

## **DRAFT SECOND READING SPEECH**

**HON. JEREMY ROCKLIFF MP**

### ***Water Management Amendment (Dam Works) Bill 2015***

*\*check Hansard for delivery\**

Madam Speaker, I move that the Bill be now read a second time.

The purpose of the *Water Management Amendment (Dam Works) Bill 2015* is to simplify and further streamline the dam works approval process.

Madam Speaker, the construction of dams, together with other water infrastructure development, is critical to growing agriculture in Tasmania.

Water is a clear strategic and competitive advantage for Tasmanian agriculture, and access to reliable water supplies provides our farmers with the ability to greatly increase the value of the crops they grow.

Dams are vital in this regard as they enable relatively abundant and reliable winter water flows to be harvested and stored for use in subsequent summer irrigation seasons – a time when water in our river systems is generally much less abundant and reliable.

Madam Speaker, with dams being so important to Tasmanian agriculture, it is also critical that the process for approving dam works is as simple, efficient, fast and inexpensive as it can possibly be.

The Government is concerned that the current dam works approval process remains too complex, and is potentially acting as a barrier to further dam development.

Through this Bill, Madam Speaker, the Government is taking the opportunity to fix a range of issues in the dam works approval area through the continued reform of our water legislation.

This will result in an improved dam works approval process that will enable farmers, and other proponents, to obtain a dam works permit as quickly as possible and without unnecessary expense.

Madam Speaker, in considering the *Water Management Amendment (Dam Works) Bill 2015*, I think it important to reflect on the need for further reform.

In 2007, the dam works approval process was overhauled such that, amongst other things, all relevant State environmental authorisations are provided through a dam works permit.

Notwithstanding this improvement in the approval process, farmers continue to report that the dam works permit application process is difficult to navigate, involves considerable uncertainty and potentially consumes a large amount of time and money.

We have heard these concerns, and as we identified in our plan to Cultivate Prosperity in Agriculture, we are taking steps through this Bill to cut red tape and give farmers a fair go.

Madam Speaker, another driver for further reform relates to the making of decisions on dam works permit applications.

Under the *Water Management Act 1999*, the decision-maker on dam works permit applications, since its commencement on 1 January 2000, has been the Assessment Committee for Dam Construction.

It was prudent to establish the Assessment Committee through the Water Management Act, given the significant, far reaching range of reforms introduced at that time. However, with the Act well and truly bedded in, there is now little reason to persevere with this approach.

Indeed, since the Act commenced, 56 per cent of all dam works permit applications have been determined by my Department, under delegated authority from the Assessment Committee.

Madam Speaker, this shows that the processes underlying the statutory provisions have clearly been able to provide sound decision-making where the Assessment Committee has chosen to delegate this function.

With no valid reason to maintain the statutory committee approach, the Assessment Committee was one of the boards and committees identified by the Government which could be abolished.

Madam Speaker, I will now turn to the content of the Bill and provide the House a brief description of its main provisions.

In structure, the Bill is relatively simple – it repeals Part 8 of the *Water Management Act 1999*, which deals with dam works and the Assessment Committee for Dam Construction, and replaces it with a new Part 8.

The Assessment Committee for Dam Construction is abolished through the repeal of Part 8, with the new Part 8 providing that the Minister, or the Minister's delegate, will make decisions on dam works permit applications.

The abolition of the Assessment Committee in itself simplifies the legislation and the approval process. Large parts of the legislation to be repealed relate to the establishment, membership and operation of the Assessment Committee. This, of course, is removed leaving the legislation much more tightly focussed on the approval process itself.

Furthermore, better integration of water allocation and dam works permit decision-making processes will occur, given that the Minister will now be responsible for both.

Madam Speaker, in addition to abolishing the Assessment Committee, the Bill contains a range of other reforms designed to improve the dam works approval process. These measures include:

- (i) providing a pathway for obtaining dam works permits without need of making an application;
- (ii) better defining the nature and scope of dam works permits;
- (iii) specifying criteria under which dam works permit applications must be approved;
- (iv) specifying the matters to be considered by the decision-maker in relation to dam works permit applications;
- (v) simplifying the provisions regarding the timeframe for decision on dam works permit applications;
- (vi) providing for conditional approval of dam works permit applications in some circumstances; and, lastly
- (vii) the requirement for the Minister to prepare an annual report on the implementation of Part 8 of the Water Management Act and conduct an annual review of the implementation of the dam works approval process.

Before discussing these provisions, Madam Speaker, there are two matters on which I would like to reassure the House.

Firstly, I wish to emphasise very strongly that this Government recognises that dam safety is of paramount importance, as is public confidence in our water infrastructure.

In this regard, the current rigorous safety requirements provided for by the legislation will continue to apply regardless of any changes to the dam works approval process.

Secondly, Madam Speaker, the integrated assessment of all environmental matters relevant to a dam works permit application, such as the clearing of vegetation, protection of natural values and activities to mitigate or off-set environmental impacts is retained.

Hence the granting of a dam works permit will continue to mean that no further State environmental authorisations are required before works commence.

### **Obtaining Dam Works Permits Without Need of Making an Application**

Madam Speaker, the Bill provides a new approach to how a dam works permit may be obtained.

Currently, with the exception of very small dams that are not on watercourses and certain works that do not come under the Water Management Act, all dam works must be undertaken in accordance with a dam works permit.

This is a reasonable thing as dams, once constructed, become part of the landscape, and they can have significant impacts on the environment and the ability of downstream water users to access water.

Having said this, we recognise that it is possible for there to be different pathways for proponents to obtain a dam works permit depending on the circumstances involved.

The Bill provides for the usual dam works permit application process and granting of a permit – now known as a “Division 3 permit”.

It also provides, Madam Speaker, an alternative pathway to obtain a permit which does not require the making of an application.

This alternative pathway, which provides a “Division 4 permit”, means that where certain circumstances exist, a person proposing to undertake dam works will be taken to have been issued with a dam works permit, and they may undertake those works without first having to lodge a permit application.

All that will be required is for the proponent to lodge a simple form with the Department notifying that they intend to commence works and verifying that the relevant criteria for a Division 4 permit are met, and once the works are completed, the proponent will need to lodge a second simple form notifying the Department of that fact.

There will be no assessment undertaken by the Department, no need for the proponent to provide large amounts of information and no need to wait for a decision.

Whether the proposed dam works fit within the relevant criteria will be a matter for self-assessment by the proponent. A range of guidance information will be made available to assist proponents in this regard, and of course, advice can be sought from professionals if necessary.

Madam Speaker, the criteria that apply to a Division 4 permit are clearly important. The idea is that the circumstances provided for are such that other legislation, such as the *Threatened Species Protection Act 1995* and *Forest Practices Regulations 2007* do not come into play.

This approach is, in part, risk-based, and in effect, we are simply identifying the low risk circumstances where there is little to be gained in going through an application process.

There are of course safeguards, Madam Speaker. Dam works on watercourses, for instance, will not be able to proceed under the Division 4 permit pathway.

Additionally, the Bill provides the Minister with the power to declare certain dam works as being ineligible for consideration under a Division 4 permit.

Through this provision, for example, dam works with a consequence category greater than low, meaning there is population at risk, will not be eligible.

The Bill also provides that certain conditions, such as those relating to engineering matters, sediment and erosion control, and managing potential impacts where, for instance, eagle nests are located in close proximity to a dam works site, can be applied to Division 4 permits through the making of orders.

Lastly, Madam Speaker, the Bill provides that the Minister may issue a notice to stop work in relation to a Division 4 permit if, during the undertaking of works, unexpected circumstances arise, and direct that certain action be taken, which may include submitting an application under Division 3.

Madam Speaker, based on an analysis of dam works permits issued since 2004, the Department has estimated that around 25 per cent of permits would have been issued as Division 4 permits if that measure had been available at the time.

In addition, the base application fee for a dam works permit is \$898.45. Whilst there may be a small administrative fee in relation to a Division 4 permit, farmers and other proponents obtaining one will save in excess of \$800.

This is one of the key provisions in the Bill in regard to reducing red tape, expense and speeding things up. It will make it far simpler for a significant number of farmers and other proponents to simply get on with the business of building a dam.

### **Better Defining the Nature and Scope of Dam Works Permits**

Madam Speaker, the Bill explicitly defines the nature and scope of a dam works permit as an authority to undertake dam works, which remains in force only until such time as those works are completed and the conditions of the permit have been complied with.

This means that a permit provides the overall authorisation to undertake dam works in the sense of constructing infrastructure of a certain type at a certain location, as well as authorising particular construction-related activities.

Madam Speaker, this is an important matter in regard to simplifying the dam works approval process. In considering applications, the focus of any assessment will be on the undertaking of dam works – the activities associated with constructing a dam.

This makes the approval process simpler as consideration of a permit does not have to take into account matters outside those associated with construction activities. Accordingly, a permit will not contain conditions that endure beyond the completion of relevant works.

Where there are requirements for ongoing conditions, other regulatory instruments will contend with dam safety, mitigation and offset measures and dam operating requirements, including any requirements to pass water for environmental needs.

In this regard, Madam Speaker, the Bill provides for the establishment of an offsets register. Where a condition of a dam works permit requires the registering of a type of offset, for instance, the fencing off of a vegetation community on land adjacent to a dam, the offset will need to be registered prior to completion of the works.

This provides greater certainty to proponents, land owners, the broader community and the regulator that offset measures prescribed in approving dam works will be administered properly.

Requirements in relation to water flows and the operation of a dam will most often be dealt with through associated water licence conditions. As noted earlier, these approval processes will be better integrated with the Minister being the decision-maker in both instances.

There are instances where a water licence may not be involved, however, so the Bill provides for a Dam Operating Notice to be issued if required. Any conditions relating to water flows and the operation of a dam will be set out on a Dam Operating Notice in these instances.

### **Criteria under which Dam Works Permit Applications Must be Approved**

Madam Speaker, the Bill brings decisions on dam works permit applications into line with those on water licence and allocation applications, thereby streamlining these approval processes and providing greater certainty to applicants.

The Bill does this by specifying the criteria under which the Minister must approve a dam works permit application, in just the same way that the Water Management Act currently specifies the criteria under which a water licence application must be approved.

This increases certainty, as proponents can be assured that if their application meets the approval criteria, then it has to be approved.

### **Matters to be Considered in Relation to Dam Works Permit Applications**

Related to this, Madam Speaker, the Bill also clarifies the matters to be considered by the decision-maker in relation to a dam works permit application. This makes the task much more straightforward for applicants as they have certainty on the matters they must address in their application.

### **Timeframe for Decision on Dam Works Permit Applications**

Madam Speaker, the Bill makes changes to the provisions regarding the timeframe for a decision on dam works permit applications. This is one area in particular that provides much frustration to dam works permit applicants.

A specified commencement time is provided by the Bill, such that once an application that satisfies the relevant requirements is lodged, the decision clock will start running.

Furthermore, one 12 week timeframe is provided, as opposed to variations on this timeframe currently in place. The clock may be stopped by a number of means, however, regardless of the reason for stopping the clock, the 12 week timeframe will apply in all cases.

This simplifies the legislation and the approval process, and provides much greater certainty to applicants in regard to the time it will take for a decision to be made.

### **Conditional Approval of Dam Works Permit Applications**

Madam Speaker, the Bill provides for the conditional approval of dam works permit applications in some circumstances. This measure is designed to give more certainty to applicants.

In some situations, applicants may be asked for further information or to undertake a piece of work prior to their application being decided, where it is clear that, once that information is provided, or work is undertaken, approval will follow.

Conditional approval is a means by which an applicant can be given relative certainty, notwithstanding that it is not binding on the Minister, that they will obtain a dam works permit application subject to completing what is required.

This means they are much better placed to make a decision as to whether it is worthwhile continuing to invest money in the approval process. Furthermore, it also means that they may be able to start planning and investing in other related aspects of their farm business, such as on farm irrigation equipment or conversion, without having to wait until their dam works permit is subsequently approved.

### **Annual Report and Annual Review**

Lastly, Madam Speaker, the Bill provides that the Minister must prepare an annual report on the implementation of Part 8 of the Water Management Act, as well as conduct an annual review of the implementation of the dam works approval process.

There is great benefit in these measures as they provide transparency and will enable us to determine whether the outcomes sought have, in fact, been realised.

Madam Speaker, my Department has undertaken broad consultation on the Bill, primarily with the Tasmanian Farmers and Graziers Association, and also with other stakeholders and organisations.

I would like to thank those involved for their contributions, and I am pleased to say that the feedback received has almost exclusively been positive.

As I mentioned earlier, the Bill focusses on improving the dam works approval process – making it simpler, less expensive and quicker.

Clearly, the people most impacted by the dam works approval process are those who wish to build dams. By and large, this means farmers, and hence, Madam Speaker, I intend to work closely with the agriculture industry to ensure that the outcomes we seek are realised.

Madam Speaker, this is an important Bill for the reasons I set out earlier – providing greater certainty to farmers and other proponents, enabling them to obtain a dam works permit as quickly as possible and without unnecessary expense, at the same time maintaining rigorous safety requirements and proper consideration of environmental matters.

It continues the reform of our water legislation, and in particular in the area of dam works approval, to ensure it meets the needs of the Tasmanian community in the most efficient and effective way possible.

It is part of a package of initiatives the Government has underway to grow Tasmanian agriculture – the Tranche Two irrigation development program and our Water for Profit program to name but two.

Madam Speaker, I wish to advise that during the committee stages of debate on this Bill I will be tabling some minor amendments to the Bill. These are not significant amendments but are being made in order to clarify the intention of specific provisions.

This Bill does not include savings and transitional measures or consequential amendments to other Acts. These provisions have been included in the *Water Management Amendment (Consequential and Transitional Provisions) Bill 2015* and it will be debated once this Bill has been considered by the House.

Madam Speaker, I commend the Bill to the House.