

Department of Environment and Natural Resources

Clause 5 – Section 71B amended (Notice of intention to make water extraction licence decision)

1. Proposed s71B(2) will limit the requirement to publicise the notice to the general locality to which the application relates, with some submitters considering this to reduce transparency regarding water extraction licence decisions. Submitters also expressed concern regarding the adequacy of the information required to be provided to the public, stating that it is not, at present, sufficient to enable interested parties to make informed comment.
 - a. *What would be the effect on the operation of the Bill of amending s71B to require that water extraction licence decisions and the licence application (including supporting documentation) be made available on an appropriate government website? (please see example of amendment provided by the Environmental Defenders Office NT – Submission 3, p. 2)*
2. Proposed s71B removes the requirement that the Controller *must* give a copy of the notice to the occupier of adjacent land and introduces an amendment which requires the Controller to *use reasonable efforts to identify any occupiers* and to give these occupiers a copy of the notice. Protect NT and Lock the Gate Alliance commented that this does not provide adequate assurance that occupiers of adjacent land would be given the notice of intention, with Protect NT recommending that proposed s71B(7) be removed and existing s71B(6) be retained in its current form.
 - a. *What is the rationale for weakening the requirement to provide occupiers of adjacent land with a copy of the notice of intention to make a water extraction licence decision?*
3. Lock the Gate Alliance commented that any notice given to an occupier of adjacent land would be of limited value if it did not include the full supporting documents. They recommend that occupiers be provided with both a copy of the advertisement and associated application documents.
 - a. *What would be the effect on the operation of the Bill of requiring that relevant landholders and occupiers be provided with both the notice of intention to make a water extraction licence decision and the supporting documentation accompanying a water extraction licence application?*

ECONOMIC POLICY SCRUTINY COMMITTEE
Written Questions

Clause 12 – Regulations 12 and 13 replaced

4. Proposed Regulation 13 amends provisions for membership of the Drillers' Qualifications Advisory Committee, with Regulation 13(2) clearly stating the core skills, knowledge and experience required to be considered for appointment to the Committee. Protect NT has expressed concerns that the amendment does not include any provision to appoint a lay person on the Committee whereas they consider that existing Regulation 13 does provide for lay person membership.
 - a. *Please clarify why no provision is made to appoint lay members to the Committee.*

Clause 13 – Regulation 15 amended – Renewal of permits and licences

5. The Environmental Defenders Office NT queried whether water extraction licence renewal applications are subject to Part 6A of the *Water Act 1992*. Based on s71A(3) this would appear to be the case for renewal applications where the quantity of water taken or used will increase but not where the quantity of water stays the same.
 - a. *Please clarify the conditions under which a water extraction licence renewal application would or would not be subject to Part 6A of the Water Act 1992.*



MINISTER FOR ENVIRONMENT AND NATURAL RESOURCES

Parliament House
State Square
Darwin NT 0800
minister.lawler@nt.gov.au

GPO Box 3146
Darwin NT 0801
Telephone: 08 8936 5566
Facsimile: 08 8936 5576

Mr Tony Sievers MLA
Chair
Economic Policy Scrutiny Committee
GPO Box 3721
DARWIN NT 0801

Dear  Mr Sievers

Thank you for your letter of 10 May 2019, in which you attached written questions requesting further information on the Water Legislation Miscellaneous Amendments Bill 2019 (Bill). I hope that the following information will assist your Committee to finalise its report on this Bill, which I consider an important step in improving the regulatory framework for water resource management in the Northern Territory by creating efficiency and effectiveness improvements.

In your letter, you have asked me to provide further information regarding three of the proposed amendments as outlined below.

Clause 5 Section 71B amended (Notice of intention to make water extraction licence decision).

Application and supporting information provided on government website

Two of the three questions relating to this section query the effect on the operation of the Bill regarding amending s71B to make copies of the application and supporting information available on a public website and to the owner and occupier of adjacent lands.

The Bill is drafted comprising a collection of miscellaneous and minor changes to address technical irregularities and administrative inefficiencies that have been identified in the administration of the Water Act 1992 and Regulations. The Bill is not directed toward policy changes. Consequently policy changes such as making copies of applications and supporting information publicly available has not been contemplated in this Bill.

Amending the Bill to accommodate such an amendment would significantly delay the Bill's implementation and the benefits provided by its implementation and policy changes of this scope were not contemplated by government. However, this government is broadly committed to increasing transparency in decision-making and will consider the proposal to make copies of the application and supporting information available on a public web site under the government's broader water regulatory reform program, which was signalled by

my release of the Water Regulatory Reform Directions Paper on 19 October 2018 with submissions closing on 31 March 2018.

It is the department's practice to make full copies of water extraction licence applications and supporting information available in its offices located in Katherine, Darwin and Alice Springs.

Notification to Owners/Occupiers

Part 6A of the Water Act 1992 requires the Controller of Water Resources to notify owners and occupiers immediately adjacent to the land from which water will be taken and the land on which water will be used. Providing a notice to occupiers of land is problematic as, unlike owners, they are not easily identified. For example, the tenants of a rural property where the lease is not registered on the land title.

As you will be aware, there is no rural mail service available which would facilitate delivery of such notifications. Therefore, it is not possible to simply address a letter to a rural address and expect it to arrive, as would be possible in a suburban setting.

The time taken to attempt to identify occupiers adds significantly to processing times, without adding value. Where occupiers are obvious, such as through information available on the lands titles system, they will continue to be formally notified and the other broad public notification processes which current exist in Part 6A will continue to apply.

The Bill is designed to create an efficiency improvement by reducing the burden of identifying occupiers to "reasonable efforts". "Reasonable efforts" to identify occupiers will be a satisfactory test to replace the mandatory requirement to notify all occupiers. This will also improve administrative efficiencies by reducing wasted effort, particularly in light of the fact that the mandatory requirement to notify all land owners will continue to apply.

This will also reduce the significant daily volume of "return to sender" mail to the department, associated with failed attempts to reach occupiers.

Clause 12 – Regulations 12 and 13 replaced

The question asked was to clarify why no provision is made to appoint lay members to the Drillers' Qualifications Advisory Committee when existing Regulation 13 does provide for this. This last statement is correct, as the existing Regulation 12(1)(c) does allow for community members to be appointed to represent water users.

Similarly, the proposed amendments provide for the appointment of two community members.

Clause 12 of the Bill proposes replacing the existing Water Regulations 12 and 13 with new Regulations 12 and 13. Proposed Regulation 13 outlines the membership requirements.

The proposed changes is to provide greater flexibility in the selection of committee members. The proposal is that there will be 8 members of the committee with the skills, knowledge and experience relative the drilling industry. In accordance with proposed Regulation 13(3) at least two members of the committee must be representative of users of drilling services and be persons who are not involved in the

drilling industry or employed in the public sector. It is this new Regulation that provides for the appointment of two community members to the committee and maintains the existing arrangement in the Water Regulations.

Clause 13 – Regulation 15 amended – Renewal of permits and licences

With regards to renewing a water extraction licence, I can confirm that applications to renew a water extraction licence are not subject to Part 6A of the Water Act 1992.

In practice, if a licence holder wants to renew a licence and increase the licensed volume of water at the same time, they would be required to submit two separate applications which would be processed independently. An application for an increase in water volume, unless it is as a result of a trade or subdivision, would be subject to Part 6A.

All of the submissions made during the review of the Bill will be considered as part of the ongoing water regulatory reform processes currently underway.

In addition, I would be pleased for this response to be published on your Committee's website.

Yours sincerely



EVA LAWLER

16 MAY 2019