



Economic Policy Scrutiny Committee
Legislative Assembly of the Northern Territory
Parliament House
Darwin, NT 0800

11th March 2019

By email: EPSC@nt.gov.au

Dear Chair and Committee members,

Re: Submission on Water Amendment Bill 2019

The Environment Centre NT appreciates the opportunity to make a submission to the Economic Policy Scrutiny Committee on the Water Amendment Bill 2019.

The Environment Centre NT (ECNT) is the peak community sector environment organisation in the Northern Territory, raising awareness amongst community, government, business and industry about environmental issues and assisting people to reduce their environmental impact and supporting community members to participate in decision making processes and action.

ECNT understands the intent of this Bill is to implement the below recommendations of the Fracking Inquiry, and our submission questions whether the proposed amendments will successfully achieve these recommendations.

- Recommendation 7.6 – prohibition on the use of surface water for hydraulic fracturing
- Recommendation 7.8(a) – prohibition of ground water extraction within 1km of existing stock/domestic use bores (unless the landholder agrees, or hydrogeological information indicates an alternative distance is appropriate)
- Recommendation 7.9 – prohibition on the reinjection of waste water into deep aquifers and conventional reservoirs
- Recommendation 7.17 – prohibition on discharge of fracking waste water into surface waters.



Section 17A

ECNT stresses this section requires amendment to ensure that if an operator engaging in hydraulic fracturing pollutes an aquifer with fracking waste they must not be able to avoid a pollution liability through section 17.2B.

ECNT is concerned that the offences in 17A subsections (1)-(4) do not reflect modern standards for environmental offences. It is very difficult to prove intent and as drafted, in order to have been found to cause an offence, it must be proven that the fracking operator had knowledge or intention to cause the offence, or was reckless in behaviour.

It is critical that fracking operators are held accountable for water pollution, be it intentionally or accidentally. History and international examples have proven that fracking is a risky industry and the proposed changes of this Bill are not consistent with best practice environmental offences, let alone consistent with offences in the Act amended in late 2018.

Modern standards require a strict liability offence, the reversal of the burden of proof, and increased penalty amounts. Section 17A must be redrafted to reflect these standards.

Section 17B

ECNT are concerned that the exemption in s17B(1)(b) has been drafted too broadly. Using the general term 'ground water' implies that an offence under s17A does not occur if 'fracking waste water' is being used in a frack which then leaks into a surrounding aquifer during that 'frack'. Under no circumstance must fracking waste water come into contact with ground water other, that within the targeted shale gas formation.

Section 60A(2)(b)

ECNT reiterates the recommendation of hydrogeologist, Andrea Broughton, to recommend for Section 60A(2)(b) to be changed to read 'groundwater modeling' in place of 'ground water monitoring'. This is because 'hydrogeological investigations' should already include groundwater monitoring. Ground water modelling on the other hand is the accepted method for determining likely future impacts of a groundwater extraction activity on bore users within a radius of 1km. This would allow the Bill to be consistent with recommendation 7.8.



Consultation Process

ECNT would like to express their disappointment regarding the poor consultation process surrounding the attempts to implement the recommendations of the Fracking Inquiry. The changes that are occurring to the Water Act are without a well-considered, planned and publicised stakeholder engagement plan, which is crucial in allowing communities to have their say and share their views.

We understand that this Bill was released separately but that there are other regulatory matters included in the upcoming Codes of Practice under the *Petroleum Act* and *Petroleum (Environment) Regulations*. It would have been beneficial for stakeholders and higher understanding if these had been released together, due to their innate intricacies.



Shar Molloy
Director