

***ELECTRICITY SUPPLY INDUSTRY RESTRUCTURING
(SAVINGS AND TRANSITIONAL PROVISIONS)
AMENDMENT BILL 2011***

SECOND READING SPEECH

- Mr Speaker, I move that the Bill be now read a second time.
- The purpose of this Bill is to amend the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1999*.
- The amendments will achieve two key outcomes. Firstly, to provide relevant landowners with a contemporary, properly specified water access entitlement under the *Water Management Act 1999* or *Irrigation Clauses Act 1973*.
- This is necessary to meet our obligations under the National Water Initiative, and to provide those landowners with certainty regarding the statutory nature of their water entitlements.
- Mr Speaker, the second outcome of the amendments is to define the amount of water that Hydro Tasmania is required to make available to relevant landowners.

- This will provide certainty to the Corporation, an important point particularly as the water resources involved are its most valuable.
- Mr Speaker, under section 16 of the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995*, Hydro Tasmania “must make available to the owners of land to which this section applies, water reasonably required for the irrigation of that land from the beds of the Lake River and the River Ouse and the channels of the Lawrenny Irrigation Works that have continued in existence since 1 November 1957 or earlier.”
- Section 16 applies to riparian tenements situated on the Lake River and the Ouse River downstream of Waddamanna, and the area of land bounded by the Ouse River, the Derwent River, the Clyde River and the Lyell Highway.
- Under the existing legislation, the relevant owners of land are authorised to take the water provided, notwithstanding the *Water Management Act 1999*.
- Mr Speaker, the obligation on Hydro Tasmania to supply water was first provided through the *Loan (Hydro Electric Commission) Act 1957*.

- The Loan Act provided the approval for the construction of the Poatina Power Station, which also involved reconfiguring water supply systems in and around Great Lake and the closure of Waddamana Power Station on the Ouse River.
- The statutory obligation to make water available was provided to ensure that the water supply relied on by relevant landowners was maintained into the future, notwithstanding the closure of the power station and the rerouting of water flows north though Poatina.
- Hydro Tasmania satisfies this obligation by using the water in and around Great Lake to supply relevant landowners.
- Mr Speaker, the Bill presented before you today addresses a range of limitations with the current statutory obligations to provide water for irrigation.
- With regard to the relevant landowners, whilst the arrangements under the existing legislation have worked relatively well in the past, it is arguable as to whether it provides each of those landholders a true water right.

- The existing legislation provides relevant landowners with an authorisation to take the water made available by Hydro Tasmania. Whilst it does not specify that they are taken to hold a true water right in the contemporary context, the Government is satisfied that, in effect, this is what the legislation confers on them.
- Nevertheless, in the current form, uncertainty may prevail in future in regard to the statutory nature of these rights. Furthermore, these rights are most certainly not consistent with the National Water Initiative.
- Mr Speaker, under the National Water Initiative, water access entitlements are to be exclusive, able to be traded, enforceable and recorded in a publicly-accessible water register.
- The rights currently provided to relevant landowners do not specify the essential characteristics of a contemporary water entitlement. No quantity of water is specified, nor are the rights separated from land and hence they are not tradeable.
- With regard to Hydro Tasmania, the existing legislation provides no certainty for the Corporation into the future, as it does not define what this obligation is in volumetric terms.

- Defining the amount of water to be made available by Hydro Tasmania will provide certainty and allow proper planning and management of its water resources to occur, and proper planning for infrastructure development and refurbishment.
- This is essential and the Government strongly believes that it is no longer appropriate for an unquantified obligation on Hydro Tasmania to continue, particularly given that the water resources in and around Great Lake are the most valuable in the State for electricity generating purposes.
- To this end, Mr Speaker, I am introducing amendments to the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995* to ensure that the water entitlements of relevant landowners are fully compliant with the National Water Initiative, provide certainty into the future and are fully tradeable. The amendments will also provide the necessary certainty to Hydro Tasmania.
- Before moving into the detail of the Bill, it is worth taking a moment to put the proposed legislation into context and reflect on its significance.

- Mr Speaker, Tasmania has undertaken important and difficult reforms in the rural water sector. The reform program goes back well in excess of ten years now.
- Led by this Government, Tasmania has implemented the water reform program under the Council of Australian Governments initiative, and more lately, under the National Water Initiative.
- Mr Speaker, possibly the most important reform of all was the introduction of our water access entitlement system with the commencement of the *Water Management Act 1999*.
- This system provided for a contemporary, properly specified water access entitlement in the form of a water licence, upon which could be endorsed one or more water allocations, and which are registered.
- This water access entitlement system provided for the separation of water from land, and ensured that holders of water licences and allocations were freely able to trade these entitlements in a water market.
- In short Mr Speaker, this system meets all the requirements of the National Water Initiative.

- It also ensures that farmers are able to secure finance using their water access entitlement as collateral, a hugely important reform necessary to underpin investment in irrigation development in this state.
- Mr Speaker, the amendments I am introducing today are significant for a particular reason. I am advised by my Department that the water rights of the relevant landowners are the last remaining outside the water access entitlement system in Tasmania.
- By providing these landowners with a contemporary, properly specified water access entitlement, we will be completing a journey that started over ten years ago.
- Mr Speaker, having set out their importance, I turn now to the amendments themselves.
- This Bill repeals the current arrangements set out in section 16 of the *Electricity Supply Industry Restructuring (Savings and Transitional Provisions) Act 1995*.

- The Bill specifies that a person who, immediately before the commencement of the Amendment Act, was an owner of a riparian tenement on the Lake River and the Ouse River below Waddamana, and the Lawrenny Water Trust, is an “entitlement holder”.
- The proposed amendments also provide that Hydro Tasmania must make water available from the beds of the Lake River and Ouse River to every entitlement holder.
- Mr Speaker, at this point the House should note that the area of land bounded by the Lyell Highway, the Ouse River, the Derwent River and the Clyde River includes some land outside the Lawrenny Waterworks.
- In this regard however, because the existing legislation limits Hydro Tasmania’s obligation to make water available from the beds of the Lake River, the Ouse River and the channels of the Lawrenny Waterworks that have continued in existence since 1 November 1957 or earlier, the owners of land to whom Hydro Tasmania is obliged to make water available are in effect limited to those owning land within the Lawrenny Waterworks.

- I am advised that the owners of land included in the area described previously, but outside the Lawrenny Waterworks, mostly accommodate their individual water needs by taking water from Lake Meadowbank, in agreement with Hydro Tasmania.
- Mr Speaker, the Bill provides that the Lawrenny Water Trust is the entitlement holder, as it has a statutory obligation under the *Irrigation Clauses Act 1973* to supply owners of land within the irrigation district. Indeed, this is a function that the Trust has been carrying out for several decades now.
- As Hydro Tasmania makes water available to the Trust from the beds of the Ouse River, there is no need to specify the channels in the proposed legislation.
- As stated previously, under the current arrangements the amount of water to be made available by Hydro Tasmania is not quantified. Mr Speaker, this Bill seeks to quantify that volume of water in a fair and equitable manner.

- Hence, the Bill provides that the amount of water to be made available by Hydro Tasmania to every entitlement holder is to be determined by agreement, or in the event that such agreement cannot be reached, by arbitration.
- A four month “transition period” from the date of commencement of the Amendment Act is provided for the relevant parties to enter into agreement.
- The Bill also provides me the opportunity to extend the transition period once, for a period not exceeding 60 days. If the parties cannot reach agreement within the transition period, the quantity of water to be made available by Hydro Tasmania is to be determined in accordance with the *Commercial Arbitration Act 1986*.
- Once an agreement or arbitrated award has been made a Ministerial Order will then confer on the entitlement holders covered by the agreement or arbitrated award an authorisation to take water under the *Water Management Act 1999* or the *Irrigation Clauses Act 1973*.
- Mr Speaker, such an authorisation would be a water licence and allocation in the first instance, or an irrigation right in the second.

- An Order is also to fix the amount of water to be made available by Hydro Tasmania to the entitlement holders covered by the agreement or arbitrated award.
- An Order may also appoint any new water districts required for the administration and management of the arrangements and any other relevant terms and conditions relating to Hydro Tasmania's obligations.
- Mr Speaker, Hydro Tasmania is currently working with the affected landowners to reach an agreement on the amount of water to be made available. I am hopeful that an agreement can be reached in all cases.
- However, the Bill I am presenting today will ensure that the matter is resolved. The parties have a reasonable period of time in which to come to agreement; a period of time in which they have full autonomy on the outcome.
- However, given the importance of the matter the Government has also set a time limit for an agreement to be reached. Should agreement not be reached, the Bill provides for a fair and equitable process of arbitration to determine an outcome.

- Mr Speaker, access to water must be supported by a clearly defined, certain and secure water access entitlement system to underpin investment in water dependent businesses in this State.
- The Bill I present before you today provides the final chapter in the story of Tasmania's contemporary water access entitlement system.
- Through this Bill, relevant landowners will come within the water access entitlement system, benefitting from the certainty and security of a properly specified water entitlement.
- Not only will relevant landowners continue to have water made available to them for irrigation, albeit that the amount of water will be volumetrically defined, they will actually own the access entitlement to that water, and this entitlement will be fully tradeable, constituting a capital asset that does not presently exist.
- Mr Speaker, this contrasts to the present situation where, whilst Hydro Tasmania makes water available, it retains ownership of the access entitlement to that water.
- Mr Speaker, I commend the Bill to the House.