

### **Water Further Amendment Bill 2019 (Serial 100)**

The Territory is a leader in this area, and the Member for Casuarina said that. It is proposed that the refreshed National Water Initiative will include Indigenous water as a key module. The Aboriginal Water Reserves Policy Framework was the first of its kind to be developed nationally and embodies progressive water policy reform. This bill supports the policy framework by ensuring its intent is adequately captured and its longevity is enshrined in legislation.

Finally, I again thank each of my colleagues that spoke today—the Leader of the Opposition, the Member for Nelson, for speaking to this bill. I also thank the Economic Policy Scrutiny Committee and all the organisations and individuals who took the time to comment on this bill.

I point out that there is further work to be done in terms of the development of the Water Regulations 1992 and I thank the land councils in advance for their involvement in this. I thank the Department of Environment and Natural Resources, not only for the extensive consultation that was undertaken to develop 2017 policy framework, but also for their ongoing commitment to bringing this legislation to the Assembly for consideration.

Participation and the regulation impact assessment and the Economic Policy Scrutiny Committee processes and the Territory's border water reform program.

Last but not least I would like to say that the appropriation of this bill, which is small compared to the environmental reform bill that we had before this parliament last sittings, has been particularly challenging. Therefore I would like to thank both the Office of the Parliamentary Counsel and the Solicitor of the Northern Territory for the agile way in which they have dealt the challenges posed in capturing the policy framework into the water legislation.

Again, I acknowledge and thank the Chief Executive of the Department of Environment and Natural Resources and also the Executive Director.

Motion agreed to; bill read a second time.

#### **Consideration in detail**

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4:

**Mr WOOD:** Minister, your last bit of summing up, which interests me, is the process you spoke about how the department work out who is the traditional group that would be responsible for the water use. We would generally be talking about land trust land? Would that be correct?

**Ms LAWLER:** Yes, the majority will be Aboriginal land trust land.

**Mr WOOD:** Who would be the owner of the licence?

**Ms LAWLER:** That would be whoever has applied for that licence. So a family group or ...

**Mr WOOD:** Is that a specific person or is it the land trust?

**Ms LAWLER:** It could be either, a family group or a partner.

**Mr WOOD:** Issues like ownership of the actual bore would not be a matter for consideration by the government, it would be a matter for consideration by the land councils? Anything that is on land trust land, without a lease, is owned by the land trust? Who would be the owner of the bore?

**Ms LAWLER:** The owner of the bore would be the person who had constructed it.

**Mr WOOD:** Internal issues—for instance the owner of the bore having some legal right to the bore would have to be worked through internally with the land council?

**Ms LAWLER:** This is about Aboriginal economic development. If someone wants to develop, for example a crop, on that land, they would need the capital to put in the bore. That entity would own and maintain the bore and run their business. What is your issue?

**Mr WOOD:** If I applied for a licence to a land trust, who holds the licence, the land trust or the person who will operate that enterprise on that land?

**Ms LAWLER:** That could be negotiated on how they will economically develop the land. What exactly is your concern?

**Mr WOOD:** I am looking at the practical outcomes. It is not against the development, a land trust is controlled by the land council and they make decisions. Initially, who would apply for a water licence, the land council or the leaseholder? I am looking at the process for an Aboriginal person to get a water licence on land trust land.

**Ms LAWLER:** The land councils would work with whoever applies. It is about economic development and there would be a commitment to develop the land and the land council gives consent to that application.

**Mr WOOD:** I presume the responsibility for that bore lies with the people who have an agreement with the land council to develop that enterprise?

**Ms LAWLER:** Yes. To be clear, bores and water licences are different. If we are talking about the maintenance of the bore, whoever is going to develop the land would need to maintain the bore as an individual or a group.

**Mr WOOD:** Whose name would be on the water licence?

**Ms LAWLER:** It would be whoever applied, a family group or a business entity.

**Mr WOOD:** The land council could have their name to the water licence?

**Ms LAWLER:** Yes, providing consent was given.

**Mr WOOD:** Title water, is that included? Aboriginal people own water to the low water mark. If they had an aquaculture development close to the shore, are there any issues in relation to extracting water from tidal waters?

**Ms LAWLER:** It is unlikely to have a water allocation plan over tidal waters, it would be salty.

**Mr WOOD:** Yes, it would be salty, it is sea water. But there are areas like the Daly River where it is a mixture. I wanted to clarify that that did not come in to this discussion.

**Ms LAWLER:** No.

**Mr WOOD:** I have another question. This might relate to some of the changes you have. So that I am sure, under section 4, section 3 deals with the following of the beneficial uses of water. I need to get it clarified. When we go down further to clause 22A(2) which talks about each of the following is a beneficial use of water in a water control district. Then it mentioned environment and Aboriginal economic development. Already under the definitions of beneficial uses, we have an environment, and we have industry.

**Mr WOOD:** Clause 4 has sections on definitions and one of the definitions is the definition of beneficial uses. It relates to the clause that we will deal with a little later. What I am asking is, do you need a separate group of beneficial uses for a water allocation plan separate from what is already under the definitions of beneficial uses? If so, why?

Under clause 4(3) there is a whole definition of group of beneficial uses. We then repeat that under section 22A(2) and we mention—each of the following is a beneficial use of water in a water control district—and we mention environment. Environment is already a beneficial use under the definition.

I am trying to find out, why do you need that distinction between what is in a water control area and just what is in the definitions?

**Ms LAWLER:** What it is saying is that when a new water control district has been declared then environment and Aboriginal economic development are two areas that are then included.

**Mr WOOD:** Am I right in saying that even though we have definitions of beneficial uses they do not necessarily apply to each water allocation plan?

**Ms LAWLER:** Yes. They do not apply to a water control district unless they have been declared by the Administrator.

**Mr WOOD:** To clarify, each water allocation plan has its own beneficial uses? Is that correct?

**Ms LAWLER:** A water control district has its beneficial uses outlined. Yes.

**Mr WOOD:** Thank you.

**Madam ACTING DEPUTY SPEAKER:** Thank you, Member for Nelson.

Clauses 4 and 5 taken together and agreed to.

Clause 6:

**Ms LAWLER:** I move amendment 1 to clause 6. Assembly amendment 1 amends clause 6. The Economic Policy Scrutiny Committee recommended that proposed section 22A be amended by removing subsection 3. Proposed subsection 22A(3) mirrored clause 3.7.1 in the Northern Territory Government's Strategic Aboriginal Water Reserves policy framework, October 2017, which states that Aboriginal Water Reserves are not applicable where all or none of the land in a water allocation plan area is eligible land.

Following scrutiny of the bill proposed subsection 22A(3) can be considered to be an unnecessary inclusion. This proposed change is consistent with the suggestion made by the Northern Land Council in its submission to the Economic Policy Scrutiny Committee and which were also discussed between the Northern Land Council and the department after the bill was introduced.

**Mr WOOD:** I read that in the report from the scrutiny committee but it did not say why it should be removed.

**Ms LAWLER:** It is redundant and it goes back to something you were talking about. For example on the Tiwi Islands and Groote Eylandt the land councils, that is one land owner and so they have full rights and full access to all of the water in those areas. That subsection is just redundant basically.

Amendment agreed to.

Clause 6, as amended, agreed to.

Clause 7:

**Ms LAWLER:** Madam Acting Deputy Speaker, I move amendment 2 to clause 7. Assembly amendment 2 amends proposed section 22B(7) by removing the words 'unless all or none' and replacing them with 'if any'. This amendment has been made in line recommendation 3 of the Economic Policy Scrutiny Committee report. Proposed section 22B(7) mirrored clause 3.7.1 in the Northern Territory Government Strategic Aboriginal Water Reserves Policy Framework October 2017, which states Aboriginal water reserves are not applicable where all or none of the land in the water allocation plan area is eligible land.

Proposed section 22B(7) in the bill provides that where this is eligible land within a water allocation plan area that an Aboriginal water reserves is to be established, except where all or none of the land is in the plan area's eligible land. It is agreed that a situation where all of the land in plan area is unlikely to arise in practice and therefore referring to this situation in the bill is unnecessary.

Redrafting of this proposed subsection has removed the double negative and it is indeed proposed now to refer to it if any is eligible. The Office of the Parliamentary Counsel has drafted a modified form of the amendment that reflects established drafting practices and plain English principles. The net effect of Assembly amendment 2 is that an Aboriginal water reserve is to be established if any of the land in a water allocation plan area is eligible land. This also allows for the situation where land may become eligible land during the five year review period or ten year term if applicable of the water allocation plan.

**Mr WOOD:** I thought I could understand it before, but now.

**Ms LAWLER:** You are good with double negatives.

**Mr WOOD:** I might be, but reading through the scrutiny committee's report, it basically says that it does not apply if you do not have eligible land and if you own the whole lot, well it does not apply either because that just makes common sense. I thought that is what it really meant, but I will leave it up to people with better knowledge of double negatives. Thanks.

Amendment agreed to.

Clause 7, as amended, agreed to.

Clause 8:

**Mr WOOD:** Minister, for clarification on this, this one relates to 22C, which talks about designation of eligible land for Aboriginal water reserves in water allocation plan. It says a water allocation may designate the eligible land, as land in respect of which an Aboriginal water reserve applies if the land is more than one hectare. I know this was discussed in the briefing and I probably still came out not quite sure who it actually works in practice. Is there any land of one hectare that Aboriginal people would own where this would apply? In practice does this make any sense or is it just a clause just in case?

**Ms LAWLER:** Yes, it is a 'just in case' clause.

Clause 8 agreed to.

Remainder of bill, by leave, taken together and agreed to.

**Ms LAWLER (Environment and Natural Resources):** Madam Speaker, I move that the bill be now read a third time.

Motion agreed to; bill read a third time.

The Assembly suspended.

#### **PETITION** **Petition No 42 – Support Vapers' Rights**

**Mr MILLS (Blain)(by leave):** Madam Speaker, I present a petition not conforming with standing orders from 562 petitioners relating to a request to support vapers' rights to vape with and without nicotine in Australia.

Madam Speaker, I move that the petition be read.

Motion agreed to; petition read:

*We the undersigned are concerned citizens who urge our leaders to act now to support vapers' rights to vape with and without nicotine in Australia.*

*We have made a successful transition from smoking tobacco to vaping. Through vaping we are now non-smokers and request our rights to vape with and without nicotine be supported by government legislation.*

**Mr MILLS (Blain):** Madam Speaker, I move that the petition be referred to the Social and Economic Policy Scrutiny Committees to consider whether the petition should be debated.

Motion agreed to.

#### **QUESTIONS**

##### **Magpie Geese Bag Limits - Increase**

**Mr HIGGINS to MINISTER for ENVIRONMENT and NATURAL RESOURCES**

In a media release dated 8 October 2019 you stated: