



New South Wales

Australian Inland Energy Water Infrastructure Bill 2000

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 *Water Supply Authorities Act 1987* so as:
 - (i) to dissolve the Broken Hill Water Board, and
 - (ii) to transfer the Broken Hill Water Board's water supply functions to Australian Inland Energy (to be renamed Australian Inland Energy Water Infrastructure), and
 - (iii) to exclude Australian Inland Energy Water Infrastructure (because of its status as a statutory State owned corporation) from a number of the provisions of that Act, and
- (b) to amend the *Energy Services Corporations Act 1995* so as:
 - (i) to rename Australian Inland Energy as Australian Inland Energy Water Infrastructure (so reflecting its new water supply functions), and

- (ii) to allow certain public interest directions to be given to Australian Inland Energy Water Infrastructure in relation to the exercise of its water supply functions without the need for prior consultation with its board, and
- (c) to make consequential amendments to a number of other Acts.

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.

Clause 3 is a formal provision giving effect to the amendments to the *Water Supply Authorities Act 1987* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Energy Services Corporations Act 1995* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to other Acts and instruments set out in Schedule 3.

Schedule 1 Amendment of Water Supply Authorities Act 1987

Schedule 1 to the *Water Supply Authorities Act 1987*, which lists the corporations that are water supply authorities, is in two Parts. Part 1 lists corporations (including the Broken Hill Water Board) that are constituted by the Act. Part 2 lists corporations that are constituted under other Acts. Schedule 3 to that Act contains provisions specific to the Broken Hill Water Board.

Schedule 1 [1] amends section 8 (2) (which gives effect to Schedule 3) so as to replace a reference to the Broken Hill Water Board with a reference to Australian Inland Energy Water Infrastructure.

Schedule 1 [2] amends section 10 so as to provide that (unlike other water supply authorities) Australian Inland Energy Water Infrastructure is not subject to the direction and control of the Minister administering the Act. The nature of control that is exercisable over Australian Inland Energy Water Infrastructure, as a statutory State owned corporation, is dealt with in the *State Owned Corporations Act 1989*.

Schedule 1 [3] amends section 60 so as to provide that (unlike other water supply authorities) Australian Inland Energy Water Infrastructure is not required to furnish information to the Minister administering the Act. The furnishing of information by Australian Inland Energy Water Infrastructure, as a statutory State owned corporation, is dealt with in the *State Owned Corporations Act 1989*.

Schedule 1 [4] amends section 61 so as to provide that (unlike other water supply authorities) Australian Inland Energy Water Infrastructure is not subject to an efficiency review under that Act. The oversight of the performance of Australian Inland Energy Water Infrastructure, as a statutory State owned corporation, is dealt with in the *State Owned Corporations Act 1989*.

Schedule 1 [5] amends section 62 so as to provide that (unlike other water supply authorities) Australian Inland Energy Water Infrastructure is not subject to the appointment of an administrator under the Act. The oversight of the performance of Australian Inland Energy Water Infrastructure, as a statutory State owned corporation, is dealt with in the *State Owned Corporations Act 1989*.

Schedule 1 [6] is a formal provision giving effect to the savings and transitional provisions set out in proposed Schedule 7.

Schedule 1 [7] omits a reference to Broken Hill Water Board from Part 1 of Schedule 1.

Schedule 1 [8] inserts a new Part 3 into Schedule 1. The new Part is to contain the name of Australian Inland Energy Water Infrastructure, so establishing it as a water supply authority.

Schedule 1 [9]–[12] make consequential amendments to Schedule 3, repealing provisions that are inapplicable to Australian Inland Energy Water Infrastructure, and modifying the remaining provisions so that they refer to Australian Inland Energy Water Infrastructure rather than the Broken Hill Water Board.

Schedule 1 [13] inserts a new Schedule of savings and transitional provisions. The Schedule dissolves the Broken Hill Water Board, transfers its staff and assets to Australian Inland Energy Water Infrastructure and makes other consequential provisions.

Schedule 2 Amendment of Energy Services Corporations Act 1995

Schedule 2 [1] amends Schedule 1 so as to rename Australian Inland Energy as Australian Inland Energy Water Infrastructure.

Schedule 2 [2] amends Schedule 2 so as to insert a new clause 3A. The new clause modifies the operation of section 20P of the *State Owned Corporations Act 1989* so as to allow a public interest direction to be given to Australian Inland Energy Water Infrastructure under that section without the need for prior consultation required by that section, but only in relation to Australian Inland Energy Water Infrastructure's exercise of its water supply functions under the *Water Supply Authorities Act 1987*.

Schedule 3 Amendment of other Acts and instruments

This Schedule makes consequential amendments to the following Acts and instruments:

Attachment of Wages Limitation Act 1957 No 28

Electricity Supply Act 1995 No 94

First State Superannuation Act 1992 No 100

Government and Related Employees Appeal Tribunal Act 1980 No 39

Heritage Act 1977 No 136

National Parks and Wildlife Act 1974 No 80

Pipelines Act 1967 No 90

Public Authorities (Financial Arrangements) Regulation 2000

Public Authorities Superannuation Act 1985 No 41

Public Finance and Audit Act 1983 No 152

Public Sector Management Act 1988 No 33

State Authorities Non-contributory Superannuation Act 1987 No 212

State Authorities Superannuation Act 1987 No 211

State Owned Corporations Act 1989 No 134

Australian Inland Energy Water Infrastructure Bill 2000

Explanatory note

Strata Schemes (Freehold Development) Act 1973 No 68

Strata Schemes (Leasehold Development) Act 1986 No 219

Superannuation Act 1916 No 28

Valuation of Land Act 1916 No 2



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New South Wales

Australian Inland Energy Water Infrastructure Bill 2000

No , 2000

A Bill for

An Act to amend the *Energy Services Corporations Act 1995* so as to rename Australian Inland Energy as Australian Inland Energy Water Infrastructure, to amend the *Water Supply Authorities Act 1987* so as to establish the renamed body as a water supply authority under that Act, and to enable the renamed body to exercise additional regional development functions in the Far West region of the State; to make consequential amendments to a number of other Acts and instruments; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Australian Inland Energy Water Infrastructure Act 2000*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Water Supply Authorities Act 1987 No 140

The *Water Supply Authorities Act 1987* is amended as set out in Schedule 1.

4 Amendment of Energy Services Corporations Act 1995 No 95

The *Energy Services Corporations Act 1995* is amended as set out in Schedule 2.

5 Amendment of other Acts and instruments

Each Act and instrument referred to in Schedule 3 is amended as set out in that Schedule.

Schedule 1	Amendment of Water Supply Authorities Act 1987	1
		2
	(Section 3)	3
[1]	Section 8 Schedules relating to Authorities	4
	Omit “Broken Hill Water Board” from section 8 (2).	5
	Insert instead “Australian Inland Energy Water Infrastructure”.	6
[2]	Section 10 Exercise of functions by an Authority	7
	Insert after section 10 (1):	8
	(1A) Subsection (1) (b) does not apply to an Authority listed in Part 3 of Schedule 1.	9
		10
[3]	Section 60 Authority must provide information	11
	Insert at the end of the section:	12
	(2) This section does not apply to an Authority listed in Part 3 of Schedule 1.	13
		14
[4]	Section 61 Efficiency review	15
	Insert after section 61 (2):	16
	(3) This section does not apply to an Authority listed in Part 3 of Schedule 1.	17
		18
[5]	Section 62 Appointment of administrator	19
	Insert after section 62 (3):	20
	(4) This section does not apply to an Authority listed in Part 3 of Schedule 1.	21
		22
[6]	Section 67	23
	Insert after section 66:	24
	67 Savings and transitional provisions	25
	Schedule 7 has effect.	26

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Schedule 1 Amendment of Water Supply Authorities Act 1987

[7] Schedule 1 Water Supply Authorities	1
Omit “Broken Hill Water Board” from Part 1 of Schedule 1.	2
[8] Schedule 1, Part 3	3
Insert after Part 2:	4
Part 3	5
Australian Inland Energy Water Infrastructure	6
[9] Schedule 3	7
Omit “Broken Hill Water Board” from the heading to the Schedule.	8
Insert instead “Australian Inland Energy Water Infrastructure”.	9
[10] Schedule 3, Part 1	10
Omit the Part.	11
[11] Schedule 3, Part 2	12
Insert in alphabetical order in clause 6 (1):	13
<i>Corporation</i> means Australian Inland Energy Water	14
Infrastructure.	15
[12] Schedule 3, Part 2	16
Omit “The Board” and “the Board” wherever occurring.	17
Insert instead “The Corporation” and “the Corporation”, respectively.	18

Part 2 Provisions consequent on enactment of Australian Inland Energy Water Infrastructure Act 2000	1 2 3
2 Definitions	4
In this Part:	5
<i>assets</i> means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.	6 7 8 9
<i>liabilities</i> means any liabilities, debts or obligations (whether present or future and whether vested or contingent).	10 11
<i>rights</i> means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).	12 13
3 Dissolution of Broken Hill Water Board	14
(1) The Broken Hill Water Board is dissolved and its members removed from office.	15 16
(2) No compensation is payable to or in respect of any former member of the Broken Hill Water Board as a consequence of his or her removal from office under this clause.	17 18 19
4 Transfer of staff	20
(1) Each person who, immediately before the commencement of this clause, was a member of staff of the Broken Hill Water Board becomes, by operation of this clause, a member of staff of Australian Inland Energy Water Infrastructure.	21 22 23 24
(2) Any person who, under this clause, becomes a member of staff of Australian Inland Energy Water Infrastructure is (until other provision is duly made under any Act or law) to be employed in accordance with any relevant statutory provisions, awards, agreements and determinations that would have applied to the person had the person not become a member of staff of Australian Inland Energy Water Infrastructure but remained a member of staff of the Broken Hill Water Board.	25 26 27 28 29 30 31 32

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- (3) For the purpose of preserving the superannuation and leave entitlements of former members of staff of the Broken Hill Water Board, that Board is declared to be a public authority to which Schedule 4 to the *State Owned Corporations Act 1989* applies, as referred to in the definition of *eligible employee* in clause 1 of that Schedule.
- 5 Transfer of assets, rights and liabilities**
- Subject to the regulations:
- (a) the assets of the Broken Hill Water Board are, by operation of this clause, vested in Australian Inland Energy Water Infrastructure, and
 - (b) the rights and liabilities of the Broken Hill Water Board become, by operation of this clause, the rights and liabilities of Australian Inland Energy Water Infrastructure, and
 - (c) any proceedings relating to the assets, rights and liabilities of the Broken Hill Water Board or a predecessor of the Broken Hill Water Board and pending immediately before the commencement of this clause are taken to be proceedings pending against Australian Inland Energy Water Infrastructure, and
 - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities of the Broken Hill Water Board before the commencement of this clause by, to or in respect of the Broken Hill Water Board or a predecessor of the Broken Hill Water Board is (to the extent to which it has any force or effect) taken to have been done or omitted by, to or in respect of Australian Inland Energy Water Infrastructure.
- 6 Miscellaneous**
- (1) The operation of clauses 4 and 5 is not to be regarded:
- (a) as a breach of confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

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| <p>(c) as giving rise to any remedy by a party to an instrument, or causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or</p> <p>(d) as an event of default under any contract or other instrument.</p> <p>(2) No attornment to Australian Inland Energy Water Infrastructure by a lessee from the Broken Hill Water Board is required.</p> <p>(3) No compensation is payable to any person in connection with the operation of this clause.</p> <p>(4) Subclause (1) does not affect the rights of any member of staff referred to in clause 4.</p> <p>(5) Duty under the <i>Duties Act 1997</i> is not chargeable for or in respect of anything certified by the Minister as having been done in consequence of the operation of this clause (for example, the transfer or conveyance of an interest in land).</p> <p>7 Area of operations and special areas</p> <p>(1) Subject to the regulations, the area of operations of Australian Inland Energy Water Infrastructure is the same as the area of operations for the Broken Hill Water Board, as it was immediately before the commencement of this clause.</p> <p>(2) Any special area for the Broken Hill Water Board, as existing immediately before the commencement of this clause, is taken to be a special area for Australian Inland Energy Water Infrastructure under this Act.</p> <p>8 Construction of certain references</p> <p>A reference in any Act, in any instrument made under any Act or in any document of any kind to the Broken Hill Water Board or a predecessor of the Broken Hill Water Board is (to the extent to which it relates to its assets, rights or liabilities) taken to include a reference to Australian Inland Energy Water Infrastructure.</p> | <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> |
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9	General saving	1
	Subject to the regulations:	2
(a)	any application or notice (however described) that was	3
	given or sent to the Broken Hill Water Board before the	4
	commencement of this clause is taken to have been	5
	given or sent to Australian Inland Energy Water	6
	Infrastructure, and	7
(b)	any decision or determination (however described) that	8
	was made by the Broken Hill Water Board before the	9
	commencement of this clause is taken to have been	10
	made by Australian Inland Energy Water Infrastructure,	11
	and	12
(c)	any approval, consent or permission (however	13
	described) that was given by the Broken Hill Water	14
	Board before the commencement of this clause is taken	15
	to have been given by Australian Inland Energy Water	16
	Infrastructure.	17

Schedule 2	Amendment of Energy Services Corporations Act 1995	1
		2
	(Section 4)	3
[1]	Schedule 1 Energy services corporations	4
	Omit “Australian Inland Energy” from Part 2.	5
	Insert instead “Australian Inland Energy Water Infrastructure”.	6
[2]	Schedule 2 Supplementary provisions concerning constitution and procedure	7
		8
	Insert after clause 3:	9
	3A Ministerial directions in the public interest	10
	(1) This clause applies to Australian Inland Energy Water Infrastructure in relation only to the exercise of its functions under the <i>Water Supply Authorities Act 1987</i> .	11
		12
		13
	(2) A direction may be given to Australian Inland Energy Water Infrastructure under section 20P of the <i>State Owned Corporations Act 1989</i> without compliance with subsection (3) of that section if the portfolio Minister decides that this action is warranted on grounds involving urgency, public health or public safety.	14
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	(3) The notice referred to in section 20P of the <i>State Owned Corporations Act 1989</i> is to include a statement of the reasons for that decision.	20
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		22
	(4) The portfolio Minister is to publish in the Gazette (and is to make available on the Internet) any direction under section 20P of the <i>State Owned Corporations Act 1989</i> , and any notification under section 20O of that Act, given to the board of Australian Inland Energy Water Infrastructure as soon as practicable after it is given.	23
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Schedule 3	Amendment of other Acts and instruments	1
	(Section 5)	2
3.1	Attachment of Wages Limitation Act 1957 No 28	3
	Schedule	4
	Omit “Broken Hill Water Board”.	5
3.2	Electricity Supply Act 1995 No 94	6
	Schedule 3 Distribution districts	7
	Omit “Australian Inland Energy”.	8
	Insert instead “Australian Inland Energy Water Infrastructure”.	9
3.3	First State Superannuation Act 1992 No 100	10
[1]	Schedule 1 Employers	11
	Omit “Broken Hill Water Board” from Part 1.	12
[2]	Schedule 1, Part 1	13
	Omit “Australian Inland Energy”.	14
	Insert instead “Australian Inland Energy Water Infrastructure”.	15

3.4 Government and Related Employees Appeal Tribunal Act 1980 No 39	1 2
Schedule 4 Employing authorities	3
Omit “The Broken Hill Water Board.”.	4
3.5 Heritage Act 1977 No 136	5
[1] Section 123 Definitions	6
Omit paragraph (e) of the definition of <i>rating or taxing authority</i> .	7
Insert instead:	8
(e) a water supply authority within the meaning of the <i>Water Supply Authorities Act 1987</i> ,	9 10
[2] Section 123, definition of “valuing law”	11
Omit “, the <i>Broken Hill Water and Sewerage Act 1938</i> ”.	12
3.6 National Parks and Wildlife Act 1974 No 80	13
Section 74 Catchment areas and special areas	14
Omit “the Broken Hill Water Board” from section 74 (4).	15
Insert instead “a water supply authority within the meaning of the <i>Water Supply Authorities Act 1987</i> ”.	16 17
3.7 Pipelines Act 1967 No 90	18
Section 3 Definitions	19
Omit “the Broken Hill Water Board,” from the definition of <i>statutory body representing the Crown</i> in section 3 (1).	20 21

3.8 Public Authorities (Financial Arrangements) Regulation 2000	1
[1] Schedule 1 Authorities having Part 2 investment powers	2
Omit “Australian Inland Energy”.	3
Insert instead “Australian Inland Energy Water Infrastructure”.	4
[2] Schedule 1	5
Omit “Broken Hill Water Board”.	6
3.9 Public Authorities Superannuation Act 1985 No 41	7
Schedule 3 Employers	8
Omit “The Broken Hill Water Board.” from Part 1.	9
3.10 Public Finance and Audit Act 1983 No 152	10
Schedule 2 Statutory bodies	11
Omit “Broken Hill Water Board”.	12
3.11 Public Sector Management Act 1988 No 33	13
[1] Schedule 3 Declared authorities	14
Omit “Broken Hill Water Board”.	15
[2] Schedule 3A Chief executive positions	16
Omit “President of the Broken Hill Water Board” from Part 3.	17

Australian Inland Energy Water Infrastructure Bill 2000

Schedule 3 Amendment of other Acts and instruments

[3] Schedule 3A	1
Omit “(other than the President of the Broken Hill Water Board)” from Part 3.	2 3
3.12 State Authorities Non-contributory Superannuation Act 1987 No 212	4 5
[1] Schedule 1 Employers	6
Omit “Australian Inland Energy” from Part 1.	7
Insert instead “Australian Inland Energy Water Infrastructure”.	8
[2] Schedule 1, Part 1	9
Omit “The Broken Hill Water Board”.	10
3.13 State Authorities Superannuation Act 1987 No 211	11
[1] Schedule 1 Employers	12
Omit “Australian Inland Energy” from Part 1.	13
Insert instead “Australian Inland Energy Water Infrastructure”.	14
[2] Schedule 1, Part 1	15
Omit “The Broken Hill Water Board”.	16
3.14 State Owned Corporations Act 1989 No 134	17
Schedule 5 Statutory SOC s	18
Omit “Australian Inland Energy”.	19
Insert instead “Australian Inland Energy Water Infrastructure”.	20

3.15	Strata Schemes (Freehold Development) Act 1973 No 68	1
[1]	Section 89 Definitions	2
	Omit paragraphs (d) and (e) from the definition of <i>appropriate valuing Act</i> .	3
[2]	Section 89, definition of “valuing authority”	4
	Omit “the Hunter Water Corporation referred to in the <i>Hunter Water Board (Corporatisation) Act 1991</i> or the Broken Hill Water Board” from	5
	paragraph (c).	6
		7
3.16	Strata Schemes (Leasehold Development) Act 1986 No 219	8
[1]	Section 121 Definitions	9
	Omit paragraphs (c) and (d) from the definition of <i>appropriate valuing Act</i> .	10
[2]	Section 121, definition of “valuing authority”	11
	Omit “the Hunter Water Corporation referred to in the <i>Hunter Water Board (Corporatisation) Act 1991</i> or the Broken Hill Water Board,” from	12
	paragraph (a).	13
		14
3.17	Superannuation Act 1916 No 28	15
[1]	Schedule 3 List of employers	16
	Omit “Australian Inland Energy” from Part 1.	17
	Insert instead “Australian Inland Energy Water Infrastructure”.	18
[2]	Schedule 3, Part 1	19
	Omit “The Broken Hill Water Board”.	20
[3]	Schedule 26	21
	Omit “The Broken Hill Water Board” from Part 1.	22

3.18 Valuation of Land Act 1916 No 2	1
 Section 47 Rating or taxing authorities	2
Omit “The Broken Hill Water Board.” from section 47 (1).	3