



## NSW Legislative Council Hansard

Extract from NSW Legislative Council Hansard and Papers Wednesday 15 November 2006.

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### Second Reading

**The Hon. JOHN HATZISTERGOS** (Minister for Health) [2.48 p.m.], on behalf of the Hon. Tony Kelly: I move:

That these bills be now read a second time.

I seek leave to incorporate the second reading speech incorporated in *Hansard*.

#### Leave not granted.

I am pleased to introduce these two bills, the Water Industry Competition Bill and the Central Coast Water Corporation Bill, that together initiate reform of the water and wastewater industries in New South Wales for the benefit of consumers, the economy and the environment. I now seek leave to incorporate the balance of the second reading speech in *Hansard*.

#### Leave granted.

The improvement of the governance of water systems is the aim of both Bills, which, once enacted, provide for the improved running of water systems, more straight forward decision-making and access arrangements.

Ultimately, these will enable more recycling and improved water security which are imperative during drought.

A key component of the NSW Government's strategy for a sustainable water future is to harness the innovation and investment potential of the private sector in the water and wastewater industries.

The *Water Industry Competition Bill* opens the door to competition and new investment in three key ways.

First, it promotes new recycling businesses by enabling prospective sewer miners who aren't able to reach a commercial agreement with specified service providers to have the terms on which they can mine sewers determined in binding arbitration conducted by the Independent Pricing and Regulatory Tribunal.

Second, the Bill promotes competition by establishing a comprehensive access regime to help new suppliers to negotiate arrangements for the storage and transportation of water and sewerage using existing significant water and sewerage networks.

And third, the Bill ensures that licensees who wish to construct and operate new water and sewerage networks will be on broadly the same footing as the public water utilities, for things like laying pipes in public roads and reading meters.

At the same time, the *Water Industry Competition Bill* establishes a licensing regime for private entrants to ensure the continued protection of public health, the environment and consumers.

The reforms proposed by the *Water Industry Competition Bill* have been subject to extensive community consultation, including the release of a discussion paper, stakeholder briefings and a public investigation into water and wastewater service provision in the greater Sydney region conducted by the Independent Pricing and Regulatory Tribunal.

Access regimes are already commonplace in the gas and electricity industries, and in telecommunications.

Like those industries, the urban water industry is characterised by essential monopoly infrastructure that is costly for competitors to duplicate.

The Australian Competition Tribunal last year declared Sydney Water's sewerage networks at Bondi, Malabar and North Head under the national access regime.

The result of that declaration is that any person has an enforceable right to negotiate with Sydney Water to use those sewerage networks.

The new State-based regime will also declare Sydney Water's Bondi, Malabar and North Head sewerage networks from the outset but will extend beyond that infrastructure.

The Premier will be able to make declarations in respect of other significant monopoly infrastructure through which water or sewage is stored or transported.

The regime will apply consistently to publicly and privately owned infrastructure.

Initially, the access regime will only apply within the area of operations of Sydney Water and Hunter Water. In the future, it may be extended to other areas.

At the appropriate time, it is proposed that the State regime will be certified under the national access regime.

Under the State regime, access disputes will be arbitrated by IPART with regard to the pricing principles which were approved by the Council of Australian Governments last year.

The Bill does not exempt service providers from environmental or planning instruments. That is critical.

Nor does the Bill entitle any person to access and extract water from rivers or other fresh water sources.

Access to, and use of, water resources will continue to be governed by the *Water Management Act*.

The Bill extends the reach of the *Public Health Act* and the *Fluoridation of Public Water Supplies Act* to private operators.

Central to the Bill is the establishment of a comprehensive regime for licensing private corporations who supply water, recycled water or provide sewerage services by means of reticulated water or sewerage networks.

Network operators will also be licensed under the Bill.

Licences ensure that appropriate conditions can be imposed and enforced. They will ensure, for example, that water quality guidelines are complied with.

They will also ensure that network operators and retail suppliers comply with appropriate public health, environmental and consumer protection requirements.

Given the objective of encouraging competition, licences will, of course, not be exclusive. They are not franchises.

Of fundamental importance, clause 7 provides that the Minister, in deciding whether to grant a licence and in deciding what conditions to impose on a licence, must have regard to four core principles.

First, the protection of public health, the environment, public safety and consumers.

Second, encouraging competition in the provision of water supply and sewerage services.

Third, ensuring the sustainability of water resources.

And fourth, promoting the production and use of recycled water.

In addition to these principles, the Bill contains a further safeguard to ensure that existing water resources are not compromised through the introduction of competition.

This means that any private corporation wishing to supply water will need to be contributing a new commercial source of water. This might be water generated through the commercialisation of innovative new water sources such as storm water or roof water.

Or it might be water generated through recycling, which can be used for example, for industrial use or irrigation so as to reduce the demand on existing drinking water resources.

This is consistent with the core purpose of these reforms, which is to encourage competition and promote innovative new sources of water—particularly recycling.

This Bill is essentially about reducing the pressure on existing water resources.

Recycled water can be used for a large number of purposes, particularly in industry. Given prevailing community concerns about the potential public health risks associated with drinking recycled water, the New South Wales Government remains of the view that recycled water should not be used as drinking water.

This Bill does not change that policy.

New private suppliers will not be subject to price regulation, except in the unusual circumstance where they are a monopoly service provider.

This might be the case in greenfields sites, such as where the Government has conducted a tender for private recycled water supply to the new development area.

This Bill does not change the pricing arrangements for existing public water utilities. This means that Sydney Water and Hunter Water will continue to have their prices independently regulated by IPART.

It means that customers in these areas will still be able to obtain essential services from Sydney Water and Hunter Water at postage stamp prices.

As well as containing provisions to ensure that vulnerable consumers are protected, new licensees will be required to belong to an approved external ombudsman scheme, such as that operated by the Energy and Water Ombudsman.

The Bill also contains arrangements to protect customers in the event of the failure of a new market entrant.

Public water utilities may be required to step in to provide essential water and sewerage services if a new retailer's business fails.

This Bill will facilitate the private sector bringing forward and developing innovative ideas for the urban water industry, such as recycling that will help to secure our cities' long term water future while continuing to protect public health, the environment and consumers.

Another plank of the New South Wales Government's water reform program is the Central Coast Water Corporation Bill.

This Bill provides for the establishment of the Central Coast Water Corporation to supply water and sewerage services on the Central Coast.

As is currently the case, the responsibility for water supply will remain with the Councils.

The Central Coast Water Corporation would be a statutory body wholly owned by Gosford and Wyong Councils with revenues raised by the corporation remaining in the region.

The Corporation model has been developed following a request from Gosford and Wyong Councils for a new legal entity to enable improved governance and streamlined decision-making.

Both Councils have been extensively consulted during the development of the proposed model.

In addition to the formal request of Councils for the new legal entity, other stakeholders, including community groups and numerous Central Coast residents have made representations to me about their concern regarding the management of urban water supply on the Central Coast.

Gosford City and Wyong Shire Councils are currently water supply authorities under the *Water Management Act*. They currently provide water, sewage and drainage services to around 300,000 people and industry on the Central Coast.

Their combined water supply is the third largest in New South Wales but it is under severe pressure from the current drought. Storage levels now stand at 15.5%. If dam levels continue to decline at the current rate, storages could be at 10% by the end of the year.

At present, Gosford and Wyong Councils have a long standing agreement for the joint management of their head works assets. To facilitate joint operations, the Councils established a joint committee, the *Gosford Wyong Councils' Water Authority* in 1977.

However, the joint committee has no legal status and functions cannot be formally delegated to it—meaning all its decisions must be ratified by each Council.

This process contributes to inefficiency and delay in decision-making.

The Central Coast Water Corporation Bill responds to this problem and the request from Gosford City Council and Wyong Shire Council by enabling the establishment of a new Central Coast Water Corporation.

At a joint meeting of both Councils on September 28 a resolution was carried in support of the direction outlined in this Bill.

There is an important point to be made about the new arrangements.

This is not a takeover by the State Government. Local Councils will continue to maintain responsibility for water on the Central Coast, via the Corporation which will be wholly owned by the Councils.

The Bill does not enable the State Government to gain control or ownership of Council assets. Nor will the new arrangements undermine working conditions for staff.

Existing entitlements of staff affected by the establishment of the corporation will be preserved in a number of ways.

For example:

- Transferred staff retain all rights to annual leave, extended service leave, sick leave and other forms of leave;
- Existing entitlements and conditions of service including length of service for transferred and non-transferred staff are preserved until a new award is negotiated;
- No forced redundancies of transferred staff and non-transferred staff for three years;
- Transferred staff have a three year right to apply for a job back at Council and to be treated as if they were an internal applicant;
- Regulations must provide for equal opportunity and merit-based appointment in accordance with the Local Government Act 1993;
- Regulations may be made with respect to the terms and conditions of employment.

I also acknowledge the commitments made from Gosford and Wyong Councils to recommend that the Corporation sign referral agreements under section 146A of the Industrial Relations Act and common law deeds which ensure industrial issues are dealt with under the NSW Industrial Relations system.

In the interim, I encourage Gosford and Wyong Councils to establish a working party involving employees, management, elected representatives and unions to negotiate conditions and policies relating to the future employment of staff.

The new Corporation will provide a single focus for the strategic direction of water services on the Central Coast, create transparency in the sharing of costs between Councils and adopt a commercially-focussed, expert board to guide the delivery of water services on the Central Coast.

Over the longer term, the full integration of assets and operations of the two Councils into the Corporation is expected to realise significant cost savings.

It will provide greater scope for raising capital and greater potential for efficiencies by managing a larger water supply and sewerage system.

In recognition that the Bill is being introduced in direct response to a formal request from the Councils, Clause 2 of the Bill provides that the proclamation to establish the Corporation may only be made following resolutions from Gosford and Wyong Councils.

The Corporation will be accountable to its owners, the Councils, through its constitution, statement of corporate intent and audited financial reports.

This Bill places the Central Coast Water Corporation on broadly the same footing as other major water utilities serving large populations, such as Hunter Water and Sydney Water, except that it would remain locally owned.

Under clause 32 of the Bill, the Minister may grant an operating licence to the Corporation.

The licence must include terms and conditions under which the Corporation is required to ensure that its systems and services meet recognised standards in relation to water quality, service interruptions and pricing.

To ensure consumer protection, particularly for vulnerable customers, the Corporation will be required to belong to an approved industry ombudsman scheme, such as the Energy and Water Ombudsman.

The Independent Pricing and Regulatory Tribunal will be responsible for auditing the compliance of the Corporation with its operating licence.

The people of the Central Coast deserve a water utility that has the capacity to invest prudently in new supplies and water saving measures as effectively as possible.

This Bill allows for the establishment of such a water utility in the form of the Central Coast Water Corporation.

I thank all those who have contributed to the important reforms contained in these Bills. I commend the Bills to the House.