



New South Wales

Water NSW Amendment (Warragamba Dam) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Water NSW Act 2014* (the *principal Act*) to provide:

- (a) that a lease, licence, easement or right of way under the *National Parks and Wildlife Act 1974* (the *NPW Act*) is not required for or in respect of the temporary inundation of national park land resulting from the Warragamba Dam project, and
- (b) that the temporary inundation of national park land resulting from the Warragamba Dam project is not subject to any plan of management under the NPW Act.

The relevant provisions will apply in relation to the temporary inundation of national park land resulting from the Warragamba Dam project only if an environmental management plan, prepared by Water NSW and approved by the Minister administering the NPW Act with the concurrence of the Minister administering the principal Act, is in force.

The *Warragamba Dam project* is defined as development that is approved under the *Environmental Planning and Assessment Act 1979* to raise the wall of Warragamba Dam and to operate the dam for the purposes of facilitating flood mitigation downstream of the dam.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Water NSW Act 2014 No 74

Schedule 1 inserts proposed Part 5A for the purposes described in the above overview.

Proposed section 64A defines certain terms used in the proposed Part, including the *Warragamba Dam project* described in the above overview.

Proposed section 64B provides that the temporary inundation of national park land resulting from the Warragamba Dam project does not require any lease, licence, easement or right of way under the NPW Act and is not subject to any plan of management under the NPW Act. The proposed section applies only if an environmental management plan approved under proposed section 64C is in force.

Proposed section 64C requires Water NSW to prepare a draft environmental management plan relating to the temporary inundation of national park land resulting from the Warragamba Dam project. The draft plan may be approved by the Minister administering the NPW Act with the concurrence of the Minister administering the principal Act.

Proposed section 64D provides that the Minister administering the NPW Act may, with the concurrence of the Minister administering the principal Act, amend or revoke an approved environmental management plan.

Proposed section 64E provides that the Minister administering the NPW Act may, with the concurrence of the Minister administering the principal Act, give directions to Water NSW, including a direction to take specified action in relation to the temporary inundation of national park land resulting from the Warragamba Dam project.

Proposed section 64F requires Water NSW to notify the Chief Executive of the Office of Environment and Heritage (or a person nominated by the Chief Executive) of certain matters.

Proposed section 64G enables the Minister administering the NPW Act to delegate the Minister's functions under the proposed Part.



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New South Wales

Water NSW Amendment (Warragamba Dam) Bill 2018

No. , 2018

A Bill for

An Act to amend the *Water NSW Act 2014* to make provision with respect to the temporary inundation of national park land resulting from the raising of the wall of Warragamba Dam and the operation of the dam for downstream flood mitigation purposes.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Water NSW Amendment (Warragamba Dam) Act 2018*.

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2 Commencement

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This Act commences on the date of assent to this Act.

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Schedule 1	Amendment of Water NSW Act 2014 No 74	1
Part 5A		2
Insert after Part 5:		3
Part 5A	Special provisions relating to Warragamba Dam	4
64A	Definitions	5
	In this Part:	6
	<i>approved EMP</i> means an environmental management plan approved for the time being under section 64C.	7 8
	<i>draft EMP</i> means an environmental management plan prepared by Water NSW for approval under this Part.	9 10
	<i>national park land</i> means any land reserved or dedicated under the NPW Act.	11
	<i>NPW Act</i> means the <i>National Parks and Wildlife Act 1974</i> .	12
	<i>NPW Minister</i> means the Minister administering the NPW Act.	13
	<i>Planning Act</i> means the <i>Environmental Planning and Assessment Act 1979</i> .	14
	<i>Warragamba Dam project</i> means development that is approved to be carried out under the Planning Act:	15 16
	(a) to raise the wall of Warragamba Dam, and	17
	(b) to operate the dam,	18
	for the purposes of facilitating flood mitigation downstream of the dam.	19
64B	Temporary inundation of national park land	20
(1)	A lease, licence, easement or right of way under the NPW Act is not required for or in respect of the temporary inundation of national park land resulting from the Warragamba Dam project.	21 22 23
	Note. Accordingly, the prohibition under section 153B of the NPW Act on the NPW Minister granting a lease, licence, easement or right of way for the purposes of enabling the temporary inundation of the land concerned does not apply.	24 25 26
(2)	The temporary inundation of national park land resulting from the Warragamba Dam project is not subject to any plan of management under the NPW Act.	27 28 29
(3)	This section applies in relation to the temporary inundation of national park land resulting from the Warragamba Dam project only if an approved EMP is in force.	30 31 32
(4)	This section has effect despite any provision of the NPW Act.	33
64C	Environmental management plan for temporary inundation of national park land	34 35
(1)	Water NSW is to prepare, in consultation with the Chief Executive of the Office of Environment and Heritage, an environmental management plan relating to the temporary inundation of national park land resulting from the Warragamba Dam project.	36 37 38 39
(2)	The NPW Minister is, after the Warragamba Dam project has been approved under the Planning Act, to determine the matters that are to be addressed by a draft EMP. Those matters must not be inconsistent with the approval of the Warragamba Dam project under the Planning Act.	40 41 42 43
(3)	Water NSW is to submit a draft EMP to the NPW Minister.	44

(4)	The NPW Minister may, with the concurrence of the Minister administering this Act:	1
	(a) approve a draft EMP submitted by Water NSW with or without amendments, or	2
	(b) refer the draft EMP back to Water NSW for further consideration.	3
(5)	Water NSW is to ensure that any requirements imposed by an approved EMP are complied with.	4
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64D	Amendment and revocation of environmental management plan	8
(1)	The NPW Minister may, with the concurrence of the Minister administering this Act:	9
	(a) approve an amendment to an approved EMP, or	10
	(b) revoke an approved EMP and approve a new draft EMP.	11
(2)	Section 64C applies in relation to the amendment of an approved EMP in the same way as that section applies in relation to a draft EMP.	12
(3)	An approved EMP remains in force until it is revoked in accordance with this section.	13
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64E	Ministerial directions	17
(1)	The NPW Minister may, with the concurrence of the Minister administering this Act, by notice in writing given to Water NSW, direct Water NSW to do any of the following:	18
	(a) to take specified action in relation to the temporary inundation of national park land resulting from the Warragamba Dam project, including action relating to the monitoring of risks associated with the temporary inundation and relating to the rehabilitation or remediation of land,	19
	(b) to prepare a draft amendment of an approved EMP, or a new draft EMP, for approval under this Part,	20
	(c) to conduct a review of an approved EMP and report on the outcome of the review.	21
(2)	Water NSW is required to comply with a direction under this section.	22
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64F	Water NSW required to notify Chief Executive of OEH of certain matters	31
	Water NSW is, if it is of the opinion that a flood event that may affect national park land in the vicinity of Warragamba Dam is likely to occur, required to notify the Chief Executive of the Office of Environment and Heritage, or a person nominated by the Chief Executive, of any inflows likely to inundate the land above the full water supply level of the dam.	32
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64G	Delegation by NPW Minister	37
	The NPW Minister may delegate any of the NPW Minister's functions under this Part (other than this power of delegation) to a person or body specified in section 21 (1) of the NPW Act.	38
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