

LAKE ILLAWARRA AUTHORITY BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to establish the Lake Illawarra Authority for the purpose of improving the environment of Lake Illawarra, its foreshores and environs.

PART 1—PRELIMINARY

Clause 1 (Short title) specifies the short title of the proposed Act.

Clause 2 (Commencement) provides for the proposed Act to commence on a day to be appointed by proclamation of the Governor-in-Council published in the Gazette.

Clause 3 (Effect of other Acts) provides that, in the event of an inconsistency, the provisions of the proposed Act shall prevail over any other Act (with certain exceptions).

Clause 4 (Act binds the Crown) provides that the Act binds the Crown.

Clause 5 (Interpretation) defines certain expressions for the purposes of the proposed Act. In particular, "development area" means the land described in Schedule 1 to the proposed Act and "development works" means the works described in Schedule 2 to the proposed Act and any additional works declared to be such by the regulations.

PART 2—CONSTITUTION OF THE LAKE ILLAWARRA AUTHORITY

Clause 6 (The Authority) constitutes the Lake Illawarra Authority as a corporation. The Authority is to be subject to the control and direction of the Minister and is a statutory body representing the Crown.

The authority is to consist of 7 part-time members who are to be appointed by the Minister. Of the members, 1 each will be appointed from panels of 3 persons nominated by the Wollongong City Council and Shellharbour Municipal Council. If nominations from a council are not made in the manner and within the time notified by the Minister, the Minister may appoint a member who is then deemed to have been duly nominated by the council. Other provisions relating to the members and the procedure of the Authority are contained in Schedules 3 and 4 to the proposed Act.

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Clause 7 (Staff of Authority) enables the Authority to arrange for the use of the services of the staff or facilities of a government department, administrative office or public authority.

Clause 8 (Functions of Executive Officer) states that the Executive Officer is responsible for management of the affairs of the Authority subject to and in accordance with any directions of the Authority.

Clause 9 (Advisory committees) empowers the Authority to establish advisory committees to enable it to carry out its functions.

PART 3—FUNCTIONS OF THE AUTHORITY

Clause 10 (Functions of the Authority—generally) imposes on the Authority the duty of carrying out the development works. The Authority is empowered to do all things necessary for the carrying out of the works, subject to any prior rights to extract sand or other material.

Clause 11 (Application of Public Works Act 1912)—

- (a) provides that the development works are deemed to be an authorised work within the meaning of the Public Works Act 1912;
- (b) stipulates that the Minister shall be the Constructing Authority within the meaning of that Act; and
- (c) applies the provisions of that Act (with certain exceptions) to the carrying out of those works.

Clause 12 (Agreements for extractive operations) authorises the Authority to enter into and give effect to agreements for the extraction of sand or other material from the development area.

Clause 13 (Leases and licences) provides that the Authority may grant leases of or licences for any part of the development area for the conduct of a commercial activity, the extraction of sand or other material or for any other prescribed purpose.

Clause 14 (Certain work etc. requires consent of Authority) forbids the carrying out of, or any alteration to, any work or the construction or erection of, or any alteration to, any structure within the development area, unless, in addition to any other necessary consents or approvals, the consent of the Authority is obtained.

Clause 15 (Unauthorised works or structures) empowers an authorised person to enter any land on which any work or structure has been, or is being, carried out, constructed, erected or altered in contravention of proposed section 14. The work or structure may be demolished or altered by an authorised person and the cost of such demolition or alteration may be recovered from the owner or occupier by the Authority.

Clause 16 (Appeals) provides that an applicant for a consent under proposed section 14 who is aggrieved by any decision of, or neglect or delay by, the Authority, may appeal to the Land and Environment Court within the prescribed time or such longer time as that Court may allow.

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PART 4—VESTING, ACQUISITION AND DISPOSAL OF LAND

Clause 17 (Vesting of the development area in the Authority) vests certain public lands (namely the “development area” which, with minor exceptions, consists of Lake Illawarra) in the Authority. The land vested in the Authority is freed and discharged from any trusts and other interests (except any lease or licence or certain other rights of occupancy) affecting it before the commencement of the proposed Act. The only land that may be vested in the Authority under the proposed section is—

- (a) Crown land, within the meaning of the Crown Lands Consolidation Act 1913;
- (b) land held on behalf of the Crown by a Minister;
- (c) land held by a Constructing Authority, within the meaning of the Public Works Act 1912;
- (d) land held by the corporation constituted by the Environmental Planning and Assessment Act 1979; and
- (e) land held by a council, within the meaning of the Local Government Act 1919.

Clause 18 (Acquisition by appropriation or resumption) enables the Minister to acquire land and any estate or interest in land under the Public Works Act 1912 for the purposes of the proposed Act.

Clause 19 (Certain land vested in the Authority may become Crown land) enables the Authority to return any part of the development area which was not formerly owned by a council to Crown land status so that it may be dealt with under the Crown Lands Consolidation Act 1913.

Clause 20 (Return of land to council) enables the Authority to return to a local government council any part of the development area formerly owned by the council.

Clause 21 (Rents and profits of vested land) makes the Authority or its nominee entitled to the rents and profits from any land vested in it.

PART 5—FINANCIAL PROVISIONS

Clause 22 (Staging and financing of development works) limits the carrying out of the development works to stages approved by the Minister. The Authority may refuse to carry out a stage of the works if financial arrangements satisfactory to the Minister have not been made between the Authority and the local government councils in whose areas the development works are to be carried out.

Clause 23 (Financial year) specifies the financial year of the Authority.

PART 6—GENERAL

Clause 24 (Extension or restriction of development area) enables the Governor-in-Council, by notification in the Gazette, to extend or restrict the development area.

Clause 25 (Authority may take over certain agreements) permits the Authority to take over from local councils certain agreements relating to extractive operations within the development area.

Clause 26 (Application of Environmental Planning and Assessment Act 1979) provides that Part V (Environmental assessment) of that Act applies to the carrying out of any of the development works. An approval under Part IV of that Act is not required for the carrying out of the works.

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PART 7—MISCELLANEOUS

Clause 27 (Disclosure of information) makes it an offence to disclose information obtained in connection with the administration or execution of the proposed Act. The maximum penalty is 20 penalty units (\$2,000) or imprisonment for 6 months, or both.

Clause 28 (Delegation by Authority and Executive Officer) enables the Authority and the Executive Officer to delegate their functions under the proposed Act.

Clause 29 (Service of documents) provides for service of documents on the Authority.

Clause 30 (Recovery of charges etc. by Authority and others) enables charges or fees payable to the Authority or its nominee to be recovered as a debt in a court of competent jurisdiction.

Clause 31 (Proof of certain matters not required) is an evidentiary provision relating to the constitution and procedure of the Authority.

Clause 32 (Regulations) empowers the Governor-in-Council to make regulations under the proposed Act. In particular, the regulations may make provision for or with respect to the use and custody of the common seal of the Authority and the use of the development area.

Clause 33 (Proceedings for offences) provides that proceedings for an offence against the proposed Act or regulations are to be dealt with summarily before a Local Court.

Clause 34 (Amendment of Act No. 204, 1979) amends the Land and Environment Court Act 1979 so as to give jurisdiction to the Land and Environment Court to hear and dispose of appeals under section 16 of the proposed Act.

Schedule 1 (Development area) sets out a description of the development area.

Schedule 2 (Development works) sets out the nature of development works that are required to be carried out by the Authority. These include—

- (a) the removal of sediment, algae and weed growth;
- (b) the deepening of channels and bays;
- (c) the construction of silt traps and nutrient filters;
- (d) the landscaping of foreshores;
- (e) the provision of recreational facilities and amenities; and
- (f) the carrying out of works for the protection of the environment.

Schedule 3 (Provisions relating to members of the Authority) contains provisions relating to the members of the Authority.

Schedule 4 (Provisions relating to procedure of the Authority) contains provisions relating to the procedure of the Authority.
