

13<sup>th</sup> September 2018



Environment  
Institute of  
Australia and  
New Zealand

**Att:**

Secretary, Economic Policy Scrutiny Committee  
[EPSC@nt.gov.au](mailto:EPSC@nt.gov.au)

Dear Sir/Madam,

**Re: Submission to the *Water Legislation Amendment Bill 2018***

The Environment Institute of Australia and New Zealand (EIANZ) Northern Territory Division welcomes the opportunity to submit its comments on the *Water Legislation Amendment Bill 2018*.

The EIANZ represents environmental practitioners across Australia and New Zealand. It advocates environmental knowledge and awareness, advancing ethical and competent environmental practice. Its members work across the environmental industry for government, industry and consultancy; in the NT our members are regulators, industry advocates, industry environmental staff and consultants.

We support the amendments in principle (though note some concerns outlined below) but we feel that the current proposed amendments miss an important flaw in the approvals process regarding taking large volumes of water, where there could be a significant impact to downstream environmental or social values. Under the current arrangements, numerous mining projects have completed an environmental impact assessment process under the *Environmental Assessment Act* (e.g. EIS) without a rigorous assessment of water extraction and associated downstream impacts. Approval of water extraction in the past has been deferred to the Mining Authorization process under the *Mining Management Act* and as a result has arguably been ineffective in considering whole of catchment and cumulative impacts. The proposed amendments to the *Water Act* would see a more rigorous assessment of water extraction occur as part of an extraction licence application (which is supported); however, unless water extraction is adequately addressed as part of the EIS process, our concern is that a water extraction licence is viewed as a *fait accompli* and there is substantial political pressure on the issue of a licence where an EIS process has been completed. Proponents and Ministers are typically of the view (arguably rightly so), that once you get through the hurdle of an EIS process, the subsequent permitting and licencing processes (i.e. Mining Authorisations and water licences) are not project show-stoppers.

A more rigorous approach would require the taking of large volumes of water (triggers to be defined) to be assessed and licenced/permitted as part of the primary environmental approval (i.e. under the future NT *Environmental Protection Act*). Also the changes to the *Water Act* in our view will only have 'teeth' if the issue of a Mining Authorisation under the *Mining Management Act* is conditional on the prior issue of a Water Extraction Licence for those projects that will extract over a certain volume and/or significantly reduce downstream flows.

Of the proposed amendment we make two points:

- The intent of the amendment is to bring the mining and petroleum industries into line with community expectations of environmental management. While the removal of the exemption from the sustainable extraction component of the *Water Act* addresses a major concern, the



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retention of the pollution exemptions (i.e. s 7 (2)) will still be cause of concern for the public. We would like to think that further amendments to the *Waste Management and Pollution Control Act* would remove this disparity. Could you please confirm?

- The amendments propose to remove Section 41(3) (which puts a time limit of 12 months on interfering with a waterway); while we agree that the Act should not define a period of time, we believe that some types of interference should be time bound. An example is the modification of bed and banks for temporary crossings. A better outcome would be for section 41(3) to state that some interfere with a waterway must be time constrained and to direct the permitter to do this.

We thank the committee for giving us an opportunity to make a submission on the amendment and would be happy to take any questions regarding our submission.

Yours Sincerely,



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