in which and time within which a relevant notifier for a water supply work must notify the Minister of a notifiable nomination of the work or the withdrawal of such a nomination,
- (d) to prescribe circumstances in which the Minister may refuse to accept surrender of a licence or an approval,
- (e) to prescribe circumstances in which the Minister may amend an approval,
- (f) to prescribe the circumstances in which the Minister may amend an approval to create 2 or more approvals from a single approval.

This Regulation is made under the *Water Management Act 2000*, including sections 67 (6), 71W (3) and (4) (a) (ii) and (b), 77 (2B), 102 (6), 107 (1) (b) and (c), 108 (1A), 394 (1) (d) and 400 (the general regulation-making power).

## **Water Management (General) Amendment (Miscellaneous) Regulation 2016**

under the

Water Management Act 2000

### **1 Name of Regulation**

This Regulation is the *Water Management (General) Amendment (Miscellaneous) Regulation 2016*.

### **2 Commencement**

This Regulation commences on 24 October 2016 and is required to be published on the NSW legislation website.

## Schedule 1 Amendment of Water Management (General) Regulation 2011

### [1] Clause 7A

Insert after clause 7:

#### **7A Service of notices imposing conditions after licence or approval is granted**

- (1) A written notice under section 67 or 102 of the Act may be served on or given to the holder of an access licence or an approval by sending it electronically to an email address provided by the holder as the holder's address for the giving or service of documents of that kind.
- (2) The giving or service of a notice in the manner provided for in subclause (1) is effected when the notice is sent to that email address.

### [2] Clause 11A

Insert after clause 11:

#### **11A Nomination of water supply works and extraction points**

- (1) The only circumstance in which a nomination under section 71W (1) (b) of the Act is permitted is if the Minister is satisfied:
  - (a) that the water supply work or extraction point the subject of the nomination is in a water source (the *other water source*) that is connected to a water source specified in the access licence (the *specified water source*), and
  - (b) the water credited to the access licence that may be taken by means of the water supply work or from the extraction point will be so taken from the specified water source indirectly, as an unavoidable result of water being taken from the other water source by means of the work or from the extraction point.
- (2) A nomination of a water supply work required to be notified to the Minister under section 71W (3) (a) must be notified within 28 days after the nomination is made.
- (3) A withdrawal of a nomination required to be notified to the Minister under section 71W (3) (b) must be notified within 28 days after the nomination is withdrawn.
- (4) A notification referred to in subclause (2) or (3) must be in writing and may be given by email or other electronic communication.

### [3] Clause 12A

Insert after clause 12:

#### **12A Circumstances in which Minister may refuse to accept surrender of access licence**

For the purposes of section 77 (2B) of the Act, the Minister may refuse to accept the surrender of an access licence if:

- (a) the licence is subject to a registered security interest or a registered caveat, or
- (b) the holder of the access licence has failed to make due payment with respect to any fees, charges or civil penalties that are payable in respect of the licence, or

- (c) the licence is one for which a water supply work or extraction point is nominated under section 71W of the Act and the Minister is satisfied:
  - (i) that the continued taking of water by means of the work or from the extraction point is not intended, and
  - (ii) that water is still being taken, or is still capable of being taken, by means of the work or from the extraction point, and
  - (iii) that work that needs to be done to stop the taking of water by means of the work or from the extraction point has not been completed or satisfactorily completed, or
- (d) the licence is one for which a water supply work or extraction point is nominated under section 71W of the Act and the Minister is satisfied:
  - (i) that the continued taking of water by means of the work or from the extraction point is intended, and
  - (ii) that water is still being taken, or is still capable of being taken, by means of the work or from the extraction point, and
  - (iii) if the licence is surrendered, the continued taking of water by means of the work or from the extraction point will not be authorised under the Act (for example, authorised under another access licence or in exercise of a harvestable right or domestic and stock right or because the Minister agrees to hold the surrendered licence until the taking of water by means of the work or from the extraction point ceases).

**[4] Clauses 26A and 26B**

Insert after clause 26:

**26A Circumstances in which approvals may be amended**

- (1) For the purposes of section 107 (1) (b) of the Act, the Minister may amend an approval to create 2 or more approvals from a single approval if a subdivision of the land specified in the approval as the land benefited by the approval results in part of the land being held by the holder of the approval and part of the land being held by a landholder who is not the holder of the approval.
- (2) For the purposes of section 107 (1) (c) of the Act, the Minister may amend an approval to correct any error or omission in a description in the approval of a location to which the approval relates.

**26B Circumstances in which Minister may refuse to accept surrender of approval**

For the purposes of section 108 (1A) of the Act, the Minister may refuse to accept the surrender of an approval if:

- (a) in the case of a water management work approval:
  - (i) construction of a work to which the approval relates has commenced but has not been completed in accordance with the approval, and
  - (ii) the Minister is not satisfied that adequate arrangements are in force to ensure that no more than minimal harm will be done to any water source or its dependent ecosystems if the approval is surrendered before construction of the work is so completed, or
- (b) in the case of a water management work approval, the Minister is satisfied:
  - (i) that a work to which the approval relates is still being used or is capable of still being used, and

- (ii) that if the approval is surrendered, the work will not be authorised under the Act, or
- (c) in the case of a controlled activity approval:
  - (i) the carrying out of a controlled activity to which the approval relates has commenced but has not been completed in accordance with the approval, and
  - (ii) the Minister is not satisfied that adequate arrangements are in force to ensure that no more than minimal harm will be done to any waterfront land if the approval is surrendered before the carrying out of the activity is so completed, or
- (d) in the case of a controlled activity approval, a maintenance period specified in the approval to enable a rehabilitation plan or vegetation management plan to be implemented has not expired, or
- (e) in the case of an aquifer interference approval:
  - (i) the carrying out of an aquifer interference activity to which the approval relates has commenced but has not been completed in accordance with the approval, and
  - (ii) the Minister is not satisfied that adequate arrangements are in force to ensure that no more than minimal harm will be done to the aquifer or its dependent ecosystems if the approval is surrendered before the carrying out of the activity is so completed.