

TASMANIA

MEANDER DAM PROJECT BILL 2003

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MEANDER DAM PROJECT BILL 2003

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
10 April 2003

(Brought in by the Minister for Primary Industries, Water and Environment, the Honourable Bryan Alexander Green)

A BILL FOR

An Act to enable a dam project to proceed on the Meander River in order to provide better irrigation for the development of agriculture in northern Tasmania, and for related and subsidiary purposes

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Meander Dam Project Act 2003*.

Commencement

2. This Act commences on the day on which this Act receives the Royal Assent.

Interpretation

3. (1) In this Act –

“Commission” means the Rivers and Water Supply Commission, being the body continued in existence by section 4 of the *Rivers and Water Supply Commission Act 1999*;

“dam permit” means the permit authorising the construction of the dam for the Meander Dam project granted by the Assessment Committee (in accordance with section 157 of the *Water Management Act 1999*) as, if applicable, from time to time amended;

“environment protection notice” means the environment protection notice in respect of the Meander Dam project issued by the Director on 10 October 2002 (in accordance with sections 27 and 44(1)(a) of the *Environmental Management and Pollution Control Act 1994*) as, if applicable, from time to time amended;

“HEC” means the Hydro-Electric Corporation, being the body continued in existence by section 4 of the *Hydro-Electric Corporation Act 1995*;

“law of the State” includes –

- (a) a State policy; and
- (b) a planning scheme; and
- (c) a council by-law;

“Meander Dam project” means –

- (a) the construction, in accordance with the dam permit, of a dam at the prescribed

location (including all associated infrastructure and facilities); and

- (b) the commissioning and operation of that dam;

“prescribed location” means a location on the Meander River in northern Tasmania, downstream of its confluence with Warners Creek between Warners Sugarloaf and Archers Sugarloaf, at approximate grid reference 468300E 5384200N on the prescribed map;

“prescribed map” means the map sheet numbered 4638 and entitled “QUAMBY BLUFF” (Edition 2, 1987) in the Tasmania 1:25 000 map series published by the State government through the body then operating under the registered business name “TASMAP”;

“quarry permit” means the permit authorising the development and use of a quarry for the purposes of the Meander Dam project granted by the Meander Valley Council on 10 December 2002 (in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*) as, if applicable, from time to time amended;

“reserved land” means land that is –

- (a) State forest within the meaning of the *Forestry Act 1920*; or
- (b) a forest reserve within the meaning of that Act;

“responsible entity” means –

- (a) the Commission, as the proponent of the Meander Dam project; or
- (b) a subsequent developer or operator of the Meander Dam project;

“responsible Minister” means the Minister administering the *Water Management Act 1999*;

“RMPAT decision” means the decision of the Appeal Tribunal relating to certain appeals against the dam permit, and an appeal against the environment protection notice, dated 22 January 2003 (Appeal Tribunal reference J12/2003, relating to Appeals No. 225/02E, 226/02W and 233/02W);

“South Esk River hydro-electric district” means the district appointed and defined by Statutory Rules 1958, No. 111 (as amended by Statutory Rules 1960, No. 67) as a hydro-electric water district under section 26 of the *Water Act 1957* with the name “South Esk River Hydro-Electric Water District” and continued in existence as a hydro-electric district, on the repeal of that Act, by Schedule 4 to the *Water Management Act 1999*;

“special licence” means the special licence held by the HEC in respect of the South Esk River hydro-electric district;

“works commencement day” means the day on which the works authorised by the dam permit are commenced.

(2) Expressions that are defined in the *Water Management Act 1999* and used in this Act have, unless

the contrary intention appears, the same meaning in this Act as they do in that Act.

Act binds Crown

4. This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

Reinstatement of dam permit, &c.

5. (1) The dam permit and environment protection notice which were set aside by the RMPAT decision are reinstated.

(2) None of the following is reviewable or appealable under the *Judicial Review Act 2000* or any other law of the State:

- (a) the reinstatement of the dam permit or environment protection notice;
- (b) the validity of the dam permit or environment protection notice;
- (c) the conditions of the dam permit;
- (d) the requirements or conditions of the environment protection notice;
- (e) a decision of the Assessment Committee under section 162 of the *Water Management Act 1999* in relation to the dam permit.

Implementation of project

6. The responsible entity may do all things that may be necessary or expedient for the purposes of implementing the Meander Dam project pursuant to and in accordance with –

- (a) the dam permit; and
- (b) the environment protection notice; and
- (c) the quarry permit; and
- (d) the licence referred to in section 7; and
- (e) any prescribed instrument.

Water licence and water allocation

7. (1) On and after the works commencement day, the responsible entity is taken to hold a licence under Part 6 of the *Water Management Act 1999* specifying that the responsible entity may take water from the Meander River and the following, secondary, water resources:

- (a) Dunning Rivulet;
- (b) Huntsman Rivulet;
- (c) Sales Rivulet;
- (d) Warners Creek;
- (e) unnamed tributaries of the water resources referred to in paragraphs (a), (b), (c) and (d).

(2) The licence is taken to –

- (a) have been granted by the responsible Minister on such initial terms and conditions as he or

she determines before the works commencement day; and

- (b) be endorsed with the water allocation that is transferred to the responsible entity by the HEC from the water allocation of the special licence.

(3) None of the following is reviewable or appealable under the *Judicial Review Act 2000* or any other law of the State:

- (a) the granting or holding of the licence;
- (b) the initial terms or conditions of the licence;
- (c) a decision of the responsible Minister under Division 4 of Part 6 of the *Water Management Act 1999* approving the transfer by the HEC of a water allocation of the special licence to the responsible entity.

Adjustment of State forest, &c.

8. (1) Such Crown land at or in the vicinity of the prescribed location as is required to be disturbed, cleared, excavated, built on, submerged or otherwise modified or used for the purposes of the Meander Dam project or any related hydro-electric power-generating facility may be so modified or used notwithstanding that the Crown land may be reserved land.

(2) As soon as any reserved land is so modified or used it ceases, by virtue of this section, to be reserved land.

(3) Subsection (1) has effect only until the second of the following events occurs:

- (a) the “work as executed” report referred to in clause 12 of the dam permit conditions is received by the Secretary of the responsible Department in relation to the *Water Management Act 1999*;
- (b) the responsible Minister reasonably determines that the dam for the Meander Dam project is first filled to its maximum authorised storage capacity.

(4) For the purpose of subsection (3), the responsible Minister is to give notice in the *Gazette* specifying the date of the occurrence of each event referred to in that subsection.

(5) A notice under subsection (4) –

- (a) is not a statutory rule for the purposes of the *Rules Publication Act 1953*; and
- (b) is to be published on, or as soon as practicable after, the occurrence of the relevant event; and
- (c) is determinative of the date of the occurrence of the relevant event; and
- (d) is to specify whether it is the first or second such notice.

(6) As soon as practicable after the second such notice is published, the responsible Minister, after consulting the Minister administering the *Forestry Act 1920*, is to lodge in the Central Plan Register a plan identifying the Crown land that has ceased to be reserved land by virtue of this section.

Project is taken to meet and further certain objectives

9. The Meander Dam project is taken to meet and further the objectives of –

- (a) the *Water Management Act 1999*; and
- (b) all relevant State policies.

Act prevails over other laws, &c.

10. (1) For the avoidance of doubt, this Act has effect notwithstanding –

- (a) any other law of the State; or
- (b) the RMPAT decision.

(2) If a provision of this Act conflicts with a provision of another law of the State, the provision of this Act prevails.

Regulations

11. The Governor may make regulations for the purposes of this Act.

Administration of Act

12. Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Primary Industries, Water and Environment; and

- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Primary Industries, Water and Environment.