

2005

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

WATER RESOURCES AMENDMENT BILL 2005

EXPLANATORY STATEMENT

Circulated by authority of the
Chief Minister
Mr Jon Stanhope MLA

This Explanatory Statement relates to the *Water Resources Amendment Bill 2005* (the Act) as introduced into the Legislative Assembly.

Overview of Bill

The purpose of this Bill is to make amendments to the *Water Resources Act 1998* to enable public water utilities to be licensed to take water in a manner required to effectively manage the ACT domestic supply and to establish a moratorium on further granting of access of water.

Summary

The substantive changes in the Bill are:

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 catchment to which the applications apply or some other catchment.

Introducing a moratorium

The Bill establishes the power to declare a moratorium on the granting of further licenses or allocations to access surface or ground water resources. A moratorium on the granting of further access to water would provide an opportunity to review the criteria under which access to water is granted. The Bill would allow a moratorium to suspend provisions in relation to different matters or different classes of matters if for example a license needed to be reissued to permit ongoing use.

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 to 63 C

New section 63A to 63C will be inserted in Part 9 of the Act.

Section 63A – Moratorium on granting licences etc

This clause provides that the Minister may declare that section 28(1) to (6), section 35(1) to (4), section 44(1) and (2), section 47(2) to (6) and section 77(3) of the *Water Resources Act 1998* are suspended for a period or periods stated in the declaration.

A declaration is a disallowable instrument.

Section 63B – Declaration cannot be challenged

This clause provides that a declaration made by the Minister under clause 63A does not create a right and once a decision is made it is final and conclusive. A right means any right or interest, whether public or private for the purposes of this section.

A decision under clause 63B(2) does not apply to a review of decisions under clause 77 or a territory law relating to the review of decisions that is prescribed by

regulations. This clause also provides that this section has affect, despite any other territory law, whether passed before or after the commencement of this Act.

Clause 6 – Administrative Decisions (Judicial Review) Act 1989, schedule 1, new clause 10

This clause provides that the *Administrative Decisions (Judicial Review) Act 1989* does not apply to any decisions made by the Minister under section 63A of the *Water Resources Act 1998*.