

SYDNEY WATER CATCHMENT MANAGEMENT BILL

Schedule of the amendments referred to in the Legislative Council's Message of
3 December 1998.

No. 1 Page 3, clause 3. Insert after line 8:

environmental flow means a release of water from storage so as to provide a flow of water in a river, stream or other natural waterway that:

- (a) mimics natural seasonal flows, and
- (b) restores and maintains the ecology of the waterway concerned.

No. 2 Page 3, clause 3. Insert after line 13:

land includes the following:

- (a) the sea or an arm of the sea,
- (b) a bay, inlet, lagoon, lake or body of water, whether inland or not and whether tidal or non-tidal,
- (c) a river, stream or watercourse, whether tidal or non-tidal,
- (d) a building erected on the land.

No. 3 Page 6, clause 7, line 13. Insert ", one of whom is to be a nominee of the NSW Farmers' Association and one of whom is to be a nominee of the Nature Conservation Council of New South Wales" after "Minister".

No. 4 Page 6, clause 7, line 15. Omit "such expertise". Insert instead "expertise in the areas of protection of the environment and public health, and such other expertise".

No. 5 Page 6, clause 7. Insert after line 16:

- (4) The Minister is to advertise publicly for nominations for appointment to the Board.

No. 6 Page 6, lines 19-26. Omit all words on those lines. Insert instead:

8 Functions of Board

(1) The Board has the following functions:

- (a) determining the policies and long-term strategic plans of the Authority,
- (b) endeavouring to ensure that the Authority meets all public health and environmental requirements set out in the operating licence and any relevant instrument,
- (c) overseeing the effective, efficient and economical management of the Authority,
- (d) preparing:
 - (i) the annual report of the Authority required under the *Annual Reports (Statutory Bodies) Act 1984*, and
 - (ii) such reports as the Authority is required to furnish under this Act.

- (2) In exercising those functions, the Board has the duty of endeavouring to ensure that the water supplied by the Authority complies with appropriate standards of quality.

- No. 7 Page 7, clause 10, line 3. Insert "in accordance with the policies determined by the Board and any other decisions of the Board, but subject to any directions of the Minister under this Act" after "Chief Executive".
- No. 8 Page 7, clause 11. Insert after line 19:
- (4) However, a request for a review may not be made on the grounds specified in subsection (3) in relation to a direction given in respect of any alienation, mortgage, charge or demise of land in a special area that is owned by or vested in the Authority.
- (5) The Board may also request the Minister to review a direction if the Board considers that compliance with the direction is likely to result in environmental degradation, or that the direction is otherwise inconsistent with the principles of ecologically sustainable development referred to in section 14 (1) (c).
- No. 9 Page 7, clause 11, lines 26-27. Omit "the direction". Insert instead "a direction of the kind referred to in subsection (3)".
- No. 10 Page 8, clause 11. Insert after line 12:
- (9) The Minister is to publish a direction given under this section in the Gazette (and is to make it available on the Internet) as soon as practicable after it is given.
- (10) A direction given under this section is of no effect to the extent that it is inconsistent with the terms and conditions of the Authority's operating licence unless the Minister certifies in the direction that it is given on such grounds, specified in the direction and involving urgency, public health or public safety, as justify the direction's prevailing over those terms and conditions.
- No. 11 Page 10, clause 15. Insert after line 8:
- (2) The Authority has the primary function of protecting the quality and quantity of water in catchment areas.
- No. 12 Page 13, clause 20. Insert after line 11:
- (3) Sections 39, 40 and 41 of the *Interpretation Act 1987* apply to an order under this section as if it were a statutory rule to which those sections apply.
- No. 13 Page 15, clause 22. Insert after line 9:
- (8) Section 38 (Public exhibition of memoranda of understanding) applies, with the necessary modifications, to arrangements under this section in the same way as it applies to memoranda of understanding.
- No. 14 Page 15, clause 23, line 18. Omit "Minister". Insert instead "Premier".
- No. 15 Page 15, clause 23, line 21. Omit "Minister". Insert instead "Premier".
- No. 16 Page 15, clause 23, line 22. Omit "Minister". Insert instead "Premier".

- No. 17 Page 15, clause 24. Insert after line 32:
- (3) In furnishing such a report, the Tribunal is to take into consideration any public submissions made under section 22 (8).
- No. 18 Page 16, clause 24. Insert after line 4:
- (4) Section 33 (Presentation of report to Parliament) applies to a report furnished to the Minister under this section in the same way as it applies to a report of the Licence Regulator presented to the Minister under section 32.
- No. 19 Page 18, clause 26, line 9. Insert "(taking into account the catchment audits conducted under Part 5)" after "indicators".
- No. 20 Page 18, clause 26, lines 9 and 10. Omit "of the impact on the environment of the Authority's activities". Insert instead "on the ecological health of the catchment area (with particular reference to the vegetation cover, riparian zones and water quality) and of the impact of the Authority's activities (including polluting activities) on the catchment area".
- No. 21 Page 18, clause 26, line 17. Omit "Division 4". Insert instead "Division 5".
- No. 22 Page 20, clause 31, line 32. Omit "identified".
- No. 23 Page 20, clause 31, lines 33-34. Omit "any identified environmental planning instrument". Insert instead "the regional environmental plan or plans referred to in section 51".
- No. 24 Page 21, clause 31, lines 19-21. Omit all words on those lines.
- No. 25 Page 22, clause 34, lines 15-18. Omit all words on those lines. Insert instead:
- (1) The Board is to prepare a statement of financial framework for adoption by the Minister and the Treasurer. The statement of financial framework is to be complied with by and in relation to the Authority. It may be amended or replaced from time to time on the recommendation of the Board.
- No. 26 Page 23, clause 36, line 26. Omit "Minister". Insert instead "Premier".
- No. 27 Page 23, clause 36, line 27. Omit "Minister". Insert instead "Premier".
- No. 28 Page 24, clause 37, line 12. Omit "Minister". Insert instead "Premier".
- No. 29 Page 24, clause 37, line 13. Omit "Minister". Insert instead "Premier".
- No. 30 Page 25. Insert after line 29:

40 Other documents to be presented to Parliament

- (1) In addition to the reports referred to in section 39, the Minister is to lay (or cause to be laid) before both Houses of Parliament copies of the following documents within the time specified in this section in relation to the document concerned:
- (a) any order varying the area of operations of the Authority - within 15 days after the order is published in the Gazette,
- (b) the operating licence (and any amendments to the operating licence) - within 90 days after the licence is granted (or amended),

- (c) the statement of financial framework referred to in section 34 - within 14 days after it is adopted,
 - (d) each regional environmental plan referred to in section 51 - within 12 months after it is published in the Gazette.
- (2) Section 39 (3) and (4) apply to and in respect of a copy of a document referred to in this section in the same way as they apply to a report referred to in section 39 (1).

No. 31 Page 26. Insert after line 9:

41 Catchment audits

- (1) Within 5 months after the commencement of section 40 (2), the nominated person must:
 - (a) conduct an audit (a *catchment audit*) of the state of the land constituting the catchment area of the Authority, and
 - (b) present a report on that audit to the Minister.
- (2) The nominated person must conduct subsequent catchment audits, and report to the Minister on those audits, at intervals of no more than 2 years calculated from the date of the first report.
- (3) Section 39 (2)-(4) apply to and in respect of a report furnished to the Minister under this section in the same way as they apply to a report referred to in section 39 (1).
- (4) In this section, *nominated person* means a public authority, or other person, nominated by the Minister. However, the Minister is not to nominate the Authority for the purposes of this section.

No. 32 Page 27, clause 43, line 13. Insert "(at no cost to that Minister)" after "1974".

No. 33 Page 27, clause 43. Insert after line 14:

- (2) As soon as practicable after the commencement of this section, the Minister is to review all the land referred to in clause 5 (1) of Schedule 6 that is owned by or vested in the Authority.
- (3) If, as a result of the review, the Minister determines that the objectives of the Authority would be more effectively attained if the land concerned were vested in the Minister administering the *National Parks and Wildlife Act 1974*, the Authority is to transfer the land under subsection (1) (a) as soon as practicable after the determination is made.

No. 34 Page 30. Insert after line 19:

Division 4 Regional environmental plan

51 Regional environmental plan to be made

- (1) For the purpose of making all land in the catchment area subject to a regional environmental plan, the Minister administering Division 3 of Part 3 of the *Environmental Planning and Assessment Act 1979* must ensure that one or more such plans are made as soon as practicable after the presentation (to the Minister administering this Act) of the report on the first catchment audit conducted under Part 5.
- (2) A regional environmental plan made pursuant to this section is taken to be made with respect to matters of significance for environmental planning for the region or part of the region to which it applies.
- (3) Without affecting the generality of any of the provisions of the *Environmental Planning and Assessment Act 1979*, a regional environmental plan required by this section is to make provision for or with respect to the following:

- (a) imposing controls subject to which State agencies and local authorities (including the local council, if any) may take action and make decisions concerning development of the land to which the plan applies,
 - (b) setting water quality objectives for that land,
 - (c) requiring consent authorities to refuse to grant development consent to a development application relating to land to which the plan applies unless the consent authority is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on the quality of water,
 - (d) requiring the development of action plans to rectify any development of the land to which the plan applies that does not have a neutral or beneficial effect on the quality of water,
 - (e) declaring that the regional environmental plan prevails over a local environmental plan made before or after the regional environmental plan to the extent of any inconsistency.
- (4) In this section, *consent authority*, *development*, *development application*, *development consent*, *region* and *regional environmental plan* have the same meanings as they have in the *Environmental Planning and Assessment Act 1979*.

No. 35 Page 48, Schedule 2. Insert after line 6:

2 Performance criteria

The performance criteria dealt with in the Chief Executive's contract of employment under the *Public Sector Management Act 1988* are to include criteria that require improvement of the quality of the water in catchment areas.

No. 36 Page 54, Schedule 4 [2], line 13. Insert ", but only for the purpose of conferring functions on the Sydney Catchment Authority or in consequence of conferring functions on the Authority" after "1998".

No. 37 Page 54, Schedule 4, line 16. Omit "for the". Insert instead "for".
