

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 28 March, 1974.*

## **New South Wales**



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No.           , 1974.**

An Act to make provisions with respect to the safety of certain works for the impounding or diversion of water for public use; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith.

BE

---

*Local Government (Safety of Dams) Amendment.*

---

5 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Local Government Short title. (Safety of Dams) Amendment Act, 1974".

2. The Local Government Act, 1919, is amended— Amendment  
of Act No.  
41, 1919.

10 (a) (i) by omitting from section 382 (1) the word Sec. 382.  
(Powers of  
council.)  
"The" and by inserting instead the words  
"Subject to this Division, the";

(ii) by omitting from section 382 (3) the word  
"The" and by inserting instead the words  
"Subject to this Division, the";

15 (iii) by inserting after section 382 (3) the  
following subsection :—

20 (4) Except with the consent of the Minister  
for Public Works and in compliance with any  
conditions subject to which the consent is  
given, a power conferred on a council by sub-  
section (1) or (3) (not being a power to  
25 protect, control, manage or regulate) or by  
section 385 shall not be exercised in respect  
of a work that is, or on completion will be,  
under its protection, control or management if  
the work is a dam for the impounding or  
diversion of water for public use or is  
appurtenant to such a work.

(b)



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*Local Government (Safety of Dams) Amendment.*

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(b) by inserting after section 382 the following sections and short headings thereto :—

Secs. 382A,  
382B.

*Works impounding or diverting water.*

5           382A. (1) The Minister for Public Works shall not give a council a consent for the purposes of section 382 (4) unless—

Minister for  
Public  
Works may  
consent to  
exercise of  
certain  
powers and  
may revoke  
such a  
consent.

10           (a) application for the consent is made by the council in writing accompanied by plans and specifications of, and documents and data in the possession of the council that are relevant to, the exercise of power in respect of which the consent is sought;

15           (b) the council has complied with any requirement of the Minister for Public Works to supply further information with respect to the application, or the requirement has been waived;

20           (c) the Minister for Public Works is satisfied that, subject to such directions as he may cause to be given and subject to such supervision as he may require, the council is competent to exercise the powers that would not be exercisable by it without the consent applied for; and

25           (d) such inspections of the work to which the application relates, or the site thereof, as the Minister for Public Works directs for the purpose of considering the application are duly made.

(2)

*Local Government (Safety of Dams) Amendment.*

5 (2) Where the Minister for Public Works has, for the purposes of section 382 (4), consented to the exercise by the council of its powers with respect to a work he may, by notice in writing to the council, revoke that consent if—

10 (a) by notice in writing, he requires the council to supply him, not later than a day specified in the notice with specified additional plans, specifications, documents or information with respect to the exercise of those powers and the council fails to comply with the requirement; or

15 (b) the council fails to comply with any directions with respect to the work that he causes to be given or fails to accept such supervision of the exercise of those powers as he requires.

*Exculpation from liability for damage.*

20 382B. Where the Minister for Public Works consents, for the purposes of section 382 (4), to the exercise by a council of a power that would not be exercisable by it without that consent, neither the Crown nor the Minister for Public Works is, by reason only of the giving of that consent, liable in respect of any damage to person or property arising out of the exercise of that power.

25

Consent to exercise of power does not give rise to liability for damage.

(c) by omitting from section 385 (1) the words "It shall" and by inserting instead the words "Subject to section 382 (4), it shall ";

Sec. 385. (Alterations of works.)

(d)



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*Local Government (Safety of Dams) Amendment.*

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(d) by inserting after section 388 the following section :—

388A. (1) Notwithstanding anything in section 388, where a work—

Powers of  
Minister  
for Public  
Works.

- 5 (a) is a dam for the impounding or diversion of water for public use and is under the protection, control or management of the council;
- 10 (b) is a work in respect of which a consent has been given to the council for the purposes of section 382 (4); or
- (c) is a work appurtenant to a work referred to in paragraph (a) or (b),
- 15 the Minister may cause an inspection of the work to be made without cost to the council.

20 (2) Where an inspection of a work is made under subsection (1), the council having the protection, control and management of the work shall, upon being given written notice so to do by the Minister for Public Works or some person authorised by him, forthwith take such measures to ensure the safety of the work as are specified in the direction.

25 (3) Where an inspection is made under subsection (1) and the Minister for Public Works is of the opinion that any works should be carried out as a result thereof, he may, whether or not a notice has been given under subsection (2)—

- 30 (a) cause to be carried out any investigation or exploration necessary for the preparation of plans and specifications of the works; and
- (b)

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*Local Government (Safety of Dams) Amendment.*

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(b) cause plans and specifications of the works to be prepared.

5 (4) Where plans and specifications have been prepared pursuant to subsection (3), the Minister for Public Works may, if he is satisfied that the council is competent to carry out the works to which they relate, by notice in writing direct the council to carry out those works within a time, and in a manner, specified in the notice.

10 (5) Where plans and specifications have been prepared pursuant to subsection (3) and—

(a) the Minister for Public Works is not satisfied that the council is competent to carry out the works to which they relate;

15 (b) the council requests the Minister for Public Works to cause those works to be carried out; or

20 (c) the council has been given a notice under subsection (4) and has failed to carry out those works within the time specified in the notice,

the Minister for Public Works may cause the works to be carried out.

25 (6) Where the Minister for Public Works gives the council notice in writing to the effect that he has decided to cause works to be carried out pursuant to subsection (5)—

(a) the works are an authorised work within the meaning of the Public Works Act, 1912; and

(b)



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*Local Government (Safety of Dams) Amendment.*

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(b) the Minister for Public Works is the constructing authority within the meaning of that Act.

5 (7) Where the Minister causes works to be carried out pursuant to subsection (4), the cost of the works (including the cost of any investigation or exploration referred to in subsection (3) (a) and of the plans and specifications referred to in subsection (3) (b)) or such part thereof as the  
10 Minister for Public Works may determine shall be paid by the council to the Minister for Public Works within such time as he specifies in a notice in writing to the council.

15 (8) Moneys that a council is liable to pay under subsection (7) are a debt due to the Minister as constructing authority.

(e) by inserting after paragraph (1) of section 407 the following paragraph :—

Sec. 407.  
(Ordinances.)

20 (1A) the construction, extension, protection, maintenance, control, management and regulation of the use of works for the impounding or diversion of water for public use and of works appurtenant thereto.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

Section 407 of the Internal Revenue Code  
relates to the treatment of certain  
debts for purposes of the  
charitable deduction.

(b) If the debt is a debt  
of a corporation, the  
charitable deduction  
shall be allowed only  
if the debt is a debt  
of a corporation which  
is a member of the  
same group as the  
contributor.

(c) If the debt is a debt  
of an individual, the  
charitable deduction  
shall be allowed only  
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of an individual who  
is a member of the  
same family as the  
contributor.

Section 407 of the Internal Revenue Code  
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(d) If the debt is a debt  
of a partnership, the  
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of a partnership which  
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No. , 1974.

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# A BILL

To make provisions with respect to the safety of certain works for the impounding or diversion of water for public use; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith.

[MR PUNCH—21 March, 1974.]

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1. This Act may be cited as the "Local Government Short title. (Safety of Dams) Amendment Act, 1974".

2. The Local Government Act, 1919, is amended— Amendment  
of Act No.  
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10 (a) (i) by omitting from section 382 (1) the word Sec. 382.  
"The" and by inserting instead the words (Powers of  
council.)  
"Subject to this Division, the";

(ii) by omitting from section 382 (3) the word  
"The" and by inserting instead the words  
"Subject to this Division, the";

15 (iii) by inserting after section 382 (3) the  
following subsection :—

20 (4) Except with the consent of the Minister  
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conditions subject to which the consent is  
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section (1) or (3) (not being a power to  
protect, control, manage or regulate) or by  
25 section 385 shall not be exercised in respect  
of a work that is, or on completion will be,  
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- (b) by inserting after section 382 the following sections and short headings thereto :—

Secs. 382A,  
382B.

*Works impounding or diverting water.*

- 5           382A. (1) The Minister for Public Works shall not give a council a consent for the purposes of section 382 (4) unless—
- 10           (a) application for the consent is made by the council in writing accompanied by plans and specifications of, and documents and data in the possession of the council that are relevant to, the exercise of power in respect of which the consent is sought ;
- 15           (b) the council has complied with any requirement of the Minister for Public Works to supply further information with respect to the application, or the requirement has been waived ;
- 20           (c) the Minister for Public Works is satisfied that, subject to such directions as he may cause to be given and subject to such supervision as he may require, the council is competent to exercise the powers that would not be exercisable by it without the consent applied for ; and
- 25           (d) such inspections of the work to which the application relates, or the site thereof, as the Minister for Public Works directs for the purpose of considering the application are duly made.

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10 (a) by notice in writing, he requires the council to supply him, not later than a day specified in the notice with specified additional plans, specifications, documents or information with respect to the exercise of those powers and the council fails to comply with the requirement; or

15 (b) the council fails to comply with any directions with respect to the work that he causes to be given or fails to accept such supervision of the exercise of those powers as he requires.

*Exculpation from liability for damage.*

20 382B. Where the Minister for Public Works consents, for the purposes of section 382 (4), to the exercise by a council of a power that would not be exercisable by it without that consent, neither the Crown nor the Minister for Public Works is, by reason only of the giving of that consent, liable in respect of any damage to person or property arising out of the exercise of that power.

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Consent to exercise of power does not give rise to liability for damage.

(c) by omitting from section 385 (1) the words "It shall" and by inserting instead the words "Subject to section 382 (4), it shall";

Sec. 385. (Alterations of works.)

(d)



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*Local Government (Safety of Dams) Amendment.*

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(d) by inserting after section 388 the following Sec. 388A.  
section :—

388A. (1) Notwithstanding anything in section Powers of  
Minister  
for Public  
Works.  
388, where a work—

5 (a) is a dam for the impounding or diversion  
of water for public use and is under the  
protection, control or management of the  
council;

10 (b) is a work in respect of which a consent has  
been given to the council for the purposes  
of section 382 (4); or

(c) is a work appurtenant to a work referred  
to in paragraph (a) or (b),  
15 the Minister may cause an inspection of the work  
to be made without cost to the council.

(2) Where an inspection of a work is  
made under subsection (1), the council having the  
protection, control and management of the work  
shall, upon being given written notice so to do by  
20 the Minister for Public Works or some person  
authorised by him, forthwith take such measures to  
ensure the safety of the work as are specified in  
the direction.

(3) Where an inspection is made under  
25 subsection (1) and the Minister for Public Works  
is of the opinion that any works should be carried  
out as a result thereof, he may, whether or not a  
notice has been given under subsection (2)—

30 (a) cause to be carried out any investigation or  
exploration necessary for the preparation of  
plans and specifications of the works; and

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*Local Government (Safety of Dams) Amendment.*

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(b) cause plans and specifications of the works to be prepared.

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10 (5) Where plans and specifications have been prepared pursuant to subsection (3) and—

- 15 (a) the Minister for Public Works is not satisfied that the council is competent to carry out the works to which they relate;
- (b) the council requests the Minister for Public Works to cause those works to be carried out; or
- 20 (c) the council has been given a notice under subsection (4) and has failed to carry out those works within the time specified in the notice,

the Minister for Public Works may cause the works to be carried out.

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(a) the works are an authorised work within the meaning of the Public Works Act, 1912; and

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*Local Government (Safety of Dams) Amendment.*

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(b) the Minister for Public Works is the constructing authority within the meaning of that Act.

5 (7) Where the Minister causes works to be carried out pursuant to subsection (4), the cost of the works (including the cost of any investigation or exploration referred to in subsection (3) (a) and of the plans and specifications referred to in subsection (3) (b)) or such part thereof as the  
10 Minister for Public Works may determine shall be paid by the council to the Minister for Public Works within such time as he specifies in a notice in writing to the council.

15 (8) Moneys that a council is liable to pay under subsection (7) are a debt due to the Minister as constructing authority.

(e) by inserting after paragraph (1) of section 407 Sec. 407.  
the following paragraph :— (Ordinances.)

20 (1A) the construction, extension, protection, maintenance, control, management and regulation of the use of works for the impounding or diversion of water for public use and of works appurtenant thereto.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974  
[10c]

the following provisions of the Act shall apply to the...  
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10. Where the Minister is satisfied that...  
10. Where the Minister is satisfied that...  
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11. The Minister may, if he is satisfied...  
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(c) by prescribing the conditions...  
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*PROOF*

**LOCAL GOVERNMENT (SAFETY OF DAMS) AMENDMENT  
BILL, 1974**

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**EXPLANATORY NOTE**

THE objects of this Bill are—

- (a) to require a council to obtain the consent of the Minister for Public Works before it exercises its powers with respect to the construction, extension or maintenance of works of water supply and appurtenant works;
- (b) to empower the Minister for Public Works to cause inspections to be made of any works of water supply, and appurtenant works, under the control of a council;
- (c) to make provision for the carrying out of any works found to be necessary as a result of an inspection referred to in paragraph (b) above;
- (d) to make provisions of a minor, consequential or ancillary nature.





No. , 1974.

# A BILL

To make provisions with respect to the safety of certain works for the impounding or diversion of water for public use; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith.

[MR PUNCH—21 March, 1974.]

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2. The Local Government Act, 1919, is amended— Amendment of Act No. 41, 1919.

10 (a) (i) by omitting from section 382 (1) the word Sec. 382.  
"The" and by inserting instead the words (Powers of council.)  
"Subject to this Division, the";

(ii) by omitting from section 382 (3) the word  
"The" and by inserting instead the words  
"Subject to this Division, the";

15 (iii) by inserting after section 382 (3) the following subsection:—

20 (4) Except with the consent of the Minister for Public Works and in compliance with any conditions subject to which the consent is given, a power conferred on a council by subsection (1) or (3) (not being a power to protect, control, manage or regulate) or by section 385 shall not be exercised in respect  
25 of a work that is, or on completion will be, under its protection, control or management if the work is a dam for the impounding or diversion of water for public use or is appurtenant to such a work.

(b)



*Local Government (Safety of Dams) Amendment.*

(b) by inserting after section 382 the following sections and short headings thereto :—

Secs. 382A, 382B.

*Works impounding or diverting water.*

- 5           382A. (1) The Minister for Public Works shall not give a council a consent for the purposes of section 382 (4) unless—
- 10           (a) application for the consent is made by the council in writing accompanied by plans and specifications of, and documents and data in the possession of the council that are relevant to, the exercise of power in respect of which the consent is sought;
- 15           (b) the council has complied with any requirement of the Minister for Public Works to supply further information with respect to the application, or the requirement has been waived;
- 20           (c) the Minister for Public Works is satisfied that, subject to such directions as he may cause to be given and subject to such supervision as he may require, the council is competent to exercise the powers that would not be exercisable by it without the consent applied for; and
- 25           (d) such inspections of the work to which the application relates, or the site thereof, as the Minister for Public Works directs for the purpose of considering the application are duly made.

Minister for Public Works may consent to exercise of certain powers and may revoke such a consent.

---

*Local Government (Safety of Dams) Amendment.*

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5 (2) Where the Minister for Public Works has, for the purposes of section 382 (4), consented to the exercise by the council of its powers with respect to a work he may, by notice in writing to the council, revoke that consent if—

10 (a) by notice in writing, he requires the council to supply him, not later than a day specified in the notice with specified additional plans, specifications, documents or information with respect to the exercise of those powers and the council fails to comply with the requirement; or

15 (b) the council fails to comply with any directions with respect to the work that he causes to be given or fails to accept such supervision of the exercise of those powers as he requires.

*Exculpation from liability for damage.*

20 382B. Where the Minister for Public Works consents, for the purposes of section 382 (4), to the exercise by a council of a power that would not be exercisable by it without that consent, neither the Crown nor the Minister for Public Works is, by reason only of the giving of that consent, liable in respect of any damage to person or property arising out of the exercise of that power.

Consent to exercise of power does not give rise to liability for damage.

25 (c) by omitting from section 385 (1) the words "It shall" and by inserting instead the words "Subject to section 382 (4), it shall ";

Sec. 385. (Alterations of works.)

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(d) by inserting after section 388 the following section :—

388A. (1) Notwithstanding anything in section 388, where a work—

Powers of  
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- 5 (a) is a dam for the impounding or diversion of water for public use and is under the protection, control or management of the council;
- 10 (b) is a work in respect of which a consent has been given to the council for the purposes of section 382 (4); or
- 15 (c) is a work appurtenant to a work referred to in paragraph (a) or (b),  
the Minister may cause an inspection of the work to be made without cost to the council.

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25 (3) Where an inspection is made under subsection (1) and the Minister for Public Works is of the opinion that any works should be carried out as a result thereof, he may, whether or not a notice has been given under subsection (2)—

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*Local Government (Safety of Dams) Amendment.*

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- (b) cause plans and specifications of the works to be prepared.
- (4) Where plans and specifications have been prepared pursuant to subsection (3), the Minister for Public Works may, if he is satisfied that the council is competent to carry out the works to which they relate, by notice in writing direct the council to carry out those works within a time, and in a manner, specified in the notice.
- (5) Where plans and specifications have been prepared pursuant to subsection (3) and—
- (a) the Minister for Public Works is not satisfied that the council is competent to carry out the works to which they relate;
- (b) the council requests the Minister for Public Works to cause those works to be carried out; or
- (c) the council has been given a notice under subsection (4) and has failed to carry out those works within the time specified in the notice,
- the Minister for Public Works may cause the works to be carried out.
- (6) Where the Minister for Public Works gives the council notice in writing to the effect that he has decided to cause works to be carried out pursuant to subsection (5)—
- (a) the works are an authorised work within the meaning of the Public Works Act, 1912; and
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(b) the Minister for Public Works is the constructing authority within the meaning of that Act.

5 (7) Where the Minister causes works to be carried out pursuant to subsection (4), the cost of the works (including the cost of any investigation or exploration referred to in subsection (3) (a) and of the plans and specifications referred to in subsection (3) (b)) or such part thereof as the  
10 Minister for Public Works may determine shall be paid by the council to the Minister for Public Works within such time as he specifies in a notice in writing to the council.

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(e) by inserting after paragraph (1) of section 407 Sec. 407.  
the following paragraph :— (Ordinances.)

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New South Wales



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. 30, 1974.**

An Act to make provisions with respect to the safety of certain works for the impounding or diversion of water for public use; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 19th April, 1974.]

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*Local Government (Safety of Dams) Amendment.*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.      1. This Act may be cited as the "Local Government (Safety of Dams) Amendment Act, 1974".

Amendment of Act No. 41, 1919.      2. The Local Government Act, 1919, is amended—

Sec. 382. (Powers of council.)      (a) (i) by omitting from section 382 (1) the word "The" and by inserting instead the words "Subject to this Division, the";

(ii) by omitting from section 382 (3) the word "The" and by inserting instead the words "Subject to this Division, the";

(iii) by inserting after section 382 (3) the following subsection:—

(4) Except with the consent of the Minister for Public Works and in compliance with any conditions subject to which the consent is given, a power conferred on a council by subsection (1) or (3) (not being a power to protect, control, manage or regulate) or by section 385 shall not be exercised in respect of a work that is, or on completion will be, under its protection, control or management if the work is a dam for the impounding or diversion of water for public use or is appurtenant to such a work.

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- (b) the council fails to comply with any directions with respect to the work that he causes to be given or fails to accept such supervision of the exercise of those powers as he requires.

*Exculpation from liability for damage.*

Consent to exercise of power does not give rise to liability for damage.

382B. Where the Minister for Public Works consents, for the purposes of section 382 (4), to the exercise by a council of a power that would not be exercisable by it without that consent, neither the Crown nor the Minister for Public Works is, by reason only of the giving of that consent, liable in respect of any damage to person or property arising out of the exercise of that power.

Sec. 385.  
(Alterations of works.)

- (c) by omitting from section 385 (1) the words "It shall" and by inserting instead the words "Subject to section 382 (4), it shall ";

(d)



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*Local Government (Safety of Dams) Amendment.*

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- (d) by inserting after section 388 the following Sec. 388A.  
section :—

388A. (1) Notwithstanding anything in section Powers of  
Minister  
for Public  
Works.  
388, where a work—

- (a) is a dam for the impounding or diversion of water for public use and is under the protection, control or management of the council;
- (b) is a work in respect of which a consent has been given to the council for the purposes of section 382 (4) ; or
- (c) is a work appurtenant to a work referred to in paragraph (a) or (b),

the Minister may cause an inspection of the work to be made without cost to the council.

(2) Where an inspection of a work is made under subsection (1), the council having the protection, control and management of the work shall, upon being given written notice so to do by the Minister for Public Works or some person authorised by him, forthwith take such measures to ensure the safety of the work as are specified in the direction.

(3) Where an inspection is made under subsection (1) and the Minister for Public Works is of the opinion that any works should be carried out as a result thereof, he may, whether or not a notice has been given under subsection (2)—

- (a) cause to be carried out any investigation or exploration necessary for the preparation of plans and specifications of the works; and
- (b)

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*Local Government (Safety of Dams) Amendment.*

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- (b) cause plans and specifications of the works to be prepared.

(4) Where plans and specifications have been prepared pursuant to subsection (3), the Minister for Public Works may, if he is satisfied that the council is competent to carry out the works to which they relate, by notice in writing direct the council to carry out those works within a time, and in a manner, specified in the notice.

(5) Where plans and specifications have been prepared pursuant to subsection (3) and—

- (a) the Minister for Public Works is not satisfied that the council is competent to carry out the works to which they relate;
- (b) the council requests the Minister for Public Works to cause those works to be carried out; or
- (c) the council has been given a notice under subsection (4) and has failed to carry out those works within the time specified in the notice,

the Minister for Public Works may cause the works to be carried out.

(6) Where the Minister for Public Works gives the council notice in writing to the effect that he has decided to cause works to be carried out pursuant to subsection (5)—

- (a) the works are an authorised work within the meaning of the Public Works Act, 1912; and

(b)



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*Local Government (Safety of Dams) Amendment.*

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(b) the Minister for Public Works is the constructing authority within the meaning of that Act.

(7) Where the Minister causes works to be carried out pursuant to subsection (4), the cost of the works (including the cost of any investigation or exploration referred to in subsection (3) (a) and of the plans and specifications referred to in subsection (3) (b)) or such part thereof as the Minister for Public Works may determine shall be paid by the council to the Minister for Public Works within such time as he specifies in a notice in writing to the council.

(8) Moneys that a council is liable to pay under subsection (7) are a debt due to the Minister as constructing authority.

(e) by inserting after paragraph (1) of section 407 the following paragraph :—

Sec. 407.  
(Ordinances.)

(1A) the construction, extension, protection, maintenance, control, management and regulation of the use of works for the impounding or diversion of water for public use and of works appurtenant thereto.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

(b) (5) - Confidentiality of Information  
The following information is confidential:

- (1) The identity of the donor.
- (2) The amount of the contribution.
- (3) The date of the contribution.
- (4) The name of the recipient.

CONFIDENTIAL



*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 3 April, 1974.*

## **New South Wales**



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. 30, 1974.**

An Act to make provisions with respect to the safety of certain works for the impounding or diversion of water for public use; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 19th April, 1974.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

**J. H. BROWN,**  
*Chairman of Committees of the Legislative Assembly.*



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*Local Government (Safety of Dams) Amendment.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.      1. This Act may be cited as the "Local Government (Safety of Dams) Amendment Act, 1974".

Amendment of Act No. 41, 1919.      2. The Local Government Act, 1919, is amended—

- Sec. 382. (Powers of council.)
- (a) (i) by omitting from section 382 (1) the word "The" and by inserting instead the words "Subject to this Division, the";
- (ii) by omitting from section 382 (3) the word "The" and by inserting instead the words "Subject to this Division, the";
- (iii) by inserting after section 382 (3) the following subsection :—

(4) Except with the consent of the Minister for Public Works and in compliance with any conditions subject to which the consent is given, a power conferred on a council by subsection (1) or (3) (not being a power to protect, control, manage or regulate) or by section 385 shall not be exercised in respect of a work that is, or on completion will be, under its protection, control or management if the work is a dam for the impounding or diversion of water for public use or is appurtenant to such a work.

(b)



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*Local Government (Safety of Dams) Amendment.*

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- (b) by inserting after section 382 the following sections and short headings thereto :—

Secs. 382A,  
382B.

*Works impounding or diverting water.*

382A. (1) The Minister for Public Works shall not give a council a consent for the purposes of section 382 (4) unless—

Minister for  
Public  
Works may  
consent to  
exercise of  
certain  
powers and  
may revoke  
such a  
consent.

- (a) application for the consent is made by the council in writing accompanied by plans and specifications of, and documents and data in the possession of the council that are relevant to, the exercise of power in respect of which the consent is sought ;
- (b) the council has complied with any requirement of the Minister for Public Works to supply further information with respect to the application, or the requirement has been waived ;
- (c) the Minister for Public Works is satisfied that, subject to such directions as he may cause to be given and subject to such supervision as he may require, the council is competent to exercise the powers that would not be exercisable by it without the consent applied for ; and
- (d) such inspections of the work to which the application relates, or the site thereof, as the Minister for Public Works directs for the purpose of considering the application are duly made.

(2)



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*Local Government (Safety of Dams) Amendment.*

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(2) Where the Minister for Public Works has, for the purposes of section 382 (4), consented to the exercise by the council of its powers with respect to a work he may, by notice in writing to the council, revoke that consent if—

- (a) by notice in writing, he requires the council to supply him, not later than a day specified in the notice with specified additional plans, specifications, documents or information with respect to the exercise of those powers and the council fails to comply with the requirement; or
- (b) the council fails to comply with any directions with respect to the work that he causes to be given or fails to accept such supervision of the exercise of those powers as he requires.

*Exculpation from liability for damage.*

Consent to exercise of power does not give rise to liability for damage.

382B. Where the Minister for Public Works consents, for the purposes of section 382 (4), to the exercise by a council of a power that would not be exercisable by it without that consent, neither the Crown nor the Minister for Public Works is, by reason only of the giving of that consent, liable in respect of any damage to person or property arising out of the exercise of that power.

Sec. 385.  
(Alterations of works.)

- (c) by omitting from section 385 (1) the words "It shall" and by inserting instead the words "Subject to section 382 (4), it shall";

(d)



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*Local Government (Safety of Dams) Amendment.*

---

(d) by inserting after section 388 the following Sec. 388A.  
section :—

388A. (1) Notwithstanding anything in section Powers of  
Minister  
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Works.  
388, where a work—

- (a) is a dam for the impounding or diversion of water for public use and is under the protection, control or management of the council;
- (b) is a work in respect of which a consent has been given to the council for the purposes of section 382 (4) ; or
- (c) is a work appurtenant to a work referred to in paragraph (a) or (b),

the Minister may cause an inspection of the work to be made without cost to the council.

(2) Where an inspection of a work is made under subsection (1), the council having the protection, control and management of the work shall, upon being given written notice so to do by the Minister for Public Works or some person authorised by him, forthwith take such measures to ensure the safety of the work as are specified in the direction.

(3) Where an inspection is made under subsection (1) and the Minister for Public Works is of the opinion that any works should be carried out as a result thereof, he may, whether or not a notice has been given under subsection (2)—

- (a) cause to be carried out any investigation or exploration necessary for the preparation of plans and specifications of the works; and
- (b)

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*Local Government (Safety of Dams) Amendment.*

---

- (b) cause plans and specifications of the works to be prepared.

(4) Where plans and specifications have been prepared pursuant to subsection (3), the Minister for Public Works may, if he is satisfied that the council is competent to carry out the works to which they relate, by notice in writing direct the council to carry out those works within a time, and in a manner, specified in the notice.

(5) Where plans and specifications have been prepared pursuant to subsection (3) and—

- (a) the Minister for Public Works is not satisfied that the council is competent to carry out the works to which they relate;
- (b) the council requests the Minister for Public Works to cause those works to be carried out; or
- (c) the council has been given a notice under subsection (4) and has failed to carry out those works within the time specified in the notice,

the Minister for Public Works may cause the works to be carried out.

(6) Where the Minister for Public Works gives the council notice in writing to the effect that he has decided to cause works to be carried out pursuant to subsection (5)—

- (a) the works are an authorised work within the meaning of the Public Works Act, 1912;  
and

(b)



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*Local Government (Safety of Dams) Amendment.*

---

(b) the Minister for Public Works is the constructing authority within the meaning of that Act.

(7) Where the Minister causes works to be carried out pursuant to subsection (4), the cost of the works (including the cost of any investigation or exploration referred to in subsection (3) (a) and of the plans and specifications referred to in subsection (3) (b)) or such part thereof as the Minister for Public Works may determine shall be paid by the council to the Minister for Public Works within such time as he specifies in a notice in writing to the council.

(8) Moneys that a council is liable to pay under subsection (7) are a debt due to the Minister as constructing authority.

(e) by inserting after paragraph (1) of section 407 the following paragraph :—

Sec. 407.  
(Ordinances.)

(1A) the construction, extension, protection, maintenance, control, management and regulation of the use of works for the impounding or diversion of water for public use and of works appurtenant thereto.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 19th April, 1974.*

DECLARATION

I, the undersigned, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the Board of Health of the City of New York.

Witness my hand and seal this 1st day of January, 1901.

JOHN W. WARD, Mayor of the City of New York.

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