

**LOCAL GOVERNMENT (SAFETY OF DAMS)  
AMENDMENT ACT.**

**New South Wales**



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 30, 1974.**

An Act to make provisions with respect to the safety of certain works for the impounding or diversion of water for public use; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 19th April, 1974.]

BE

*Local Government (Safety of Dams) Amendment.*

No. 30, 1974  
 BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the "Local Government (Safety of Dams) Amendment Act, 1974".

Amendment of Act No. 41, 1919. 2. The Local Government Act, 1919, is amended—

Sec. 382. (Powers of council.) (a) (i) by omitting from section 382 (1) the word "The" and by inserting instead the words "Subject to this Division, the";

(ii) by omitting from section 382 (3) the word "The" and by inserting instead the words "Subject to this Division, the";

(iii) by inserting after section 382 (3) the following subsection :—

(4) Except with the consent of the Minister for Public Works and in compliance with any conditions subject to which the consent is given, a power conferred on a council by subsection (1) or (3) (not being a power to protect, control, manage or regulate) or by section 385 shall not be exercised in respect of a work that is, or on completion will be, under its protection, control or management if the work is a dam for the impounding or diversion of water for public use or is appurtenant to such a work.

(b)

*Local Government (Safety of Dams) Amendment.*

- (b) by inserting after section 382 the following sections and short headings thereto :—

No. 30, 1974  
Secs. 382A,  
382B.

*Works impounding or diverting water.*

382A. (1) The Minister for Public Works shall not give a council a consent for the purposes of section 382 (4) unless—

Minister for Public Works may consent to exercise of certain powers and may revoke such a consent.

- (a) application for the consent is made by the council in writing accompanied by plans and specifications of, and documents and data in the possession of the council that are relevant to, the exercise of power in respect of which the consent is sought;
- (b) the council has complied with any requirement of the Minister for Public Works to supply further information with respect to the application, or the requirement has been waived;
- (c) the Minister for Public Works is satisfied that, subject to such directions as he may cause to be given and subject to such supervision as he may require, the council is competent to exercise the powers that would not be exercisable by it without the consent applied for; and
- (d) such inspections of the work to which the application relates, or the site thereof, as the Minister for Public Works directs for the purpose of considering the application are duly made.

*Local Government (Safety of Dams) Amendment.*

No. 30, 1974

(2) Where the Minister for Public Works has, for the purposes of section 382 (4), consented to the exercise by the council of its powers with respect to a work he may, by notice in writing to the council, revoke that consent if—

- (a) by notice in writing, he requires the council to supply him, not later than a day specified in the notice with specified additional plans, specifications, documents or information with respect to the exercise of those powers and the council fails to comply with the requirement; or
- (b) the council fails to comply with any directions with respect to the work that he causes to be given or fails to accept such supervision of the exercise of those powers as he requires.

*Exculpation from liability for damage.*

Consent to exercise of power does not give rise to liability for damage.

382B. Where the Minister for Public Works consents, for the purposes of section 382 (4), to the exercise by a council of a power that would not be exercisable by it without that consent, neither the Crown nor the Minister for Public Works is, by reason only of the giving of that consent, liable in respect of any damage to person or property arising out of the exercise of that power.

Sec. 385.  
(Alterations of works.)

- (c) by omitting from section 385 (1) the words "It shall" and by inserting instead the words "Subject to section 382 (4), it shall";

(d)

*Local Government (Safety of Dams) Amendment.*

(d) by inserting after section 388 the following No. 30, 1974  
 section :—

Sec. 388A.

388A. (1) Notwithstanding anything in section 388, where a work—

Powers of  
 Minister  
 for Public  
 Works.

- (a) is a dam for the impounding or diversion of water for public use and is under the protection, control or management of the council;
- (b) is a work in respect of which a consent has been given to the council for the purposes of section 382 (4); or
- (c) is a work appurtenant to a work referred to in paragraph (a) or (b),

the Minister may cause an inspection of the work to be made without cost to the council.

(2) Where an inspection of a work is made under subsection (1), the council having the protection, control and management of the work shall, upon being given written notice so to do by the Minister for Public Works or some person authorised by him, forthwith take such measures to ensure the safety of the work as are specified in the direction.

(3) Where an inspection is made under subsection (1) and the Minister for Public Works is of the opinion that any works should be carried out as a result thereof, he may, whether or not a notice has been given under subsection (2)—

- (a) cause to be carried out any investigation or exploration necessary for the preparation of plans and specifications of the works; and
- (b)

No. 30, 1974

- (b) cause plans and specifications of the works to be prepared.

(4) Where plans and specifications have been prepared pursuant to subsection (3), the Minister for Public Works may, if he is satisfied that the council is competent to carry out the works to which they relate, by notice in writing direct the council to carry out those works within a time, and in a manner, specified in the notice.

(5) Where plans and specifications have been prepared pursuant to subsection (3) and—

- (a) the Minister for Public Works is not satisfied that the council is competent to carry out the works to which they relate;
- (b) the council requests the Minister for Public Works to cause those works to be carried out; or
- (c) the council has been given a notice under subsection (4) and has failed to carry out those works within the time specified in the notice,

the Minister for Public Works may cause the works to be carried out.

(6) Where the Minister for Public Works gives the council notice in writing to the effect that he has decided to cause works to be carried out pursuant to subsection (5)—

- (a) the works are an authorised work within the meaning of the Public Works Act, 1912; and

(b)

*Local Government (Safety of Dams) Amendment.*

---

(b) the Minister for Public Works is the constructing authority within the meaning of that Act. No. 30, 1974

(7) Where the Minister causes works to be carried out pursuant to subsection (4), the cost of the works (including the cost of any investigation or exploration referred to in subsection (3) (a) and of the plans and specifications referred to in subsection (3) (b)) or such part thereof as the Minister for Public Works may determine shall be paid by the council to the Minister for Public Works within such time as he specifies in a notice in writing to the council.

(8) Moneys that a council is liable to pay under subsection (7) are a debt due to the Minister as constructing authority.

(e) by inserting after paragraph (1) of section 407 the following paragraph :— Sec. 407.  
(Ordinances.)

(1A) the construction, extension, protection, maintenance, control, management and regulation of the use of works for the impounding or diversion of water for public use and of works appurtenant thereto.

---

MOTOR