

2005

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

WATER RESOURCES AMENDMENT BILL 2005

SUPPLEMENTARY EXPLANATORY STATEMENT

Circulated by authority of the
Chief Minister
Mr Jon Stanhope MLA

This Explanatory Statement is supplementary to the Explanatory Statement for the *Water Resources Amendment Bill 2005* (the Act) as introduced into the Legislative Assembly. It provides a more detailed outline and explanation of the Bill in its entirety. This includes additional proposed amendments.

Overview of Bill

The purpose of this Bill is to make amendments to the *Water Resources Act 1998* to establish a moratorium on granting licences so that there is an opportunity to review the criteria under which access to water is granted and to enable public water utilities to be licensed to take water in a manner required to effectively manage the ACT domestic supply.

Summary

The substantive changes in the Bill are:

Introducing a moratorium

The Bill establishes a moratorium on the granting of further licenses or allocations to access surface or ground water resources. The moratorium on the granting of further access to water will provide an opportunity to review the criteria under which access to water is granted. The moratorium will suspend provisions in relation to different matters or different classes of matters if for example an application was made for an allocation, licence or permit mentioned in one of the suspended provisions.

Licences for public water utilities

The Bill will allow the Environment Protection Authority (EPA) to issue a public water utility a licence that allows the public water utility to take water in a quantity greater than that expressed in any particular water allocation from either the same sub-catchment to which their application applies or some other sub-catchment in any other waterway for which the utility holds an allocation and a licence to take water.

A utility may only take water in a quantity greater than that expressed in any particular water allocation if the environmental flow required under the guidelines and the licence is maintained in each waterway from which the water is taken and the total volume of water taken by the utility is not greater than the total volume stated in all allocations held by the utility.

Exceptions to moratorium

This section establishes a number of exemptions in relation to a grant of a water allocation to a person, a water supply utility, licence granted under a court order or an applicant for a bore construction permit who holds a licence to take water from an existing bore and is applying for a permit for works on that bore or construction of a replacement bore.

Revenue/Cost Implications

Nil.

Summary on Clauses

Clause 1 – Name of Act

This Act is the *Water Resources Amendment Act 2005*.

Clause 2 – Commencement

This clause provides that this Act commences on the day after its notification day.

Clause 3 – Legislation amendment

This Act amends the *Water Resources Act 1998*.

Clause 4 – New section 35A – Licences for utilities

This clause provides that a utility that has an allocation and a licence to take water from a waterway may take the water under the allocation from the sub-catchment stated in the allocation or any place in the waterway downstream from that sub-catchment or any sub-catchment in any other waterway for which the utility holds an allocation and a licence to take water.

This clause also provides that a utility may act under section 35(1)(b) and (c) only if the environmental flow required under the guidelines and the licence is maintained in each waterway from which the water is taken and the total volume of water taken by the utility is not greater than the total volume stated in all allocations held by the utility.

Clause 5 – New sections 63A and 63B

New section 63A and 63B will be inserted in Part 9 of the Act.

Section 63A – Moratorium on granting licences etc

This section establishes a moratorium to suspend provisions under section 28(1) to (10), section 35(1) to (4), section 44(1) and (2) and section 47(2), (3) and (6) in relation to different matters or decisions under the suspended provisions. An application cannot be made for an allocation, licence or permit under the suspended provisions and a decision cannot be made to grant or refuse to grant an allocation, licence or permit under the suspended provisions.

This section does not affect the operation of any allocation, licence or permit if it was granted before the commencement of the provision or is granted after the commencement of the provision.

Section 63B – Exceptions to Moratorium

This section establishes a number of exceptions. These include an exception in relation to a grant of a water allocation to a person if the grant is for an allocation of ground water under particular land, the person holds or held a licence under section 35 of the Act to take ground water under the land, and the land is subject to a further lease of Territory land granted after the commencement of section 13. An exception is also included if the allocation is granted under a court or tribunal order made in a proceeding started before the commencement of this section.

An exception is provided in relation to an application for a licence to take ground water under particular land if the applicant holds or held a licence to take ground water under the land and the land is subject to further lease of the territory land.

This section also provides an exception in relation to an application for a licence to take ground water under particular land if the applicant holds an existing licence under section 35 of the Act to take a volume of ground water under the land that is not more than the volume of water stated in the existing licence and the new licence would have effect once the existing licence expires.

An exception is provided to an application for a licence to take surface water from a particular place if the applicant holds a licence under section 35 to take surface water from the place that is not more than the volume of water stated in the existing licence and the new licence would have effect after the end of the term of the existing licence.

In addition, this clause does not suspend an application by a water supply utility for a licence to take water or if the licence is granted under a court or tribunal order in relation to an application for a licence to take water. An exception also applies for a bore construction permit by an applicant who holds a licence to take water from an existing bore and is applying for a permit for works on that bore or construction of a replacement bore. If the permit is granted under a court or tribunal order made in a proceeding started before the commencement of this section the operation of section 44(1) and (2) is not suspended.

The operation of section 47(2), (3) and (6) is not suspended in relation to an application for a recharge licence if the licence is granted under a court or tribunal order made in a proceeding started before the commencement of this section.

Section 63C – End of Moratorium

This section provides that section 63A and section 63B expire 2 years after they commence.