



NORTHERN LAND COUNCIL

Our Land, Our Sea, Our Life

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Economic Policy Scrutiny Committee
Legislative Assembly of the Northern Territory
By email: EPSC@nt.gov.au

To whom it may concern,

Re: Water Further Amendment Bill 2019

The Northern Land Council (NLC) welcomes the opportunity to provide comment on the Northern Territory Government's Water Further Amendment Bill 2019. The NLC strongly supports the passage of this Bill.

The NLC is an independent statutory authority responsible for assisting Aboriginal people in the northern region of the Northern Territory to acquire and manage their traditional lands and seas. A key function of the NLC is to express the wishes and protect the interests of Aboriginal people throughout its region.

The establishment of Aboriginal Water Reserves and their compulsory inclusion in relevant water allocation plans enables the water rights and interests of Aboriginal people to be recognised and presents an opportunity to support economic development for eligible groups. Historically Aboriginal groups have been excluded from water distribution, as acknowledged in the Minister's explanatory speech on this Bill:

"The water allocation system existing prior to the introduction of the Strategic Aboriginal Water Reserves Policy Framework has resulted in instances where non-Aboriginal interests control close to 100 per cent of available water allocations in regions where Aboriginal people comprise the majority of the local population."

This amendment will help to address inequity by ensuring an allocation is preserved for use by Aboriginal people. It is essential that the intentions of the 2017 Strategic Aboriginal Water Reserve Policy Framework be given a legislative basis to provide security and certainty to rights holders and reduce the risk of these rights being removed through a change in policy, as occurred with the previous Strategic Indigenous Reserves policy.

Although we support passage of the Bill, the NLC is disappointed that one of our key recommendations has not been adopted – that is, that eligibility should be broadened to encompass Aboriginal land without direct water access, as well as Aboriginal people and communities who have neither land rights nor exclusive native title. There is negligible land held under exclusive native title in the Northern Territory, with the majority of land determined as native title being pastoral leases. While we do not want to delay passage of the Bill, we recommend a review of the policy, which in its current form risks further marginalising and increasing inequality for some Aboriginal groups.

We note that in some water allocation plan areas, water is over-allocated and the Aboriginal Water Reserves will remain 'notional' until sufficient water is returned to the system. The NLC urges the Government to put

in place a plan in these areas to ensure water is appropriately allocated and the promise of Aboriginal Water Reserves can be met in practice.

The NLC recommends minor amendments to the Bill:

- Cl. 4 (1) – under ‘eligible Aboriginal people’, remove ‘legal’. This is already captured by ‘ownership of or interest in’.
- Cl. 6 (2) – remove (3), which begins ‘Subsection (2)(b) does not apply if...’. This seems extraneous, as the Administrator would not declare Aboriginal economic development as a use unless it were relevant.
- Cl. 7 – remove ‘all or’.
- Cl. 8 – remove 22C (1a).

The NLC looks forward to working with Government to establish the consent requirements contemplated by proposed s 71BA, including the NLC’s role in this process. It is important to ensure Aboriginal Water Reserves are accessible for Aboriginal economic development, while also promoting equity and protecting the rights of individuals and groups to control access to water. The NLC will work with Government to resolve these issues.

The passage of this Bill will be a significant step towards equitable water management in the Northern Territory, and will set a new standard nationally. The NLC looks forward to the implementation of Aboriginal Water Reserves to ensure Aboriginal people and communities derive an economic benefit from their entitlements.

Yours faithfully

Marion Scrymgour

Chief Executive Officer