



New South Wales

Water Supply (Critical Needs) Bill 2019

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to facilitate the delivery of water supplies to certain towns and localities to meet critical human water needs and to declare certain development relating to dams to be critical State significant infrastructure.

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 the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 provides that the proposed Act does not apply to land within a special area within the Sydney catchment area within the meaning of the *Water NSW Act 2014* or land within the Sydney metropolitan area.

Part 2 Declaration of critical town or locality water supply

Clause 5 provides for the declaration of *critical town or locality water supplies* by the proposed Act and by regulations that amend Schedule 1.

Part 3 Authorisation of critical town or locality water supply development

Clause 6 gives a meaning to the term *development control legislation* for the purposes of Part 3.

Clause 7 provides that development described in Schedule 2 carried out by or on behalf of a public authority is exempt from development control legislation if the carrying out of the development is the subject of an authorisation of the Minister administering the proposed Act (*the Minister*). The proposed section makes further provision enabling regulations to be made to amend Schedule 2 to insert, alter or omit a description of development for the purposes of a critical town or locality water supply (other than a regulation to insert a description of development into Schedule 2 relating to the construction of a new dam or the increase in storage capacity of an existing dam).

Clause 8 deals with authorisations to be given by the Minister to carry out development described in Schedule 2.

Clause 9 clarifies the operation of the *Environmental Planning and Assessment Act 1979* in relation to development that is the subject of an authorisation under Part 3.

Clause 10 deals with the provision of copies of authorisations under Part 3 to the relevant local councils.

Part 4 Application of Water Management Act 2000

Clause 11 enables the Governor to make regulations for or with respect to the disapplication or modification of the provisions of the *Water Management Act 2000*, or the regulations or any instrument made under that Act, in relation to critical town or locality water supplies.

Part 5 Co-ordination and co-operation of public authorities

Clause 12 requires a public authority to co-operate with the public authority responsible for development for the purposes of a critical town or locality water supply in the exercise of the public authority's functions and notify the responsible public authority of actions that may impact adversely on the exercise of that authority's functions.

Clause 13 empowers a public authority to comply with requests, directions and decisions of another public authority under the proposed Act and to enter into agreements with another public authority for the purposes of the proposed Act.

Clause 14 enables the Minister, by notice in writing given to a public authority prescribed by the regulations, to direct the public authority to comply with a request, direction or decision of a public authority responsible for development for the purposes of a critical town or locality water supply made or given under the proposed Act.

Clause 15 provides for the resolution of disputes between public authorities concerning the operation of any provision of the proposed Act.

Part 6 Miscellaneous

Clause 16 provides that the Minister or Planning Secretary may delegate certain of their functions under the proposed Act to specified authorised persons.

Clause 17 provides that compensation is not payable by or on behalf of the State, a public authority, a local council, or an officer, employee or agent of the State, a public authority or a local council, for an act or omission that is a critical water supply-related matter or that arises (directly or indirectly) from a critical water supply-related matter.

Clause 18 provides that anything done or omitted to be done by any person in the exercise of functions under the proposed Act or the regulations under the proposed Act, or pursuant to any of the provisions of the proposed Act or the regulations under the proposed Act, does not constitute a nuisance.

Clause 19 protects certain specified persons from personal liability in respect of acts done in good faith for the purpose of executing the proposed Act.

Clause 20 enables the Governor to make regulations for the purposes of the proposed Act. In particular, the regulations may make provision for or with respect to restoring the operation of the *Environmental Planning and Assessment Act 1979* and any other Act in relation to development that would otherwise be exempted from those Acts by the proposed Act.

Clause 21 provides that Parts 2–5 and Schedules 1–3 expire on the date that is 2 years after the date of assent to the proposed Act. The regulations may, from time to time, before an expiry under the proposed section takes effect, postpone by one year the date on which those Parts of, and Schedules to, the proposed Act expire. The Minister must not recommend the making of a postponement regulation unless the Minister is satisfied that risks to the town or locality water supplies continue or new risks exist.

Schedule 1 Critical town or locality water supplies

Schedule 1 is a Schedule to contain declarations of further critical town or locality water supplies for the purposes of the proposed Act. At the enactment of the proposed Act this Schedule was empty.

Schedule 2 Declared water supply development

Schedule 2 contains descriptions of development for the purposes of the proposed Act.

Schedule 3 Declaration of certain dam-related development as critical State significant infrastructure

Schedule 3 provides that certain development described in the Schedule (currently, development relating to the Wyangala Dam wall raising project and the construction of a Mole River Dam and Dungowan Dam) is taken to be critical State significant infrastructure for the purposes of the *Environmental Planning and Assessment Act 1979*. The Schedule also enables regulations to be made, with the concurrence of the Minister administering the *Biodiversity Conservation Act 2016*, to insert descriptions of development into the Schedule relating to the construction of new dams or the increase in storage capacity of existing dams.

Schedule 4 Savings, transitional and other provisions

Schedule 4 enables regulations to be made of a savings or transitional nature consequent on the enactment of the proposed Act or any Act that amends the proposed Act or the expiry of any Part of, or Schedule to, the proposed Act.