



Sydney Water Catchment Management Amendment Bill.

Second Reading

The Hon. CARMEL TEBBUTT (Minister for Juvenile Justice, Minister Assisting the Premier on Youth, and Minister Assisting the Minister for the Environment) [5.01 p.m.]: I move:

That this bill be now read a second time.

This bill proposes a change to the Sydney Water Catchment Management Act to clarify the Sydney Catchment Authority's financial powers. Before turning to the substantive provisions in the bill, let me first provide the House with the necessary background information. The Sydney Water Catchment Management Act was enacted, with the unanimous support of the Parliament, to ensure better protection of Sydney's drinking water supply catchment areas. Its introduction was a key part of the response to the 91 recommendations arising out of the Sydney Water inquiry into the drinking water contamination event of 1998. In broad terms Mr McClellan, QC, who carried out the inquiry, recommended the creation of a new body to take a leading role in catchment management; the introduction of stronger planning controls; improved water quality monitoring; the initiation of on-the-ground-action to clean up the catchments; and continuing support for community involvement in catchment protection.

An integral part of the Act was the creation of the Sydney Catchment Authority as a statutory corporation representing the Crown that undertakes its functions in accordance with an operating licence. The primary responsibilities of the Sydney Catchment Authority are to manage and protect Sydney's drinking water catchments and the infrastructure under its control; to protect and enhance the quality of Sydney's drinking water; to supply bulk water to suppliers like Sydney Water; and to undertake research and educational programs. I am pleased to inform the House that the Sydney Catchment Authority has become a key player in ensuring a comprehensive, whole-of-government approach to issues affecting Sydney's drinking water quality. To better protect the catchments, the authority is working closely with other government agencies, the 16 local councils in the catchments, the catchment communities, industry bodies, environment groups and land-holders.

The authority is initiating on-the-ground-action in the catchments, targeting issues such as soil erosion, riverine rehabilitation, on-site septic systems, weed infestations, pests, stormwater, sewage treatment plants and industry waste. In fact, during this financial year, the authority will spend \$26 million on projects within the catchments and \$45 million on capital works, including the Warragamba Dam auxiliary spillway project and major works on the upper canal. The authority is also continuing to support community involvement in catchment protection. It is working with councils and community groups to target risks to water quality.

I understand that the Opposition was keen to have the second reading speech read to the House because it is different to the speech that was given in the other House. However, because of the condition of my throat I seek leave of the House to have the remainder of the second reading speech incorporated in *Hansard*. Copies of the speech have been distributed.

Leave granted.

Turning now to the Bill itself.

Let me say at the outset that the Bill does not alter the Sydney Catchment Authority's functions nor the purposes for which it currently spends money.

Rather, the Bill's intention is to insert provisions into the *Sydney Water Catchment Management Act* that clarify the SCA's ability to receive and spend public monies from a Fund and explicitly authorise it to distribute funding assistance to external community and other organisations.

Specifically, the Bill seeks to:

- (1) Create the Sydney Catchment Management Fund, to be maintained by the SCA;
- (2) Outline the sources of revenue that are to be paid into the Fund and the purposes for which money in the Fund may be used;
- (3) Permit the SCA to deposit monies earned from investments into the Fund ; and
- (4) Clarify the ability of the SCA to charge for the supply of services.

In the other place, the Coalition asked whether or not a particular incident triggered the need for this Bill to

come forward.

While there was no specific "incident" as such, the origins of the Bill are quite straight forward.

In accordance with section 45 of the *Sydney Water Catchment Management Act*, the Minister for the Environment undertook a review of Special Area Lands and determined that ownership of various parts of the Special Areas be transferred from the SCA to the National Parks and Wildlife Service. Around 40,000 hectares will be added to the Blue Mountains and Kanangra Boyd National Parks as a result of this decision.

The SCA has agreed in principle to provide the Service with an annual \$2.73 million grant to ensure these most sensitive catchment lands are properly managed to protect water quality in accordance with the Special Areas Strategic Plan of Management, as adopted under section 49 of the Act.

The Crown Solicitor was asked to advise on the ability of the SCA to enter into such an agreement and to make the annual \$2.73 million payment to the Service.

If the advice was that the SCA could not enter into the agreement to make the grant, the Crown Solicitor was requested to identify those statutory amendments that would enable the proposed agreement to be lawfully entered into.

The Crown Solicitor advised that while "... the SCA has the power to enter into the agreement" with the Service it was not authorised by its legislation to make payment of the grant.

The Crown Solicitor's reasoning was as follows:

"I think it likely that monies received or collected by the SCA in carrying out its functions under the *Sydney Water Catchment Management Act* are public monies which form part of the Consolidated Fund. I take this view because the SCA represents the Crown and it does not appear to be independent of the executive government ...".

The Crown Solicitor went on to say:

"Further, it can be said that the SCA is carrying out a "government" function of protecting public health and safety by managing catchment areas and catchment infrastructure works so as to promote water quality ... and therefore monies collected and received whilst it carries out its functions are "public monies".

The advice concludes that it is likely that monies received by the SCA form part of the Consolidated Fund and the \$2.73 million grant may not be expended unless authorised by an Act of Parliament.

It was at this point that the need for clarifying legislation was identified.

The Crown Solicitor advised that the *Sydney Water Catchment Management Act* could be amended to allow for:

"The establishment of a fund for which monies received by the SCA may be deposited in that fund and paid out for the purposes of the SCA, including for the carrying out and giving effect to a plan of management prepared under section 49 of the *Sydney Water Catchment Management Act*."

In essence, the Government believes there is a need to provide certainty that the SCA is able to receive and spend public monies from a Fund for the purpose of undertaking its statutory functions. This includes explicitly authorising the SCA to expend money for catchment protection purposes.

The Government is proposing in this Bill to amend the *Sydney Water Catchment Management Act* in the manner recommended by the Crown Solicitor.

The proposal is to formally create a Sydney Catchment Management Fund, modelled on the National Parks and Wildlife Fund established under the *National Parks and Wildlife Act 1974*.

As well as continuing to ensure transparent and accountable funding arrangements, the establishment of the Fund will ensure the SCA is unambiguously brought within the operation of section 21 of the *Public Finance and Audit Act 1983*.

Specifically, these amendments will insert a new Division 5, Financial Provisions, into the Act. The provisions will create the Sydney Catchment Management Fund.

The creation of the Fund will clarify the Authority's powers to receive public monies, and out of that Fund, to spend those monies so it can properly fulfil the important responsibilities that have been given to it by this Parliament.

For instance, the Sydney Catchment Management Fund will clarify the powers of the Authority to:

- Receive monies from Sydney Water and its other customers, from the sale of water;
- Receive monies from any sale of the Authority's assets;
- Receive fees in return for services; and
- Receive penalties and fines for offences committed against the Sydney Water Management Catchment Act or regulations made under the Act.

The Fund will also clarify the powers of the Authority to spend public monies, so that it can:

- Implement its capital works program;
- Give effect to any of its plans of management;
- Provide financial assistance to people and organisations who are working in partnership with the SCA; and
- Meet any costs incurred by the Authority in the exercise of its functions.

Clause 2 of the Bill provides for the legislation to be taken to have commenced on 8 January 1999, being the date on which the SCA was established.

The retroactive operation of the Bill is important for one very simple reason. It is considered necessary to remove any doubt concerning the validity of the payments already made by the SCA to the various community and local government organisations.

The Government believes that certainty can only be effectively ensured by taking the legislation to have commenced on the day the SCA was established.

The Sydney Catchment Authority is playing a critical role in safeguarding the quality of Sydney's drinking water. It is, together with Sydney Water, providing a multi-barrier approach to the protection of the drinking water of more than four million people living in Sydney, the Illawarra and the Blue Mountains.

One of the significant project initiatives of the SCA has been the provision of funding to community groups and local councils in the catchments who have a key role in protecting the drinking water catchments.

Passage of this Bill will ensure this funding support to community and other organisations can continue.

I am advised that the following grants and funding initiatives will be made available, assuming this Bill is enacted:

- Catchment Protection Improvement Grants \$100,000
- Catchment Protection Scheme \$620,000
- Local Government Roads Scheme \$1,103,000
- Catchment Enhancement and Protection program \$1,850,000
- Special Areas Management (payment to Parks Service) \$2,730,000
- Sewerage Acceleration Program \$4,000,000

This funding will be used to improve the management of Sydney's drinking water catchments and will help to eliminate threats to water quality.

The Coalition also asked in the other place whether or not the proposed new section 24E will result in a "raft of new fees, charges and taxes"?

The short answer to this question is no.

The Bill does include a provision to enable the SCA to charge for the services it provides. The amount of the charge will be limited by any regulation that prescribes a fee for the service. If no fee is prescribed, a reasonable fee may be charged by the SCA for the supply of the service.

For example, this provision is required where the SCA provides specialist dam safety and technical services

to other agencies and water supply authorities, and where the Authority hires out its conference facilities such as at Warragamba and rental from leased properties.

That is, under proposed subsection 24E (2), any money received by the SCA pursuant to the new section 24E will be on a strictly fee-for-service basis.

This Parliament gave the Sydney Catchment Authority critical responsibilities to manage the catchments and protect the quality of Sydney's drinking water when it passed the *Sydney Water Catchment Management Act*. This amendment clarifies the financial powers of the Authority so that it can continue to fulfil its obligations under the Sydney Water Catchment Management Act and its Operating Licence.

I commend the Bill to the House.

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