



New South Wales

Snowy Mountains Cloud Seeding Trial Amendment Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to replace the current trial of cloud seeding operations in the Snowy Mountains area, as provided for in the *Snowy Mountains Cloud Seeding Trial Act 2004* (the *Principal Act*), with a scheme to provide for ongoing cloud seeding operations in a larger part of the Snowy Mountains area. In particular, the Bill:

- (a) authorises cloud seeding operations (being operations designed to increase precipitation by the discharge of a seeding agent into passing clouds) to be carried out by or on behalf of Snowy Hydro Limited (*SHL*) subject to specified conditions, and
- (b) requires the use of approved seeding agents, approved tracing agents and approved methods of discharge in the cloud seeding operations, specifies certain approved agents and methods and sets out the approval process for other agents and methods, and
- (c) requires the preparation and approval (by the Minister for Planning and Infrastructure and the Minister for the Environment (the *relevant Ministers*)) of an environmental management plan (an *EMP*) relating to the cloud seeding operations, and

- (d) requires SHL to prepare a report on its cloud seeding operations each year, and
- (e) provides that the Environment Protection Authority (the *EPA*) is to review each such report, and cloud seeding operations in general from time to time, and report any findings, and make any necessary recommendations, to the Board of the EPA and the relevant Ministers, and
- (f) extends the operation of Chapter 7 of the *Protection of the Environment Operations Act 1997* (Investigation) to the exercise of powers in connection with the Principal Act, and
- (g) enables the making of regulations relating to fees payable by Snowy Hydro Limited to the National Parks and Wildlife Service in connection with cloud seeding operations, and
- (h) makes other minor and consequential amendments.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Snowy Mountains Cloud Seeding Trial Act 2004 No 19

Schedule 1 [1] and [2] amend the long title and name of the Principal Act to reflect the proposed replacement of trial cloud seeding operations in the Snowy Mountains area with a scheme for ongoing cloud seeding operations. The Principal Act currently provides for the Natural Resources Commission to play a role in the trial cloud seeding operations. **Schedule 1 [6], [13] and [15]** make amendments as a consequence of the removal of the role of the Natural Resources Commission following the proposed end to the trial operations.

Schedule 1 [9] replaces the provision that currently permits trial cloud seeding operations to be carried out by or on behalf of SHL in the “target area” (being an area in the Snowy Mountains shown on a map in Schedule 1 to the Principal Act) with a provision providing for ongoing cloud seeding operations to be carried out by or on behalf of SHL. Such ongoing operations are subject to conditions set out in the provision, including conditions that:

- (a) the operations primarily target land within the Snowy water catchment (therefore expanding the area to be covered by the operations), and
- (b) the operations be carried out only if there is an approved EMP and only in accordance with that EMP, and
- (c) the operations use only an approved seeding agent, approved tracing agent and approved method, and

- (d) the discharge of the seeding agent is carried out at a time when increased precipitation in the Snowy water catchment is likely to fall as snow at an elevation above 1400 metres from the mean sea level, and
- (e) SHL must consult with the National Parks and Wildlife Service before carrying out any new operations involving a land-based method of discharge of seeding or tracing agent within any area of land reserved under the *National Parks and Wildlife Act 1974*, and
- (f) SHL must consult with the National Parks and Wildlife Service before installing, or carrying out major modifications to, any facilities required to carry out cloud seeding operations within any area of land reserved under the *National Parks and Wildlife Act 1974*, and
- (g) installation of new facilities for cloud seeding operations must not be carried out within any wilderness area (within the meaning of the *National Parks and Wildlife Act 1974*), and
- (h) seeding agent is not to be discharged from land-based generators in any wilderness area.

Schedule 1 [9] also inserts new provisions concerning approved seeding and tracing agents and approved methods of discharge of those agents. The Principal Act currently provides for the use of silver iodide as a seeding agent, indium sesquioxide as a tracing agent and the discharge of these agents only by land-based aerosol generators. The new provisions enable the approval, by the relevant Ministers, of additional agents as seeding agents and tracing agents and the use of aerial methods of discharge of approved agents.

Schedule 1 [10] inserts a new provision dealing with the approval of environmental management plans. Such a plan must be in place before cloud seeding operations can be undertaken. The provision provides that the relevant Ministers may, on application by SHL, approve an EMP in relation to the cloud seeding operations authorised by the Principal Act. The EMP is to comply with any requirements imposed by the Ministers and notified to SHL. The relevant Ministers may also require an application for approval of an EMP to be accompanied by an independent scientific assessment of any changed cloud seeding operations. The provision also deals with the amendment, replacement and revocation of an EMP. **Schedule 1 [10]** also inserts a new provision outlining a review process in relation to environmental management plans.

Schedule 1 [11] and [12] provide for the suspension or termination of the authorisation of cloud seeding operations if SHL has not complied with any conditions of the authorisation conferred by the Principal Act or any other requirement imposed by or under the Principal Act or if SHL has not complied with a requirement made of it under Chapter 7 of the *Protection of the Environment Operations Act 1997* in connection with a review carried out by the EPA under the Principal Act.

Schedule 1 [14] inserts a new Part (proposed sections 6A, 6B and 6C) dealing with reporting and review requirements. Proposed section 6A requires an annual report to be provided on the cloud seeding operations of SHL to the relevant Ministers and to the EPA. Proposed section 6B provides for the EPA to have an ongoing role in the oversight of cloud seeding operations by requiring the EPA to review each report on cloud seeding operations provided by SHL and report the findings of the review, and make any necessary recommendations following the review, to the Board of the EPA and the relevant Ministers. The EPA may also review and report on the cloud seeding operations generally from time to time. Proposed section 6C extends the operation of Chapter 7 of the *Protection of the Environment Operations Act 1997* (Investigation) to the exercise of powers in connection with the Principal Act.

Schedule 1 [16] and [17] amend the provision that currently provides for no compensation to be payable by the State as a result of the enactment of the Principal Act or the carrying out of cloud seeding operations to ensure it extends to anything resulting from the amendment of the Principal Act or the effect of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth on the authorised cloud seeding operations.

Schedule 1 [18] inserts a provision enabling the delegation of a Minister's functions under the Principal Act or the regulations to a member of the Government Service. **Schedule 1 [5]** makes a consequential amendment.

Schedule 1 [19] enables regulations to be made in relation to fees payable by Snowy Hydro Limited to the National Parks and Wildlife Service in connection with cloud seeding operations.

Schedule 1 [20] omits a map that is made redundant as a consequence of the amendments in Schedule 1 [9] and inserts savings and transitional provisions.

Schedule 1 [4] and [8] make amendments consequential on the proposed replacement of trial cloud seeding operations in the Snowy Mountains area with ongoing cloud seeding operations. **Schedule 1 [3] and [7]** make other consequential amendments, including by inserting new definitions.

Schedule 2 Amendment of other Acts

Schedule 2.1 makes amendments to the *National Parks and Wildlife Act 1974* as a consequence of the amendment in Schedule 1 [19].

Schedule 2.2 makes an amendment to the *Protection of the Environment Operations Act 1997* as a consequence of the insertion of proposed section 6C into the Principal Act.