

## AUSTRALIAN CAPITAL TERRITORY

### LAKE BURLEY GRIFFIN (TEMPORARY CONTROLS) ORDINANCE 1963.

#### EXPLANATORY MEMORANDUM

No. 20 of 1963

Following the completion of the construction of the Lake dam wall, water has commenced to build up in the basin of Lake Burley Griffin. It is therefore necessary that legislation should provide generally for the control and use of the waters of the Lake.

As it will be necessary to undertake tests of the flood gates of the dam and to complete the preparation of foreshores, bridges and other construction work it is not intended to close off the outlet valves in the dam at this stage. However it is probable that as the water banks up it will be muddy, polluted and will carry dead timber and other indiscernible matter. The water will also cover earthworks which have left deep holes and other possible dangers. To protect persons from possible injury which might result from their being on the waters or the bed of the Lake and to reduce the Commonwealth's liability for such injury if it occurs it is proposed to prohibit the public from entering or being upon the water or the land forming the bed of the Lake.

The Ordinance which provides temporary controls will remain in force during the initial period of filling, after which it will be replaced by a more comprehensive Ordinance controlling all activities to be permitted on the Lake. At this stage it appears unlikely that the Lake will be completely filled before the new year.

Clause 2 of the proposed Ordinance which includes the interpretation provisions, provides in sub-clause (2) that Lake Burley Griffin is to be that part of the City of Canberra, coloured blue, on a copy of the Canberra City Plan signed by the Minister.

In order that the Commonwealth should have control over the waters on the Lake, clause 3 vests in the Commonwealth the right to the use, flow and control of the waters in the Lake and in the rivers, streams or creeks flowing into the Lake. It has been thought desirable to extend the controls applicable to the Lake proper to the rivers, streams and creeks flowing into the Lake. It is not proposed that these provisions should affect the rights of people through whose land these waters flow and clause (2) of clause 3 therefore exempts such lessees. Otherwise the rights these lessees currently possess would be abrogated.

The Ordinance in clauses 4 and 5, provides that the Minister may authorise the raising or lowering of the level of the water in the Lake, the stopping of the flow, the reducing of the rate of flow, permitting the flow and increasing the rate of flow of water from the Lake. In authorising the above actions, the Minister is required to cause such action to be taken in order to minimise the detriment, inconvenience and damage that may result from such action. If as a result of the authorised actions, damage is caused to land, the Commonwealth becomes liable to pay compensation to

the owner of the land. Such compensation is to be determined by agreement and failing agreement, by litigation against the Commonwealth by the owner, and he does not have any remedy or relief other than that of a right to compensation.

Clause 6 of the Ordinance creates an offence, with a penalty of £25, for any person who is upon the Lake, who uses a boat on the Lake, who fishes in the Lake, who deposits anything in the Lake or who drives a vehicle on the Lake or the land that forms the bed of the Lake. The Minister is however, empowered to consent to persons undertaking any of the above actions under such conditions as he may determine. The offences in clause 6 are expressed as not to apply to any person who is concerned or employed in or in connection with the construction, testing or maintenance of the lake, a person employed in the Department of Health or a member of the Police Force.

An offence, of polluting any part of the Lake or the water in the streams flowing into the Lake, with a penalty of £100, is prescribed in clause 8 of the Ordinance.

GORDON FREETH