

Catchment Management Authorities Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Natural Resources Commission Bill 2003*.

Overview of Bill

The object of this Bill is to devolve to regional communities certain program delivery and other natural resource management functions.

Outline of provisions

Part 1 Preliminary

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 sets out the object of the proposed Act (as set out in the Overview).

Clause 4 defines certain words and expressions used in the proposed Act. In particular:

catchment activities is defined to mean activities relating to natural resource management in an area (including the planting of trees, the removal of weeds or obstructions, the carrying out of works and education or training).

natural resource management has the same wide meaning it has in the proposed *Natural Resources Commission Act 2003*.

Clause 5 defines the term **State-wide natural resource management standards and targets** as those adopted by the Government for the purposes of the proposed Act (the proposed Natural Resources Commission has the function of recommending such standards and targets).

Part 2 Establishment of authorities

Clause 6 provides for the establishment of the authorities listed in Schedule 1 as catchment management authorities.

Clause 7 provides that the area of operations of an authority is the area described or referred to in Schedule 2.

Clause 8 makes provision for the establishment and appointment of a board of an authority to control the affairs of the authority. Appointments to a board are to be based on certain skills and knowledge. In addition, the Minister is to ensure that, as far as practicable, the persons appointed reside in the area of operations of the authority.

Clause 9 provides that an authority is subject to the control and direction of the Minister.

Clause 10 makes provision for the employment of a general manager and other staff of an authority under the *Public Sector Employment and Management Act 2002*.

Clause 11 provides that the Minister may establish or abolish an authority or change the name or area of operations of an authority.

Clause 12 permits the Minister to appoint a person to investigate and review the efficiency and effectiveness of an authority.

Clause 13 permits the Minister to appoint an administrator to exercise the functions of an authority in certain circumstances, including if the authority has failed to comply with its obligations under the proposed Act.

Part 3 Functions of authorities

Clause 14 provides that an authority has the general function of carrying out or funding catchment activities in accordance with the proposed Act, and the functions conferred by or under any other legislation. Authorities are, for example, to have the functions under the proposed *Native Vegetation Act 2003*.

and may have threatened species or other functions conferred in future under other Acts. Authorities have the capacity to be appointed as the consent authority for development under the *Environmental Planning and Assessment Act 1979*.

Clause 15 specifies particular functions of an authority. They include catchment action planning and implementation through annual implementation programs, provision of financial assistance for catchment activities, entering contracts and doing work for catchment activities, assistance to landholders and education and training.

Clause 16 provides that the functions of an authority may only be exercised in or in relation to its area of operations, but permits an authority to act jointly with another authority or to assist other government agencies.

Clause 17 provides for the inclusion in an authority's annual report of information on progress in achieving planned results and compliance with Statewide standards and targets.

Clause 18 provides that an authority may delegate its functions.

Part 4 Catchment action plans

Clause 19 provides that each authority is to prepare a draft catchment action plan as soon as practicable after the commencement of the proposed Act and submit the plan to the Minister for approval.

Clause 20 provides that a draft catchment action plan must include the results that are expected to be achieved by the implementation of the plan and the time frames for achieving those results, the priorities for the funding or carrying out of catchment activities and any other matter directed by the Minister. An authority is required to have regard to the provisions of any environmental planning instrument or other existing natural resource management plans when preparing a plan.

Clause 21 requires wide public consultation in the preparation of draft plans in accordance with the requirements of the regulations and the Minister.

Clause 22 makes provision for the referral of a draft catchment action plan to the Minister for approval and to the proposed Natural Resources Commission. The Minister is to seek the advice of the Commission in assessing the draft plan and take such advice into account.

Clause 23 provides that the Minister may approve a draft catchment action plan with or without alteration or may refer the draft plan back to the authority. However, the Minister is not to approve a draft plan unless the Minister is satisfied (having regard to the advice of the proposed Natural Resources Commission) that the plan complies with State-wide natural resource management standards, and promotes the achievement of State-wide natural resource management targets.

Clause 24 requires an authority to make an approved catchment action plan readily accessible to persons in its area of operations, and requires the Minister to place the plan on the website of the Department of Infrastructure, Planning and Natural Resources.

Clause 25 provides for the amendment, replacement or revocation of catchment action plans.

Clause 26 requires the regular and periodic review of catchment action plans by authorities and the auditing of such plans (at least once every 5 years) at the direction of the Minister.

Part 5 Annual implementation programs

Clause 27 provides that an authority is required to prepare and submit to the Minister each year an implementation program seeking to give effect to any catchment action plan of the authority.

Clause 28 provides for Ministerial approval of the annual program.

Clause 29 empowers and requires the authority to undertake the catchment

activities set out in an approved annual program.

Part 6 Financial

Clause 30 requires an authority to establish a Fund for receipts and expenditures by the authority and provides that the Fund does not form part of the Consolidated Fund.

Clause 31 makes provision for the investment of funds by an authority.

Clause 32 empowers the regulations to prescribe or provide for the fees that an authority may demand in relation to the services and other activities of the authority.

Clause 33 gives effect to proposed Schedule 4 which continues existing powers of catchment management trusts (replaced by authorities under the proposed Act) to levy a catchment contribution in accordance with proposed Schedule 4 and the regulations.

Part 7 Miscellaneous

Clause 34 provides that the proposed Act binds the Crown.

Clause 35 provides that an authority may acquire land by agreement or (with Ministerial approval) by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Clause 36 provides for the entry on land by an authority for inspections and the construction of authorised works.

Clause 37 provides that proof of certain matters is not required in legal proceedings unless evidence is given to the contrary.

Clause 38 provides that no action or proceeding may be brought to compel an authority to carry out its functions or to recover any penalty or damages from an authority in respect of a failure to carry out its functions.

Clause 39 provides that proceedings for an offence against the proposed Act or the regulations are to be dealt with summarily before a Local Court.

Clause 40 contains the general regulation-making power.

Clause 41 is a formal provision giving effect to the Schedule of amendments of other Acts.

Clause 42 provides for the repeal of the *Catchment Management Act 1989*, the *Catchment Management Regulation 1999* and the *Hunter Catchment Management Trust Regulation 1997*.

Clause 43 is a formal provision giving effect to the Schedule of savings and transitional provisions.

Clause 44 provides for a standard review of the proposed Act.

Schedule 1 List of catchment management authorities

Schedule 1 contains a list of the catchment management authorities on the commencement of the proposed Act.

Schedule 2 Areas of operations of authorities

Schedule 2 describes the area of operations for each authority. The Schedule contains a map that generally depicts the areas concerned.

Schedule 3 Provisions relating to boards of authorities

Schedule 3 contains standard provisions relating to the members and procedures of boards of authorities, including terms of office and vacation of office of members, disclosure of pecuniary interests and meeting procedures.

Schedule 4 Catchment contributions

Schedule 4 continues the existing provisions relating to the levying of catchment contributions to raise certain shortfalls in revenue, including the basis for levying catchment contributions, the assessment of such contributions, their approval by the Minister, and the collection and recovery of catchment contributions by an authority.

Schedule 5 Amendment of other Acts

Schedule 5 contains consequential amendments to other Acts. In particular, an

amendment to the *Public Finance and Audit Act 1983* applies provisions for the auditing of the accounts of an authority by the Auditor-General and the submission of annual reports to Parliament.

Schedule 6 Savings, transitional and other provisions

Schedule 6 enables savings and transitional regulations to be made consequent on the enactment of the proposed Act and contains other specific savings and transitional provisions (including the abolition of existing catchment management bodies).