



State Water Corporation Bill.

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [9.28 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard*.

Leave granted.

The bill establishes State Water as a statutory State Owned Corporation within the context of the *State Owned Corporations Act 1989*. It also makes consequential amendments to the *Water Management Act 2000*, the *Independent Pricing and Regulatory Tribunal Act 1992* and other Acts.

What is State Water?

State Water is currently a business unit within the Department of Energy, Utilities and Sustainability that delivers bulk water in country NSW.

State Water has around 6,000 customers including irrigation areas, country towns, farms, mines and electricity generators. It also meets community needs by providing water for stock and domestic users. The business is also responsible for delivering environmental flows and in this sense it makes a key contribution towards this Government's impressive water reforms, including the new water sharing plans that will shortly take effect.

State Water operates 18 major dams and more than 400 weirs and associated assets on regulated rivers, that is, rivers where the natural flow of water is regulated by such water management works.

State Water is currently not a legal entity in its own right. It operates as part of the Water Administration Ministerial Corporation (WAMC), which is effectively another name for the Department of Infrastructure, Planning and Natural Resources. The bill allows for the transfer of the appropriate assets, rights and liabilities from the WAMC to State Water Corporation.

Under the bill, State Water's principal objective is to supply water to licensed users, the environment and stock and domestic users in an efficient, effective and financially responsible manner. The bill also replicates the standard objectives set out in the *State Owned Corporations Act*, including requirements to:

- Be a successful business
- Exhibit a sense of social responsibility
- Exhibit a sense of responsibility towards regional development and decentralisation; and of course
- Comply with the principles of Ecologically Sustainable Development, as defined by the *Protection of the Environment Administration Act 1991*.

The bill confers functions on State Water to supply water; construct, maintain and operate water management works and flood mitigation. The bill also allows State Water to conduct other activities that would further its objectives, subject to the terms of its operating licence. The bill requires State Water to carry out functions conferred or imposed by other Acts or laws.

The bill also gives the corporation power of entry to land, so that authorised officers can continue to perform meter reading and compliance functions.

The bill makes provision for State Water to charge its customers for services provided, in line with prices set by the Independent Pricing and Regulatory Tribunal.

Why corporatise State Water?

In April 2003, State Water was transferred from the former Department of Land and Water Conservation to the Department of Energy, Utilities and Sustainability. This was the first step in removing the inherent conflict of interest of having a water delivery business located within the same Department that regulates natural resource management.

Corporatisation will complete the separation of the Government's water delivery functions from its policy and regulatory functions, and pave the way for State Water to become an efficient business operating on commercial principles.

Changing State Water to a SOC will expose it to similar corporate governance structures, disciplines and incentives that apply in the private sector, including an independent and commercial Board of Directors, a capital structure, agreed performance targets with its shareholders and clear, arms-length relationships with Government regulators.

Corporatisation allows for five outcomes. First, it allows for clear commercial objectives. Second, it allows rigorous, independent performance monitoring by the Government. Third, it creates appropriate managerial autonomy. Fourth, it allows for stronger linkages between managerial performance and rewards or sanctions. Fifth, it ensures competitive neutrality by removing any special advantages or disadvantages that arise due to Government ownership.

Corporatising State Water will improve the transparency of its functions and costs, and create a more commercially focused water delivery business. People in country NSW will be able to deal with a more accountable and efficient water business instead of the old departmental culture.

As you know this Government consults widely with affected stakeholders whenever it is proposing major reforms. The feedback that I have received from State Water's customers is largely supportive of corporatisation and shows that country people are looking forward to the improvements that it will bring.

Structure of the Business

Let me stress at the outset that the Government will continue to own State Water—there are no plans to privatise the business. Common to other such organisations, the Treasurer and the Assistant Treasurer will be the shareholders. The Minister for Energy and Utilities will be the portfolio Minister.

The shareholding Ministers will table in Parliament an annual statement of corporate intent, which sets out the corporation's financial and performance objectives.

State Water's corporate governance will be based on the standard arrangements for statutory State Owned Corporations, which are detailed in the *State Owned Corporations Act 1989*. The bill provides for a board comprising at least three and not more than eight directors, appointed by the voting shareholders in consultation with the portfolio Minister.

The board will have an appropriate mix of commercial, financial and water management skills. This has now been made clear in the bill as there was an amendment made in the other place which specifies that the persons appointed as directors are, between them, to have the necessary skills and knowledge that will enable the Corporation to meet its objectives.

The bill provides for the NSW Labor Council to be involved in the selection process for one director. The Chief Executive Officer is to also be a director.

The employment arrangements for the Chief Executive Officer are set out in the bill, and are consistent with other SOC's including the energy services corporations.

The bill provides for State Water to be issued with an operating licence which sets out the terms and conditions under which State Water is to operate. This is similar to the arrangements that apply to the Government's other water delivery businesses: Sydney Water, Hunter Water and the Sydney Catchment Authority.

The bill requires that State Water's compliance with its operating licence is audited periodically by the Independent Pricing and Regulatory Tribunal (IPART). The bill sets out appropriate sanctions if State Water contravenes its operating licence, including directives to rectify the contravention, monetary penalties, and cancellation of the operating licence in extreme circumstances.

The bill specifies State Water's area of operations, which excludes the area of operations of Sydney Water Corporation, Hunter Water Corporation and the local government areas of Wyong and Gosford.

The bill makes provision for the transfer of the Fish River Water Supply Authority into State Water. Fish River Water Supply Authority is a small government-owned water delivery business in Oberon. The transfer will occur after State Water has been corporatised, and will provide Fish River with an improved governance and accountability framework.

The governance structure of State Water will allow it to operate with greater commercial responsiveness while maintaining all the necessary checks and balances to ensure that the environmental outcomes are not compromised.

Environment

In fact, the corporatisation of State Water is a great result for the environment, because for the first time, State Water will have transparent and codified relationships with all of its regulators that clearly set out its environmental requirements.

This corporatisation is taking place against a background of increasing community awareness of the need for sustainable water use and major reforms about the way in which water is managed.

Under this Government's water reform agenda, new Water Sharing Plans under the *Water Management Act 2000* will

shortly come into effect. The plans clearly set out the detailed rules for sharing water between the environment and extractive users. Similarly, the Government is developing a strategy for addressing the effects of cold water pollution on our regulated rivers. The regulatory requirements of State Water will be clearly specified in a water management works approval to be issued by the Minister for Natural Resources.

State Water has a good record of working with NSW Fisheries, which is soon to be a part of the new Department of Primary Industries, to address the fish passage requirements of the *Fisheries Management Act 1994*. The operating licence will require State Water to enter into a memorandum of understanding with NSW Fisheries to formalise the specific environmental outcomes.

Pricing

The bill guarantees that IPART will continue to regulate bulk water prices. IPART's current determination expires on 30 June 2004. As the regulatory model for the new corporation was only recently finalised, there is insufficient time for IPART to make a new determination commencing 1 July 2004.

As announced on 18th March 2004, the next determination has been deferred for one year to 1 July 2005. The bill makes provision for the current prices to be rolled over in the interim period, with Consumer Price Index increases. This reflects the Carr Government's commitment to National Competition Policy requirements for full cost recovery.

The bill also makes provision for IPART to regulate State Water's water delivery costs separately from the resource management and regulatory costs incurred by the Department of Infrastructure, Planning and Natural Resources (DIPNR). This will provide a new level of clarity and transparency that both irrigation and environmental groups alike have been crying out for. State Water will make its own submissions to IPART for the recovery of its water delivery costs, and DIPNR will make separate submissions for the recovery of its water resource management costs.

Human Resources

State Water provides jobs for about 230 people, mostly in country NSW. The Government has worked constructively with employees and their unions throughout the corporatisation process.

The bill sets out the provisions for transferring staff to the new SOC. All State Water staff will be transferred into the new SOC and their existing accrued entitlements and conditions of employment will be preserved. Under the *State Owned Corporations Act 1989*, staff members transferred into the new corporation may for three years apply for a position in the public service as if they are still public servants.

Conclusion

In conclusion, corporatising State Water will result in governance, management and regulatory structures that will better position the business to respond effectively to the commercial and environmental challenges of the future.

I commend the bill to the House.

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