

Exclusive National [Warragamba Dam](#)

‘Important UNESCO obligations’: Minister refuses to declare Warragamba wall-raising critical



By [Angus Thompson](#)

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NSW Planning Minister Rob Stokes has refused to declare the Warragamba Dam wall-raising a critical state project, a classification that would give it effective immunity from legal and regulatory challenges, because it impacts a World Heritage area.

In the sharpest indication yet of the government’s division over the project, Mr Stokes has declined to sign off on the application to boost the significance of the proposal amid mounting criticism of the environmental and cultural damage it will bring.



The release of the environmental impact study into the plan to raise the wall of Warragamba Dam is imminent. BROOK MITCHELL

A spokesman for the Department of Planning, Industry and Environment said the agency wrote to WaterNSW informing the government-owned body that operates the dam that Mr Stokes had not agreed to declare the project critical, and would continue to be assessed as state significant, a lesser classification.

“This project is unique in that it impacts a World Heritage area and it’s important we meet our UNESCO obligations,” the spokesman said.

The revelation comes ahead of WaterNSW’s imminent release of the environmental impact study into the \$1 billion-plus bid to raise the wall by at least 14 metres, which UNESCO have also asked to see in light of the expected inundation of

parts of the Blue Mountains World Heritage area.

The spokesman said Mr Stokes would make a judgment on the merits of the proposal, “based on a rigorous assessment, expert technical advice and community feedback”.



An aerial view of the Warragamba Dam catchment. JAMES BRICKWOOD

Earlier this year the Insurance Council of Australia [dropped its support](#) for the project following concerns for hundreds of Indigenous sites, and Blue Mountains and Wollondilly councils have [refused to allow plans for the project to be exhibited at their properties](#).

Colong Foundation for Wilderness spokesman Harry Burkitt, who has been campaigning against raising the wall, said it was encouraging to see Mr Stokes “not willing to allow WaterNSW to steamroll through this destructive project”.

“After all, raising the Warragamba Dam wall is the most significant threat to Australia’s world heritage in many decades,” Mr Burkitt said.

The government wants to raise the wall to prevent floods endangering communities in the Hawkesbury Nepean Valley, with Minister for Western Sydney Stuart Ayres, who is helming the project, previously declaring people who focused on the environmental impacts as “extremists” who “neglect one side of the ledger”.

Mr Ayres said he has no concerns about Mr Stokes’ decision.

“This project should be evaluated on its merits and capacity to mitigate flood risk in the Hawkesbury-Nepean,” he said. “It remains a state significant infrastructure project and its assessment will proceed on that basis.”

NSW Deputy Premier John Barilaro told ABC radio in May he wasn’t convinced of the project’s merits when compared to the environmental impacts, while Police and Emergency Services Minister David Elliott [has backed it](#).

It was [revealed earlier this year](#) WaterNSW had submitted an application in 2017 to have the project declared critical state significant infrastructure (CSSI), which means the Planning Minister believes the infrastructure is essential for economic, social or environmental reasons.

The Snowy Hydro 2.0 has been given this classification, as has the Pacific Highway upgrade, as well as sections of WestConnex, and inland rail.

What the classification also means is the removal of the right for third parties to legally challenge certain decisions relating to the project, except with ministerial approval, as well as the removal of the ability of agencies such as the Environmental Protection Authority to take action.

Rana Koroglu, managing lawyer at the NSW branch of the Environmental Defenders Office, said there was a raft of regulators’ enforcement powers that didn’t operate when a project was declared to be CSSI.

“That’s unacceptable ... a CSSI classification effectively tramples on the regulators’ powers,” Ms Koroglu said.

She said the classification “effectively permits a lack of judicial oversight” by inhibiting the ability of the public to bring cases to enforce legislation. Ms Koroglu qualified that the Land and Environment Court had an inherent power to hear judicial review cases, however this specific legislation had not yet been tested.

University of Sydney environmental law expert Dr Gerry Bates said such clauses were viewed dimly by the courts.

“The courts don’t like them because they remove the transparency and accountability of government decision-making,” Dr Bates said.

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