**WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT BILL 2000**

**Legislative Assembly, 4 April 2000, pages 1179-80**

Second reading

**The Hon. M.K. BRINDAL (Minister for Water Resources)** obtained leave and introduced a bill for an act to amend the Water Resources Act 1997. Read a first time.

The Hon. M.K. BRINDAL: I move: That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted

In August 1999, the Select Committee on Water Allocations in the South East tabled its report.

The Select Committee investigated community views on water allocation and found that two clearly polarised views existed. One view advocates the allocation of water ‘on demand’, with the capability to transfer water allocations on a permanent or temporary basis. The other view advocates that water allocation must be related to landholding, which has become commonly referred to as pro rata.

The Select Committee considered that the ‘on demand’ system did not allocate the resource fairly nor did it ensure that water is available to meet the needs of future generations.

The Select Committee found that many people within the South East believe that they have a right to the water located under their land and that their right to the water resource should not diminish when that water resource is prescribed. They also believe that past land values in the South East were influenced by the ability to freely access the groundwater resource, and that they consequently paid a premium for their land.

Conversely, numerous people suggested an ‘on demand’ system is most effective in encouraging development and investment in the South East as it allows water to be available for persons who are able and are prepared to develop the resource.

As a result of these findings and with a view to establishing a total market based approach to foster the most productive use of available water, the Select Committee recommended the allocation of all the remaining unallocated water on a pro rata basis. The allocations will be levied and it is hoped that this will provide sufficient incentive for those who do not want to, or cannot, use the water, to transfer their licensed water allocation, either through sale or lease.

The Government supported the Select Committee’s recommendations, with one exception and agreed to implement the recommendations, starting with the allocation of the remaining unallocated water in the five prescribed wells areas in the South East on a pro rata basis.

On 3 August 1999, the Water Resources Act 1997 was amended to give the Minister authority to vary the existing South East water allocation plans and to freeze any further consideration of applications for water in the five prescribed wells areas in the South East until the Minister has varied the plans. That amendment gave the Minister the ability to vary the existing plans to provide a policy framework for the pro rata roll out. The freezing of further consideration of applications for water maximised the amount of water that will be available for the pro rata allocations and allows time for the pro rata allocation process to be undertaken.

The Select Committee recommended that the pro rata allocations be held with no requirement for the water to be developed, and to be transferable within the constraints of resource sustainability. It also recommended that before such an allocation could be used in any particular location, it would need to satisfy a hydrogeological assessment. This proposed further amendment, the Water Resources (Water Allocations) Amendment Bill 2000, will enable the issuing of the pro rata allocations in the way that the Select Committee intended.

The Water Resources (Water Allocations) Amendment Bill 2000 will amend the Water Resources Act 1997 by varying the provisions for water allocations to provide for two types of water allocations, namely water (taking) allocations and water (holding) allocations. The pro rata allocations will be issued as water (holding) allocations unless the applicant specifically requests a water (taking) allocation, in which case there will be specific requirements to be met before such a water (taking) licensed allocation can be issued.

Both types of allocations will be levied, but to provide flexibility for how such levies are set, an amendment has been included that provides the opportunity for different levies to be set for water (taking) allocations and water (holding) allocations from the one resource.

The freeze on water allocations came into effect on 3 August 1999, some eight months ago. There has been a halt on development opportunities while the pro rata process is being implemented. It is now time to finalise the pro rata allocations and to issue the licences. The variations to the existing water allocation plans need to be finalised so that the pro rata allocations have a policy base. The variations to the plans cannot be finalised until this Bill is passed.

Approval of this Bill will allow the pro rata allocation period to be completed as soon as possible, following which any water not allocated through the pro rata process will be available for allocation subject to the policies in the water allocation plans as varied.

I am aware that some members believe that other amendments should be made to the Water Resources Act 1997 at this time. However, the time needed to draft and debate additional amendments will significantly delay the pro rata allocation of water, and also hold up the opportunities for a number of proposed developments in the South East.

In summary, this Bill will provide the amendments to the Water Resources Act 1997 that are necessary to enable the pro rata allocation of water in the South East to be undertaken.

I commend this Bill to honourable members.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Amendment of s. 3—Interpretation*

This clause inserts definitions of ‘water (holding) allocation’ and ‘water (taking) allocation’ and makes other consequential changes to the interpretive provision of the principal Act.

*Clause 3: Amendment of s. 29—Licences*

This clause amends section 29 of the principal Act to accommodate the two kinds of water allocation that can be endorsed on licences.

*Clause 4: Amendment of s. 33—Method of fixing water (taking) allocations*

This clause makes a consequential amendment to section 33 of the principal Act.

*Clause 5: Amendment of s. 34—Allocation of water*

This clause makes a consequential amendment to section 34 of the principal Act.

*Clause 6: Insertion of s. 35A and 35B*

This clause inserts new sections 35A and 35B. Section 35A provides for water (holding) allocations. A water (holding) allocation preserves a part of the available water in a water resource for the holder of the licence on which the allocation is for the time being endorsed. Water cannot be taken pursuant to a water (holding) allocation but the licensee can request that the Minister convert the allocation to a water (taking) allocation at any time—see subsection (7).

A water (holding) allocation can only be endorsed on a licence if the relevant water allocation plan provides for the endorsement of such allocations.

Section 35B enable a water allocation plan to provide for preference to be given to certain landowners in the allocation of unallocated water from its water resource.

*Clauses 7 and 8: These clauses make consequential changes to section 36 and 37 respectively of the principal Act.*

*Clause 9: Amendment of s. 120—Interpretation*

This clause amends section 120 of the principal Act. Division 1 of Part 8 of the principal Act provides for a levy based on the right to take water or on the quantity of water actually taken. Subsection (2) inserted by this clause provides that a licence endorsed with a water (holding) allocation will be taken to confer the right to take water for the purposes of that Division thereby enabling the imposition of the levy in respect of that allocation. The other two subsections inserted by this clause are consequential. Clause 10: Amendment of s. 122—Declaration of levies by the Minister This clause amends section 122 of the principal Act to enable different levies to be imposed in respect of water (taking) allocations and water (holding) allocations.

Mr FOLEY secured the adjournment of the debate.