



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

- (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.



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No. , 2005

A Bill for

An Act to amend the *Local Government Act 1993* and the *Valuation of Land Act 1916* with respect to the levying of rates and charges and the valuation of land as a consequence of the *Water Management Act 2000* having severed certain water rights from the land to which those rights were formerly bound; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Local Government and Valuation of Land Amendment (Water Rights) Act 2005</i> .	3 4
2 Commencement	5
This Act commences, or is taken to have commenced, on 1 July 2005.	6
3 Amendment of Local Government Act 1993 No 30	7
The <i>Local Government Act 1993</i> is amended as set out in Schedule 1.	8
4 Amendment of Valuation of Land Act 1916 No 2	9
The <i>Valuation of Land Act 1916</i> is amended as set out in Schedule 2.	10
5 Amendment of Water Management Act 2000 No 92	11
The <i>Water Management Act 2000</i> is amended by omitting Schedule 8.29 [1], [2] and [8].	12 13

Schedule 1	Amendment of Local Government Act 1993	1
		2
	(Section 3)	3
[1]	Section 512 Effect of contravening section 509, 510, 511 or 511A	4
	Omit “approval, and” from section 512 (1) (b) (ii). Insert instead “approval.”.	5
[2]	Section 512 (1) (b) (iii)	6
	Omit the subparagraph.	7
[3]	Chapter 15, Table headed “Rates and charges”	8
	Insert after “• Intensity of land use” the following matter:	9
	• Irrigability of the land	10
[4]	Section 529 Rate may be the same or different within a category	11
	Insert “, the irrigability of the land” after “land use” in section 529 (2) (a).	12
[5]	Section 529 (4)	13
	Insert after section 529 (3):	14
	(4) Land may be taken to be irrigable for the purposes of subsection (2) (a) if, and only if, it is the subject of a water right within the meaning of the <i>Valuation of Land Act 1916</i> .	15 16 17
[6]	Section 530 Ad valorem rate for the category “farmland”	18
	Omit the section.	19
[7]	Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts	20 21
	Insert at the end of clause 1 (1):	22
	<i>Local Government and Valuation of Land Amendment (Water Rights) Act 2005</i>	23 24

[8] Schedule 8	1
Insert at the end of the Schedule, with appropriate Part and clause numbers:	2
Part Provisions consequent on enactment of Local Government and Valuation of Land Amendment (Water Rights) Act 2005	3 4 5
Definition	6
In this Part, <i>2005 amending Act</i> means the <i>Local Government and Valuation of Land Amendment (Water Rights) Act 2005</i> .	7 8
Maximum rate increases for farmland during first 5 years	9
(1) This clause applies to ordinary rates levied for the year commencing 1 July 2005 or any of the next 4 years following the commencement of the 2005 amending Act.	10 11 12
(2) Subject to the provisions of any proclamation in force under section 213 or 218C, the amount that may be levied as an ordinary rate for any parcel of land in the category “farmland”, or any sub-category of that category, must not be more than 20 per cent above the amount levied as an ordinary rate for that parcel for the previous year.	13 14 15 16 17 18

Schedule 2	Amendment of Valuation of Land Act	1
	1916	2
	(Section 4)	3
[1] Section 4 Definitions		4
	Omit the definition of <i>Water right</i> from section 4 (1). Insert instead:	5
	<i>water right</i> means a right or authority (however described) under	6
	the <i>Water Management Act 2000</i> , the <i>Water Act 1912</i> or any	7
	other Act, being a right or authority to construct, install or use	8
	works of irrigation, or to use water supplied by works of	9
	irrigation.	10
[2] Section 6A Land value		11
	Insert after section 6A (3):	12
	(4) For the purpose of determining the value of a water right, the	13
	value of any water secured by, or referable to, that right is to be	14
	ignored.	15
[3] Schedule 2 Savings, transitional and other provisions		16
	Insert at the end of clause 1 (1):	17
	<i>Local Government and Valuation of Land Amendment (Water</i>	18
	<i>Rights) Act 2005</i>	19

[4] Schedule 2, Part 4	1
Omit the Part. Insert instead:	2
 Part 4 Provisions consequent on enactment of Local Government and Valuation of Land Amendment (Water Rights) Act 2005	3 4 5
 14 Existing land values unaffected	6
The amendments made to this Act by the <i>Local Government and Valuation of Land Amendment (Water Rights) Act 2005</i> do not affect any valuations of land made before the commencement of those amendments.	7 8 9 10