Sydney Water Catchment Management Amendment Bill 2007

About this Item
Speakers - Koperberg Mr Philip
Business - Bill, Bill Introduced, Agreement in Principle, Motion

SYDNEY WATER CATCHMENT MANAGEMENT AMENDMENT BILL 2007

Page: 3997

Bill introduced on motion by Mr Philip Koperberg.

Agreement in Principle

Mr PHILIP KOPERBERG (Blue Mountains—Minister for Climate Change, Environment and Water) [11.37 p.m.]: I move:

That this bill be now agreed to in principle.

A major reform in urban water supply management started in 1998 with the Sydney Water Catchment Management Act 1998, which, amongst other things, brought about the creation of the Sydney Catchment Authority. The Sydney Catchment Authority has proved a highly successful operation. It continues to supply high quality water to Sydney Water, two councils, and approximately 60 other customers. The catchment authority has introduced a high standard for managing and protecting the water supply catchments, and it has improved most of its infrastructure to contemporary standards.

The Sydney Water Catchment Management Amendment Bill 2007 represents the next step in the reform process that commenced nearly a decade ago. The bill provides for better administrative clarity and stronger statutory powers so that the Sydney Catchment Authority can continue to evolve and better meet its functions. The proposals in the bill result from a robust review of the Act and wide consultation. The 2004 statutory five-year review of the Sydney Water Catchment Management Act 1998 confirmed that the Act's objectives remain appropriate and its objectives are indeed being met. The review went on to identify useful amendments, including allowing for more effective and efficient regulatory powers for the Catchment Authority, and for improved management of the audit of Sydney's drinking water supply catchments.

The review further proposed important administrative improvements, including clarifying that the catchment authority has clear statutory powers to create new assets; removing the requirement for the catchment authority's operating licence to define all the catchment authority functions as specified in all relevant Acts, instead concentrating on only those that are relevant to key Acts; removing the requirement for the catchment authority to enter into a memorandum of understanding with the Water Administration Ministerial Corporation because the catchment authority now has a water management licence; and finally, de-proclaiming those special areas that no longer have operational purposes for the catchment authority.

The Sydney Water Catchment Management Amendment Bill 2007 addresses these matters in the following manner. The proposed amendment to section 15 (1) of the Act removes the requirement for the catchment authority's operating licence to define all functions that the agency exercises under any Act. The amendment does not limit the regulatory control provided by the operating licence. Members should note that, under section 26 (1) of the Act, the operating licence is subject to the terms and conditions set by the Governor. The bill adds to the functions of the catchment authority by enabling it to provide or construct systems or services for supplying raw water and to install new works. Currently, the Act is silent on this function.

The existing powers under the Act for entry onto land for Sydney Catchment Authority authorised officers do not extend to entry for the purposes of carrying out the catchment authority's essential statutory planning functions. The bill, therefore, gives authorised officers the same powers of entry that councils have under division 1A of part 6 of the Environmental Planning and Assessment Act 1979. In regard to arrangements for drawing water, the bill provides the catchment authority with control over all water in its water storages or pipelines, subject to the operating licence. The catchment authority may enter into an arrangement with any person to take water from the catchment authority's water storage or pipelines. This amendment overcomes a longstanding question regarding whether, in certain circumstances, persons drawing water from catchment authority infrastructure should be its customers or should hold water management licences under the Water Act 1912.

Unlike at the commencement of the Act in 1999 the catchment authority now holds a water management licence granted by the Water Administration Ministerial Corporation under the Water Act 1912. The licence addresses all regulatory matters associated with water resource management. It provides the appropriate regulatory

relationship between the catchment authority and the Department of Water and Energy. As a result, the need for a memorandum of understanding between the catchment authority and the Water Administration Ministerial Corporation is now redundant. The bill also allows the Minister administering the Act to appoint a public authority or other person to develop and approve catchment health indicators, which are to measure trends in environmental health by the catchment auditors.

To provide for more meaningful trend analysis of the health of the drinking water catchment, the bill amends the frequency of catchment audits to every three years rather than the current two years. This timeframe aligns with that of state-of-the-environment reporting requirements. The Government—and no doubt all members in this House—will want to ensure that the findings of the catchment audits are acted on. To that end, the bill requires the catchment authority to evaluate the findings of a catchment audit and to incorporate those findings in its risk management framework and into its programs and other activities.

The legislation requires that lands declared as special areas for the purposes of protecting drinking water catchments can be repealed only by amendment to the Act. This requirement provides an important safeguard to their long-term protection for water supply purposes. The bill removes six sites that are listed as special areas that are no longer required for the catchment authority's operational purposes. Three of these sites are located at Penrith, Richmond and Windsor and are very small pieces of land—each less than five square metres. A further area for de-proclamation is 10 kilometres of the Nepean River, between Wilton and Menangle, behind Devine's Weir. As far as we know, it was declared special area in a long forgotten idea to use the weir for drinking water. Another area is O'Hares Creek, which is the site of long-abandoned plans for new dams. O'Hares Creek is within the Dharawal National Park and will therefore remain appropriately protected for its biodiversity values. Finally, Woodford Dam in the Blue Mountains is not currently used for water supply and therefore does not require protection as a special area. Indeed, the site is part of the Blue Mountains National Park.

Much of the bill before the House goes to giving the Sydney Catchment Authority the necessary and appropriate means to protect the catchments surrounding the authority's dams. The following amendments improve the ability of the catchment authority to take appropriate action against those activities that are likely to cause damage or to detrimentally affect the quality of water or the health of our catchments. The bill inserts into the Act provisions similar to sections 91 and 96 of the Protection of the Environment Operations Act 1991. These provisions give the catchment authority power to issue catchment correction and protection notices in relation to all activities that have, or are likely to have, an adverse impact upon water quality or catchment health in special areas or controlled areas.

Currently catchment authority authorised officers do not have the power to require answers to questions and the production of information and documents from alleged offenders. The amendments introduced in part 6B of the bill give the Sydney Catchment Authority investigative powers consistent with the National Parks and Wildlife Act 1974. The bill increases the maximum penalty for the existing offences relating to illegal diversion of water and discharge of substances into works and other offences under the Act. The bill also establishes the penalties for the new offences I outlined earlier. The bill also increases the maximum penalties available for offences under the regulations of the Sydney Water Catchment Management Act to $44,000 for a corporation and $22,000 for an individual.

At present the Sydney Water Catchment Management Act does not contain any evidentiary provisions, which means that the Sydney Catchment Authority is put to strict proof in all matters necessary to achieve a successful prosecution. These matters include the validity of appointment of officers and the admissibility of instruments. The bill inserts a number of evidentiary provisions that are consistent with those in the Protection of the Environment Operations Act 1997. So far as the Land and Environment Court is concerned, under current arrangements the Supreme Court or a local court can hear matters only in relation to the Sydney Water Catchment Management Act. The bill allows proceedings under the Act to be dealt with by both the Land and Environment Court and a local court. This is more appropriate, given the nature of the offences.

In conclusion, the proposals set out in the bill provide greater capacity to meet the challenges of managing Sydney's water supply. The Government is committed to managing and protecting the catchment areas and water supply infrastructure to continue ensuring our drinking water remains of the highest standard. The amendments contained in this bill will align the powers and functions of the Sydney Catchment Authority with the latest natural resource management framework. I commend the bill to the House.

Debate adjourned on motion by Mr Thomas George and set down as an order of the day for a future day.