

WATER (AMENDMENT) ACT, 1981, No. 49

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 49, 1981.

An Act to amend the Water Act, 1912, to limit the objections which may be made to applications for licenses, permits, authorities or group licenses made under that Act. [Assented to, 15th May, 1981.]

Water (Amendment).

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 "Water (Amendment) Act, 1981".

Principal Act.

2. The Water Act, 1912, is referred to in this Act as the Principal Act.

Amendment of Act No. 44, 1912.

3. The Principal Act is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 5 (1), definition of "Local occupier"—

After the definition of "Licensed work", insert:—

"Local occupier", in relation to an application made under this Part, means an occupier of land which is wholly or partly situated within the same proclaimed local area as the land on which the work the subject of the application is or is proposed to be situated, but does not include a statutory authority, statutory instrumentality or government department of any State other than the State of New South Wales or a Minister of the Crown for any State other than the State of New South Wales.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Section 5 (1), definition of “Proclaimed local area”—

After the definition of “Permit”, insert:—

“Proclaimed local area” means an area declared by the Governor pursuant to subsection (4) to be a proclaimed local area.

- (c) Section 5 (1), definition of “Statutory authority”—

After the definition of “River”, insert:—

“Statutory authority” means a statutory authority, statutory instrumentality or government department of the State of New South Wales and includes a Minister of the Crown for the State of New South Wales.

- (d) Section 5 (4)—

After section 5 (3), insert:—

(4) The Governor may, by proclamation published in the Gazette—

- (a) declare any area to be a proclaimed local area;
- (b) vary or revoke, whether as to the whole or any part, any such proclamation; or
- (c) amend the boundaries of any proclaimed local area.

- (2) (a) Section 11 (2), (2A), (2B), (2C)—

Omit section 11 (2), insert instead:—

(2) Where, at the time the application is made, the work is, or is proposed to be, situated within a proclaimed local area, any—

- (a) local occupier; or
- (b) statutory authority,

whose interests may be affected by the granting of the application may, within 28 days after the date of the publication of the later of the advertisements referred to in subsection (1), lodge with the Commission an objection thereto.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2A) Where, at the time the application is made, the work is not, or is not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by the granting of the application may, within 28 days after the date of the publication of the later of the advertisements referred to in subsection (1), lodge with the Commission an objection thereto.

(2B) An objection referred to in subsection (2) or (2A) shall be in writing and shall specify the grounds of objection.

(2C) If, after the application is advertised—

- (a) the applicant amends the application as advertised;
and
- (b) in the opinion of the Commission the changes warrant the advertising of the application as amended,

the Commission shall advertise the amended application in the manner referred to in subsection (1) and—

- (c) the provisions of this section shall apply to the amended application as if it were a new application;
and
- (d) the application as originally made shall be deemed to be withdrawn.

(b) Section 11 (5)—

After “subsection (2)”, insert “or (2A)”.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 11 (5)—

Omit “The Commission and all persons whose interests appear to be affected by any matter the subject of the inquiry by the local land board or stipendiary magistrate shall be permitted to attend at the inquiry and be heard in support of, or in opposition to, the matter.”, insert instead:—

The Commission and—

(a) where, at the time the application is made, the work is, or is proposed to be, situated within a proclaimed local area, any—

(i) local occupier; or

(ii) statutory authority,

whose interests may be affected by any matter the subject of the inquiry; or

(b) where, at the time the application is made, the work is not, or is not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by any matter the subject of the inquiry,

shall be permitted to be heard at the inquiry, in support of, or in opposition to, the matter.

(d) Section 11 (6)—

After “person”, insert “or authority”.

(3) (a) Section 13A (3)—

Omit “subsections (1) and (2), paragraph (a) of subsection (3) and subsection (4) of section 11”, insert instead “section 11 (1), (2), (2A), (2B), (2C), (3) (a) and (4)”.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 13A (4)—

Omit “The Commission and all persons whose interests appear to be affected by the granting of the application shall be permitted to attend at the inquiry and be heard in support of, or in opposition to, the granting of the application.”, insert instead:—

The Commission, the owners and occupiers of the intervening lands and—

- (a) where, at the time the application is made, the supply or conveying works are, or are proposed to be, situated within a proclaimed local area, any—

(i) local occupier; or

(ii) statutory authority,

whose interests may be affected by the granting of the application; or

- (b) where, at the time the application is made, the supply or conveying works are not, or are not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by the granting of the application,

shall be permitted to attend at the inquiry and be heard in support of, or in opposition to, the granting of the application.

(c) Section 13A (4)—

Omit “stipendiary magistrate in support of”, insert instead “stipendiary magistrate and was heard in support of”.

(d) Section 13A (4)—

After “at the inquiry” where thirdly occurring, insert “and was heard”.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Section 18G (b)—

Omit the paragraph, insert instead:—

(b) requesting—

- (i) where, at the time the application is made, the work is, or is proposed to be, situated within a proclaimed local area, any local occupier or statutory authority (being an occupier or an authority whose interests may be affected by the granting of the application); or
- (ii) where, at the time the application is made, the work is not, or is not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by the granting of the application,

to inform the Commission whether he or it supports the application or objects thereto and if he or it does so object the reasons therefor; and

(5) (a) Section 20A (1)—

Omit “Any person objecting to the granting of the application may, within twenty-eight days after the publication of the later of such advertisements, lodge with the Commission an objection thereto. Every such objection shall be in writing and shall specify the grounds of objection.”

(b) Section 20A (1A)–(1D)—

After section 20A (1), insert:—

(1A) Where, at the time the application is made, the work is, or is proposed to be, situated within a proclaimed local area, any—

- (a) local occupier; or
- (b) statutory authority,

whose interests may be affected by the granting of the application may, within 28 days after the date of publication of the later of the advertisements referred to in subsection (1), lodge with the Commission an objection thereto.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(1B) Where, at the time the application is made, the work is not, or is not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by the granting of the application may, within 28 days after the date of the later of the advertisements referred to in subsection (1), lodge with the Commission an objection thereto.

(1C) An objection referred to in subsection (1A) or (1B) shall be in writing and shall specify the grounds of objection.

(1D) If, after the application is advertised—

(a) the applicant amends the application as advertised;
and

(b) in the opinion of the Commission the changes warrant the advertising of the application as amended,

the Commission shall advertise the amended application in the manner referred to in subsection (1) and—

(c) the provisions of this section shall apply to the amended application as if it were a new application;
and

(d) the application as originally made shall be deemed to be withdrawn.

(c) Section 20A (2)—

Omit “subsection (1)”, insert instead “subsection (1A) or (1B)”.

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 20A (2)—

Omit “The Commission and all persons whose interests appear to be affected by the granting of the application shall be permitted to attend at the inquiry and be heard in support of, or in opposition to, the granting of the application.”, insert instead:—

The Commission and—

(a) where, at the time the application is made, the work is, or is proposed to be, situated within a proclaimed local area, any—

(i) local occupier; or

(ii) statutory authority,

whose interests may be affected by the granting of the application; or

(b) where, at the time the application is made, the work is not, or is not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by the granting of the application,

shall be permitted to attend at the inquiry and be heard in support of, or in opposition to, the granting of the application.

(6) Section 20B (1)—

Omit “subsection (1)”, insert instead “subsection (1A) or (1B)”.

(7) (a) Section 20CA (2)—

Omit “subsection (1)”, insert instead “subsection (1), (1A), (1B), (1C) and (1D)”.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 20CA (4) (d)—

Omit the paragraph, insert instead:—

(d) the Commission, the owners and occupiers of the intervening lands and—

(i) where, at the time the application is made, the supply or conveying works are, or are proposed to be, situated within a proclaimed local area, any local occupier or statutory authority (being an occupier or an authority whose interests may be affected by the granting of the application);
or

(ii) where, at the time the application is made, the supply or conveying works are not, or are not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by the granting of the application,

shall be permitted to attend at the inquiry and be heard in support of, or in opposition to, the granting of the application;

(c) Section 20CA (4) (h)—

After “inquiry”, insert “and was heard”.

(8) (a) Section 20E (2) (b)—

Omit “Any person objecting to the granting of the application may, within twenty-eight days after the publication of the later of such advertisements, lodge with the Commission an objection thereto. Every such objection shall be in writing and shall specify the grounds of objection.”

Water (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 20E (2) (b1)–(b4)—

After section 20E (2) (b), insert:—

(b1) Where the work is, or is proposed to be, situated within a proclaimed local area, any—

(i) local occupier; or

(ii) statutory authority,

whose interests may be affected by the granting of the application may, within 28 days after the publication of the later of such advertisements, lodge with the Commission an objection thereto.

(b2) Where the work is not, or is not proposed to be, situated within a proclaimed local area, any person whose interests may be affected by the granting of the application may, within 28 days after the publication of the later of the advertisements, lodge with the Commission an objection thereto.

(b3) An objection referred to in paragraph (b1) or (b2) shall be in writing and shall specify the grounds of objection.

(b4) If, after the application is advertised—

(i) the applicant amends the application as advertised; and

(ii) in the opinion of the Commission the changes warrant the advertising of the application as amended,

the Commission shall advertise the amended application in the manner referred to in subsection (1) and—

(iii) the provisions of this section shall apply to the amended application as if it were a new application; and

(iv) the application as originally made shall be deemed to be withdrawn.

Water (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 20E (2) (c)—

Omit “paragraph (b)”, insert instead “paragraph (b1) or (b2)”.

(d) Section 20E (2) (d)—

Omit “paragraph (b)”, insert instead “paragraph (b1) or (b2)”.

(9) Section 20Q (2)—

After “(2) (b)”, insert “, (b1), (b2)”.
