

Water Amendment Bill 2019

Protect NT Inc. Submission

Dear Economic Policy Scrutiny Committee Chair and Committee members,

Protect NT Inc is an independent group of Territorians dedicated to protecting the Northern Territory's water, land, climate and lifestyle, and currently has over 350 members throughout the NT. We hold grave concerns for the future of the Northern Territory if our water resources were ever to be depleted or contaminated. Communities, residences, horticulture, agriculture, tourism, fishing, recreational water users, flora, fauna, our iconic rivers, wetlands even deserts, everything, relies on access to safe, potable water. It is imperative that the NT Water Act be as stringent as possible to protect our most necessary yet under-valued resource, water. It is also crucial that the onshore oil and gas (petroleum) industry is held entirely to account in the Northern Territory and receive no special considerations, exemptions or benefits, especially if these special considerations, exemptions or benefits are to the detriment of our water and the broader community.

We are deeply concerned by Natasha Fyles' Media Statement released this morning which states that the Water Amendment Bill 2019 will be before Parliament in the March sittings. With public comment submissions closing on the 11th of March, will any Parliamentarians have time to read our submissions before a decision is made on the Water Amendments? Rushing legislative amendments through Parliament to facilitate an industry like onshore petroleum increases the risks of loopholes and unintended consequences being made Law undetected. The EPSC and Parliamentarians must have ample time to analyse and assess both the Bill and our Bill submissions.

Protect NT Inc has been receiving feedback from our members that they were overwhelmed or confused by having several water submissions due in a short time span (Water Amendment Bill 2018, Water Amendment Bill 2019, and Water Regulatory Reform 2019), with some mistakenly thinking the Water Amendment Bill 2019 was the Water Amendment Bill 2018 or Water Regulatory Reform 2019. A clearer, more consistent approach to amending Bills needs to be found and implemented to enable community members and stakeholders to easily find, read and comment on Bills. Posting all Bills on the NTG's 'Have Your Say' website would simplify this. Water is vital to all Territorians and we need to be involved in these decisions which affect us all. Territorians need proper community consultation and genuine opportunities to contribute to legislative and decision-making processes.

Water Amendment Bill 2019 Comments

The Water Amendment Bill 2019 has some positive amendments. Protect NT Inc welcomes the insertion of Section 45A into the Water Act to protect our surface water quantity, quality and flow. Section 45A states, "No licence to take water for petroleum activity. The Controller must not grant a licence under section 45 if the proposed beneficial use of water under the licence is petroleum activity".

We also support the insertion of section 67(4) into the Water Act which states, "The Controller must not grant a licence that permits the increase of water contained in an aquifer with water that is or contains hydraulic fracturing waste", as this will aid the protection of our aquifers. Though we note

that the insertion of s67(4) means that s63 of the Water Act 2018 must also be amended. This oversight needs to be rectified.

The Water Amendment Bill 2019 also has some major discrepancies. The insertion of s17B to exempt “produced water or flowback fluid” from coming “into contact with ground water during the process of hydraulic fracturing” from the offences listed in the proposed s17A, is one such flaw. While the Explanatory Statement for this Bill explains that exemption s17B is intended to allow produced water or flowback fluid to be reused in the hydraulic fracturing process, this exemption could be misconstrued and interpreted as a broad defence to s17A’s offences. This section needs to be clearly rewritten, we suggest:

17B Application of section 17A

(1) Section 17A does not apply if hydraulic fracturing waste is produced water or flowback fluid being reused for hydraulic fracturing and doesn’t contaminate aquifers.

The offences listed in proposed s17A are also problematic as how are subjective elements such as intent, knowledge and level of recklessness quantified or proven? We suggest that s17A be redrafted to assume intent, knowledge and recklessness exist and resulted in the offence. The burden of proving otherwise should rest with the offender.

We also have concerns regarding s60A(2). The Controller must not grant the ‘licence to take ground water for hydraulic fracturing’ if “one or more designated bores are located within 1 km of the bore”, regardless of what the “owner” consents to. This would offer protection against petroleum companies becoming the owners of designated bores and jeopardising our groundwater.

There are several other amendments we recognise as being required by the Water Act which are not included in this Amendment Bill. We hope that they will be addressed in future amendment bills. Please ensure that broader community and stakeholder consultations are implemented when these bills are released.

Yours Sincerely,

Steve Vidler

Chair, Protect NT Inc