

Department of Planning and Environment

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# Proposed matters for regulations – Modernising regulations for joint private works schemes

Consultation paper

October 2022





# Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

Proposed matters for regulations – Modernising regulations for joint private works schemes

First published: October 2022

Department reference number: DOC22/299306

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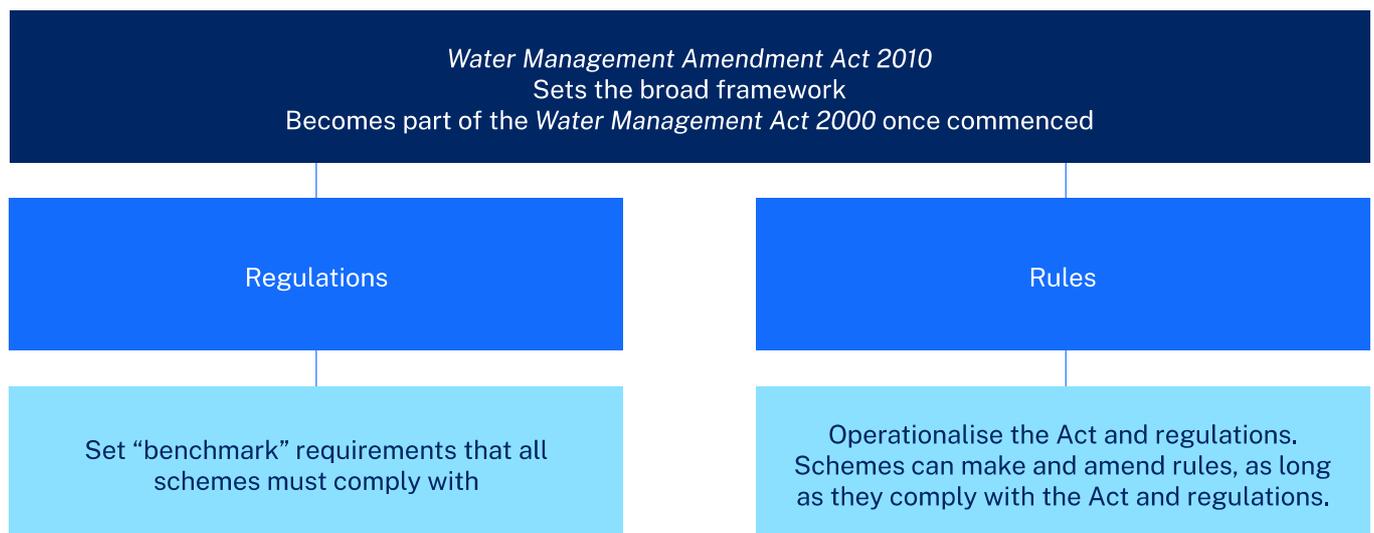
# Introduction

The NSW Government is simplifying the laws managing private irrigation boards, private drainage boards and private water trusts (joint private works schemes). By applying parts of the *Water Management Amendment Act 2010* (NSW) we will:

- cut red tape by reducing the need for the NSW Governor’s or minister’s approval for administrative matters
- give schemes more flexibility to make and amend their own rules
- allow the creation of new corporations and the conversion of private water trusts to private water corporations.

To implement the changes, we are working with joint private works schemes to make clear and simple regulations and rules. Figure 1 below illustrates our tiered approach to carrying this out. This approach gives schemes flexibility when managing their operations, while giving scheme members fundamental safeguards.

**Figure 1. The new laws**



This discussion paper is one of 3 we have prepared to guide consultation on the changes:

1. **Overview** paper – background information about the changes and key areas for consideration.
2. **Proposed matters for regulations** (this paper) – to address administrative and operational matters where we think regulations need to state the minimum standards expected of private water corporations and private water trusts.
3. **Draft model rules** paper (to be released before the third stakeholder advisory panel meeting) – an example of the internal governance rules private water corporations and private water trusts need to operate efficiently and fairly.



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## Purpose of this paper

There are some matters we think should be in the regulations so all private water corporations and private water trust operations meet a minimum standard.

The purpose of this paper is to:

- outline the proposed matters for regulations
- highlight specific questions for feedback.



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## Have your say

We are seeking input from stakeholders. We would like to know if the proposed changes will give private water corporations and private water trusts a robust framework in which to operate and enough flexibility to meet their individual business needs.

This discussion paper highlights some areas where we are seeking specific feedback. You can give feedback by:

- calling **1300 081 047**
- emailing [jpws@dpie.nsw.gov.au](mailto:jpws@dpie.nsw.gov.au)

# Transitioning private irrigation boards and private drainage boards

When the new laws start, existing private irrigation boards and private drainage boards will automatically become private water corporations. The corporations will:

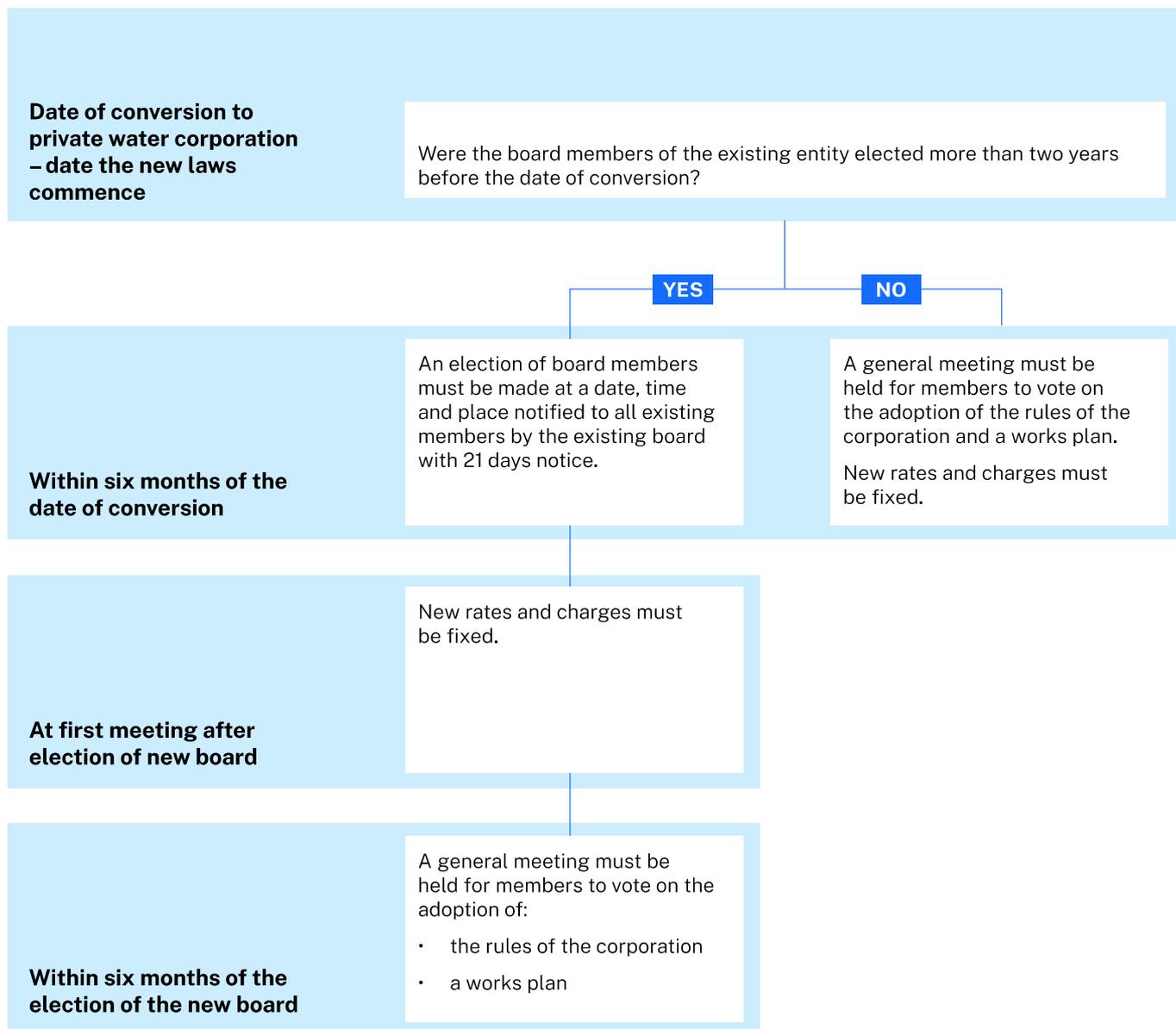
- be taken to be a continuation of, and the same legal entity as, the private irrigation board or private drainage board they replace
- have the same name as the private irrigation board or private drainage board they replace.

Under the new laws, regulations may include details about the transition of private irrigation boards and private drainage boards to private water corporations.

This section explains what we propose to include in the regulations and where we are seeking specific feedback.

Figure 2 gives a timeline of the actions the proposed regulations require.

**Figure 2. Timeline of actions required for private irrigation boards and private drainage boards as they transition to private water corporations**



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## Members of the corporation

Matters for regulations	Proposed provisions	Feedback sought
<b>The members of the corporation</b> <b>'Members' means the owner or occupier of landholdings for which the corporation may exercise its functions</b>	Current members of the existing entity on the date of conversion will be the members of the corporation.	<ul style="list-style-type: none"><li>• Is the list of current scheme members up to date?</li><li>• Are there measures to keep the list of scheme members up to date, for example if a member cannot be contacted?</li></ul>

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## Board members

Matters for regulations	Proposed provisions	Feedback sought
<b>Deeming existing board members to be board members of the corporation, pending the first election of board members</b>	The returning officer and existing board members will continue in their roles until elections are held.	Is it reasonable to assume existing officers and board members would continue until elections are held?
<b>Placing limits on deeming provisions for specified circumstances</b>	Provide exceptions to the deeming provisions for specified circumstances such as death, incapacity, or refusal to take up the role.	What processes are appropriate for establishing that a person has refused to take up the role? This may include not responding to communications during a specified timeframe, or an express statement that they do not wish to hold the position.

Matters for regulations	Proposed provisions	Feedback sought
<p><b>The date, time and place for the first election of the board members of the corporation</b></p>	<ul style="list-style-type: none"> <li>• If the board members of the existing scheme were elected more than 2 years before conversion happened, then the existing board must give all existing members 21 days' notice of an election of board members and its date, time and place. This election must happen within 6 months of the conversion occurring.</li> <li>• If the board members of the existing scheme were elected less than 2 years before conversion happened, then the tenure of the existing board continues and the rules of the corporation apply to elections.</li> </ul>	<ul style="list-style-type: none"> <li>• Is it reasonable to require every corporation to elect a new board within 6 months?</li> <li>• Is 6 months enough time to hold elections for new board members?</li> <li>• Should the regulations give rules that allow a specified quorum of members to call a general meeting and seek election of a new board in circumstances where the existing board can continue its tenure? If so, what quorum should be required?</li> </ul>

## Internal governance rules

Matters for regulations	Proposed provisions	Feedback sought
<p><b>Deeming the provisions of an instrument under this Act or an instrument of the relevant board to be rules of the corporation</b></p>	<p>The current by-laws of the existing entity will be the rules of the corporation until they are replaced by new rules.</p>	<p>Nil</p>
<p><b>Requirements for the preparation and adoption of the rules of the corporation</b></p>	<p>A general meeting must be held for members to vote on the adoption of the rules of the corporation. This meeting must happen within 6 months after the election of the new board or 6 months after conversion if the existing board continues its tenure.</p>	<p>Is 6 months enough time to prepare new rules?</p> <p>Note: we are preparing draft model rules for consultation that all schemes can adopt immediately when new laws start.</p>

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## Landholdings

Matters for regulations	Proposed provisions	Feedback sought
The landholdings for which the corporation may exercise functions	The landholdings for which the corporation may exercise functions are holdings with works that members are satisfied comprise part of the corporation's works plan.	Nil

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## Works plan

Matters for regulations	Proposed provisions	Feedback sought
Deeming works (including works for which the board exercises functions after transformation of a landholder's entitlement) to be works of the corporation	<p>Any works the existing board is operating or exercising powers over, and that are located on an authorised site for that work, will be works of the corporation.</p> <p>This deeming provision is subject to any survey of works on a member's property that is done in the future.</p>	Are there current records describing the assets of schemes and their specific locations?

Matters for regulations	Proposed provisions	Feedback sought
<p><b>Specifying works and other matters that are deemed to comprise the works plan of the corporation</b></p>	<p>Specify works that comprise the works plan.</p> <p>The works plan will include:</p> <ul style="list-style-type: none"> <li>• maps or plans of works attached to the petitions made to constitute the existing entity</li> <li>• maps or plans of works attached to any later petitions to add extra lands to the existing entity</li> <li>• sites for which the governor authorised the construction or taking over of water supply works</li> <li>• works on authorised sites of which the existing entity has control, use and maintenance.</li> </ul> <p>This deeming provision is subject to any survey of works on a member's property done in the future, which will need to be incorporated into the works plan.</p>	<p>Can existing schemes give information about works to be included in the works plan?</p> <p>Are there details of work approvals under the <i>Water Management Act 2000</i> that could be included in the works plan?</p>
<p><b>Requirements for the preparation and adoption of a works plan</b></p>	<p>A general meeting must be held for members to vote on the adoption of a works plan, within 6 months after the election of the new board or 6 months after conversion if the existing board continues its tenure.</p> <p>The board must document any objections and have a process for resolving those objections.</p>	<p>Nil</p>

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## Rates and charges

Matters for regulations	Proposed provisions	Feedback sought
Deeming existing rates and charges to be rates and charges of the corporation	<ul style="list-style-type: none"><li>• The rates and charges the existing entity is imposing at the time of conversion will continue to apply until new rates and charges are fixed.</li><li>• New rates and charges will need to be fixed at the first meeting after the election of the new board or 6 months after conversion if the existing board continues its tenure.</li></ul>	Nil

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## Transitional provisions

Matters for regulations	Proposed provisions	Feedback sought
Provisions of a savings or transitional nature and any other matter consequent on or ancillary to the creation of a new corporation	Nil	Are there any additional provisions that could help the corporation carry out its functions after conversion?

# Transitioning and converting private water trusts

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## Transitioning private water trusts

When the new laws start, existing private water trusts will continue as the same legal entity but will need to have 2 two new documents:

- internal governance rules
- works plan.

This section explains what we propose to include in the regulations for these documents.

The new laws also:

- recognise and continue existing arrangements until new rules are made. For example, existing rates and charges continue until new rates and charges are fixed; existing chairpersons continue as the chairperson and existing members are taken to be trustees
- update trusts' powers and obligations for membership, communications, record keeping and winding up, and other areas that affect how the scheme is managed. These matters are discussed in the section on ongoing operations.

## Internal governance rules

Matters for regulations	Proposed provisions	Feedback sought
<b>The rules of a private water trust must comply with any requirements prescribed by the regulations.</b>	A general meeting must be held for members to vote on the adoption of new rules of the trust. This meeting must be held within 6 months after the new laws start.	Is 6 months enough time to prepare new rules?  Note: we are preparing draft model rules for consultation that all schemes can adopt immediately when new laws start.

## Works plan

Matters for regulations	Proposed provisions	Feedback sought
<p><b>Deeming works (including works for which the trust exercises functions after transformation of a landholder's entitlement) to be works of the trust</b></p>	<p>Any water management works under the charge of the members of the private water trust will be the trust's works.</p>	<p>Are there current records describing the assets of schemes and their specific locations?</p>
<p><b>Specifying the works and other matters that are deemed to comprise the works plan of a private water trust</b></p>	<p>Specify what is to comprise the works plan based on feedback from private water trusts.</p>	<ul style="list-style-type: none"> <li>• What should the works plan be based upon?</li> <li>• Is the original plan that was submitted with the proposal to establish the trust available to be included in the works plan?</li> <li>• Do stakeholders have an updated map or plan of works which should be included in the works plan? Are all works covered in the current approvals under the <i>Water Management Act 2000</i>?</li> </ul>
<p><b>The landholdings for which a private water trust may exercise functions</b></p>	<p>The landholdings for which the trust may exercise functions are holdings with works that members are satisfied comprise part of the trust's works plan.</p>	<p>Nil</p>

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## Converting private water trusts to private water corporations

When the new laws start, private water trusts will have the option to apply to the minister to become a private water corporation, converting their trust to a corporation.

Under the new laws, the regulations may include details about this conversion. We propose to include 2 pathways to conversion in the regulations:

**1. Within 24 months of the new laws starting, a trust applies to the minister to convert to a corporation.**

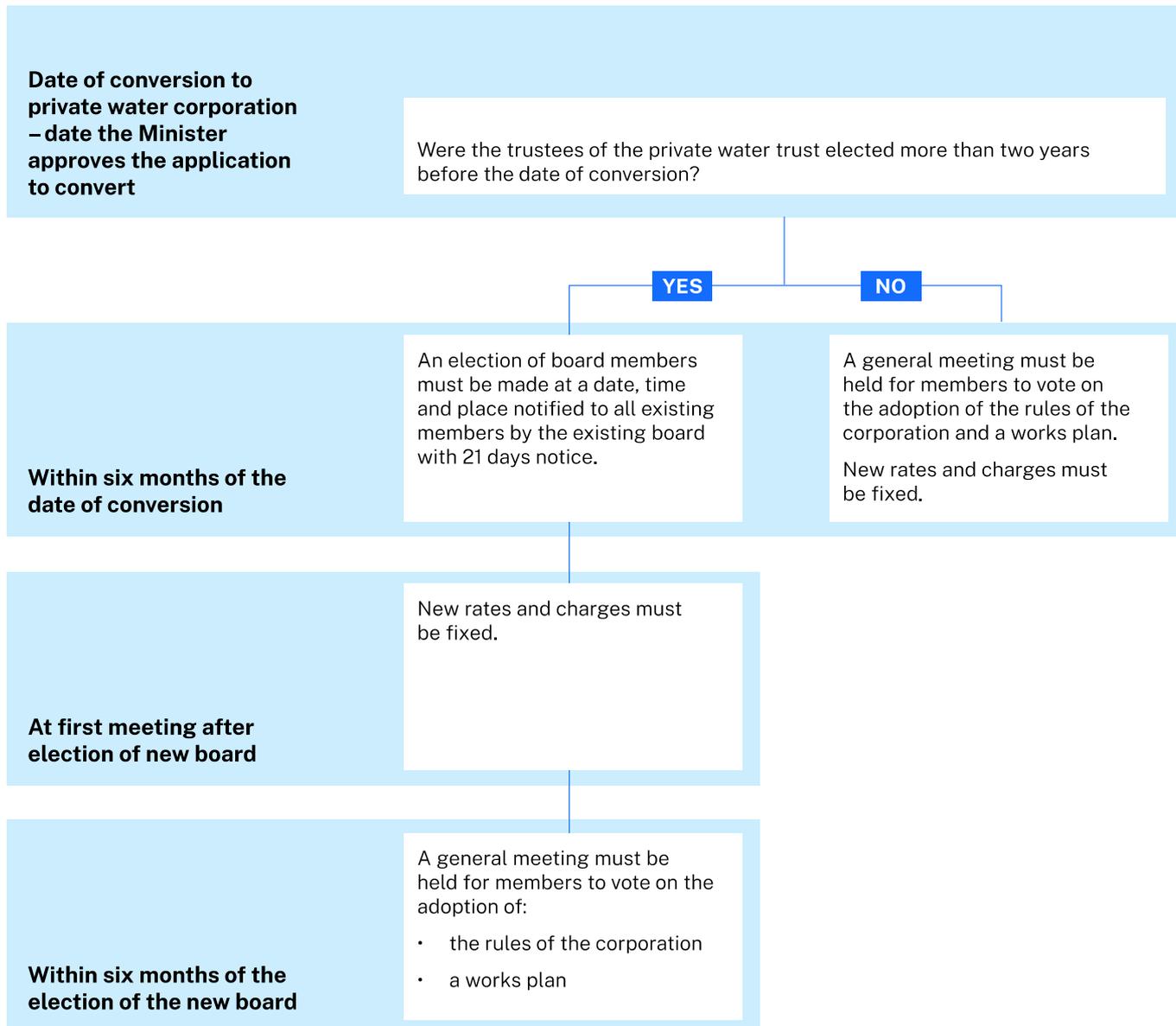
If a trust applies within 24 months of the new laws starting, the regulations will deem existing trusts arrangements as the arrangements of the corporation. This section explains the deeming arrangements we propose to include in the regulations and where we are seeking specific feedback.

**2. After the new laws have been operating for 24 months, a trust applies to the minister to convert to a corporation.**

If a trust applies after the new laws have been operating for 24 months, it must include a works plan and the trust rules in its application. The trust must also pay a fee.

Figure 3 gives a timeline of the actions the proposed regulations require for pathway 1.

**Figure 3. Timeline of actions private water trusts must take to convert to private water corporations**



## Members of the corporation

Matters for regulations	Proposed provisions	Feedback sought
<p><b>The members of the corporation</b></p> <p><b>'Members' means the owners or occupiers of landholdings for which the corporation may exercise its functions</b></p>	<p>Existing trust ratepayers and members will be members of the corporation.</p>	<ul style="list-style-type: none"> <li>• Is the list of current scheme members up to date?</li> <li>• Are there measures to keep the list of scheme members up to date, for example if a member cannot be contacted?</li> </ul>

## Board members

Matters for regulations	Proposed provisions	Feedback sought
<p><b>Deeming existing trustees to be board members, pending the first election of board members</b></p>	<p>Existing trustees of the trust will continue in their roles until elections for board members are held.</p>	<p>Is it reasonable to assume existing trustees would continue until elections are held?</p>
<p><b>Placing limits on deeming provisions for specified circumstances</b></p>	<p>Provide exceptions to the deeming provisions for specified circumstances such as death, incapacity, or refusal to take up the role.</p>	<p>What processes are appropriate for establishing that a person has refused to take up the role? This may include not responding to communications during a specified timeframe, or an express statement that they do not wish to hold the position.</p>

Matters for regulations	Proposed provisions	Feedback sought
<p><b>The date, time and place for the first election of the board members</b></p>	<ul style="list-style-type: none"> <li>• If the trustees were elected more than 2 years before conversion happened, then we propose that under the regulations an election of board members must be held. The existing board must give all existing members 21 days' notice of the date, time and place of the election. This election must be held within 6 months of the conversion.</li> <li>• If the trustees were elected less than 2 years before the conversion, then the tenure of the existing board will continue and the rules of the trust will apply to elections.</li> </ul>	<ul style="list-style-type: none"> <li>• Is it reasonable to require every corporation to elect a new board within 6 months?</li> <li>• Is 6 months enough time to hold elections for new board members?</li> <li>• Should the regulations give rules which allow a specified quorum of members to call a general meeting and seek election of a new board in circumstances where the existing board can continue its tenure? If so, what quorum should be required?</li> </ul>

## Internal governance rules

Matters for regulations	Proposed provisions	Feedback sought
<p><b>Deeming provisions of an instrument under this Act or an instrument of the trust to be rules of the corporation</b></p>	<p>The existing rules of the trust at the time of conversion will be the rules of the private water corporation until replaced by new rules.</p>	<p>Nil</p>
<p><b>Requirements for the preparation and adoption of rules</b></p>	<p>A general meeting must be held for members to vote on the adoption of the rules of the corporation. This meeting must be within 6 months after the election of the new board or 6 months after conversion if the existing trustees continue their tenure.</p>	<p>Is 6 months enough time to prepare new rules?</p>

## Landholdings

Matters for regulations	Proposed provisions	Feedback sought
The landholdings for which the corporation may exercise functions	The landholdings for which the corporation may exercise functions are holdings with works that members are satisfied comprise part of the corporation's works plan.	Nil

## Works plan

Matters for regulations	Proposed provisions	Feedback sought
Deeming works (including works for which the trust exercises functions after transformation of a landholder's entitlement) to be works of the corporation	<ul style="list-style-type: none"> <li>Any water management works under the charge of the members of the private water trust will be works of the corporation.</li> <li>We propose this deeming provision is subject to any survey of works on a member's property that is done in the future.</li> </ul>	Are there current records describing the assets of schemes and their specific locations?
Specifying works and other matters that are deemed to comprise the works plan of the corporation	<p>Specify works which are deemed to comprise the works plan.</p> <p>The works plan will include:</p> <ul style="list-style-type: none"> <li>the plan and description of the works contained in the proposal to constitute the trust</li> <li>any works completed or acquired by, or transferred to, the trust for which the trust was constituted as notified in the NSW Government Gazette</li> <li>any Crown works which supplied the trust with water and were transferred to the trust as notified in the NSW Government Gazette</li> </ul>	<ul style="list-style-type: none"> <li>Is the original plan and description that was contained in the proposal to constitute the trust available to be included in the works plan?</li> <li>Do stakeholders have an updated map or plan of works which should be included in the works plan?</li> <li>If not, should a map or plan of existing water management works under the charge of the members of the trust be required to convert the trust to a corporation?</li> </ul>

Matters for regulations	Proposed provisions	Feedback sought
	<ul style="list-style-type: none"> <li>• any works constructed or acquired by, or transferred to, the trust as part of the alteration of the boundaries of the trust district as notified in the NSW Government Gazette</li> <li>• any works located on land within the district of another trust which were included in the trust district as notified in the NSW Government Gazette</li> <li>• any works of improvement or extension which were transferred to the trust as notified in the NSW Government Gazette.</li> </ul> <p>We propose the works plan will not include:</p> <ul style="list-style-type: none"> <li>• any works on lands excised from the trust district as notified in the NSW Government Gazette</li> <li>• any works on lands transferred to another trust district as notified in the NSW Government Gazette.</li> </ul> <p>We propose this deeming provision is subject to any survey of works on a member's property which is done in the future which will need to be incorporated into the works plan.</p>	
<p><b>The landholdings for which the trust may exercise functions</b></p>	<p>The landholdings for which the trust may exercise functions are holdings with works that members are satisfied comprise part of the trust's works plan.</p>	<p>Nil</p>
<p><b>Requirements for the preparation and adoption of a works plan</b></p>	<ul style="list-style-type: none"> <li>• A general meeting must be held for members to vote on the adoption of the works plan of the trust. This meeting must</li> </ul>	<p>Nil</p>

Matters for regulations	Proposed provisions	Feedback sought
	<p>take place within 6 months after the election of the new board or 6 months after conversion if the existing trustees continue their tenure.</p> <ul style="list-style-type: none"> <li>• The board must document any objections and have a process for resolving those objections.</li> </ul>	

## Rates and charges

Matters for regulations	Proposed provisions	Feedback sought
<p><b>Deeming existing rates and charges to be rates and charges of the corporation</b></p>	<ul style="list-style-type: none"> <li>• We propose that under the regulations the rates and charges the trust is imposing for its services on the date of conversion will continue to apply until new rates and charges are fixed.</li> <li>• New rates and charges will need to be fixed at the first meeting after the election of the new board, or within 6 months after conversion if the existing trustees continue their tenure.</li> </ul>	<p>Nil</p>

## Transitional provisions

Matters for regulations	Proposed provisions	Feedback sought
<p><b>Provisions of a savings or transitional nature and any other matter resulting from or ancillary to the creation of a new corporation</b></p>	<p>Nil.</p>	<p>Are there any additional provisions that should be made to help the corporation carry out its functions after conversion?</p>

# Ongoing operations of private water corporations and private water trusts

Under the new laws, regulations may include details about how private water corporation and private water trusts operate.

This section explains what we propose to include in the regulations. Where the new laws include the same requirements for corporations and trusts, we propose to have the same requirements in the regulations.

## Applications

Matters for regulations	Proposed provisions	Feedback sought
<p>An application to establish a new private water corporation or convert a private water trust to a corporation must be accompanied by any other information the regulations require.</p>	<p>We do not propose any additional requirements for applications. Applications must be in the approved form and accompanied by a works plan and proposed rules for the corporation.</p>	<p>Is there any other information that should be included in the application?</p>
<p>An application to establish a new private water corporation must be accompanied by the fee (if any) the regulations prescribe.</p> <ul style="list-style-type: none"> <li>• Two or more corporations may apply to the minister to constitute one corporation.</li> <li>• Two or more private water trusts may apply to the minister to constitute one private water trust.</li> <li>• In both cases, the application must be accompanied by the fee (if any) the regulations prescribe.</li> </ul>	<ul style="list-style-type: none"> <li>• Minister to establish a fee. The NSW Department of Planning and Environment will publish the application forms and fee schedule on its website.</li> <li>• We propose setting these fees with an annual increase in line with the consumer price index (CPI) rate.</li> </ul>	<p>Nil</p>

Matters for regulations	Proposed provisions	Feedback sought
<ul style="list-style-type: none"> <li>• A private water trust may apply to the minister to convert the trust to a corporation.</li> <li>• The application must be accompanied by the fee (if any) the regulations prescribe.</li> </ul>	<ul style="list-style-type: none"> <li>• Minister to establish a fee. The department will publish the application forms and fee schedule on our website.</li> <li>• We propose setting these fees with an annual increase in line with the CPI rate.</li> </ul>	

## Board members or trustees

Matters for regulations	Proposed provisions	Feedback sought
<ul style="list-style-type: none"> <li>• The regulations may prescribe circumstances in which a board member ceases to be a board member.</li> <li>• The regulations may prescribe the circumstances in which a trustee ceases to be a trustee.</li> </ul>	<p>A board member will no longer be one and a trustee will no longer be one when that member or trustee:</p> <ul style="list-style-type: none"> <li>• resigns</li> <li>• dies</li> <li>• is absent from 3 consecutive meetings without the leave of the board or trust</li> <li>• becomes bankrupt</li> <li>• becomes mentally incapacitated</li> <li>• is convicted of fraud or a serious criminal offence.</li> </ul>	Should additional circumstances be prescribed in the regulations?

## Internal governance rules

Matters for regulations	Proposed provisions	Feedback sought
The rules of a corporation and private water trust may make provision for matters prescribed by the regulations.	The corporation or trust must keep a register of members and board members/trustees and their current contact details.	Nil

Matters for regulations	Proposed provisions	Feedback sought
<p>A corporation or trust must notify changes to the rules, or replaced rules, in the manner prescribed by the regulations.</p>	<p>A corporation or trust must notify members and people with whom the scheme has delivery agreements in writing of any changes to the rules, or replaced rules. This includes by post or email within 2 business days.</p>	<p>Nil</p>

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## Landholdings

Matters for regulations	Proposed provisions	Feedback sought
<p>A member of a corporation or trust who sells land to which the organisation provides or can provide water supply or drainage services must notify the organisation of the sale in accordance with the requirements of the regulations or rules.</p>	<p>Specify conditions required in a notice for the sale of land, including prior notification of intent to sell the land, a timeframe to give notice of the actual sale, and the identity of the purchaser.</p>	<p>Nil</p>

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## Works plan

Matters for regulations	Proposed provisions	Feedback sought
<p>The regulations may prescribe requirements for the works plan including the keeping of, and provision of, work plans.</p>	<ul style="list-style-type: none"><li>• A current works plan which meets the resolution of the corporation or trust must be kept at its head office.</li><li>• When a member asks for a plan of corporation or trust works on their property, a plan must be provided within 2 months.</li><li>• The corporation may want to set a fee to cover the costs of producing maps and surveying works.</li><li>• If a member requests a plan of corporation or trust works on their property, and it is inconsistent with the current works plan of the corporation or trust, then within 2 months of the inconsistency being identified, the corporation or trust must update the works plan to be consistent with the works plan of the member's property.</li></ul>	<ul style="list-style-type: none"><li>• Should the regulations specify the scale of a works plan must be based on the size of operations?</li><li>• Is 2 months enough time for the corporation or trust to produce a map of all corporation or trust works on a property?</li><li>• Should the rules include when and how works plans are updated?</li></ul>

## Sale and transformation of water entitlements

Members of corporations and trusts may sell or transfer their water entitlements to another member. They may also transform their entitlement into an individual water access licence.

Transforming an entitlement affects the member's ability to access their entitlement through the corporation or trust's licence and reduces the entitlement held by the corporation or trust.

Matters for regulations	Proposed provisions	Feedback sought
<p><b>The regulations can specify matters a corporation or trust must consider when determining a member's water entitlement.</b></p>	<p>Corporations or trusts must consider any records of previous determinations the corporation or trust made about a member's water entitlement.</p>	<p>What matters should a corporation or private water trust consider when determining a member's water entitlement?</p>
<p><b>A determination of a member's water entitlement must be in writing and comply with the requirements the regulations prescribe. The corporation must notify the member in writing.</b></p>	<p>A determination must specify details of each matter the corporation or trust has considered when determining the entitlement.</p>	<p>Nil</p>
<p><b>A corporation or private water trust can vary or re-determine a member's water entitlement if a member applies within 3 months of the determination or based on circumstances the regulations prescribe.</b></p>	<p>Within 2 years of the determination of a member's water entitlement, the member may apply for their water entitlement to be varied or re-determined to correct an error in the original determination. This provision would not apply to a person who is a former member of the corporation or trust.</p>	<p>Nil</p>

## Powers of entry – corporations only

Matters for regulations	Proposed provisions	Feedback sought
<p>A corporation may appoint a person to act as an authorised officer of the corporation. Such an appointment must comply with any requirements of the regulations.</p>	<p>Specify:</p> <ul style="list-style-type: none"> <li>• An authorised officer must not be a member of the corporation.</li> <li>• The corporation must keep records of all actions taken by the authorised officer.</li> <li>• When an authorised officer is appointed, they must receive a written statement of duty.</li> <li>• An authorised officer may only exercise their powers in relation to works shown on the works plan.</li> <li>• An authorised officer cannot exercise powers in relation to works that take water from a water source as defined in the <i>Water Management Act 2000</i>.</li> </ul>	<p>Should the regulations specify other requirements of an authorised officer and, if yes, what requirements should be shown?</p>

## Enforcement powers – corporations only

Matters for regulations	Proposed provisions	Feedback sought
<p>A corporation can charge a maximum 5 times the value of water illegally taken, as determined in accordance with the regulations.</p> <p>The exercise of enforcement powers by a corporation under section 170 is subject to any requirements of, or limits imposed by, the regulations or the rules of a corporation.</p>	<p>Corporations must calculate the value of water illegally taken using the method used to calculate this under section 60G of the <i>Water Management Act 2000</i>. This calculation is currently provided for in the Water Management (General) Regulation 2018.</p> <p>The corporation may exercise powers under section 170 only if the rules specify how the corporation will exercise its powers and the procedures the corporation must use when calculating the charge to apply.</p>	<p>Would it safeguard members and schemes if the minister could not approve the use of these enforcement powers when the corporation does not have a current documented works plan?</p> <p>What other safeguards would be appropriate?</p>

## Rates and charges

Matters for regulations	Proposed provisions	Feedback sought
<p>A corporation or trust must fix rates and charges for each year starting on 1 July. The Act identifies several matters the corporation or trust should consider in determining the amount of rates and charges payable, including any matters the regulations prescribe.</p>	<p>If a rate or charge is not paid within the required time, the corporation or trust:</p> <ul style="list-style-type: none"> <li>• can set a rate of interest that is not more than 6% above the cash rate set by the Reserve Bank of Australia for the previous financial year</li> <li>• must notify the member the charge is payable before charging interest</li> <li>• must specify the period from when interest will be payable.</li> </ul>	<p>Is the interest rate ceiling reasonable?</p>

Matters for regulations	Proposed provisions	Feedback sought
A corporation or private water trust must give notice of its fees and charges for a year in the way the regulations prescribe, and specify how they were calculated.	The rules of a corporation or trust will prescribe how it notifies members of fees and charges.	Nil

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## Auditing of financial records

Matters for regulations	Proposed provisions	Feedback sought
A corporation or trust must submit its financial statements for verification and certification to an auditor it appoints. The regulations may provide for the qualifications of an auditor appointed for this purpose.	An auditor appointed for the purposes of section 166 or 239H of the Act must be a registered company auditor within the meaning of the Commonwealth's <i>Corporations Act 2001</i> .	Nil

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## Winding up

In certain circumstances, it will no longer be appropriate for a corporation or trust to continue its operations. Under the new laws, a corporation or trust can be wound up if the scheme has requested this or if an administrator appointed to oversee its affairs recommends this.

Matters for regulations	Proposed provisions	Feedback sought
If the minister makes an order that a corporation or trust be wound up under section 177(1) or 239P(1) of the Act, the order must appoint a person as the liquidator of the corporation or trust.	Any liquidator of the corporation or trust appointed under section 177(2) or 239P(2) of the Act must not be a member of the corporation or trust, or have an interest in the corporation or trust.	Nil