

14 September 2018

Ms Julia Knight, Committee Secretary  
Committees Office of the  
Department of the Legislative Assembly  
GPO Box 3721  
DARWIN NT 0801

Lodgement via email: [SPSC@nt.gov.au](mailto:SPSC@nt.gov.au)

Dear Ms Knight

### **Comments on the *Environment Protection Authority Amendment Bill 2018***

The Minerals Council of Australia Northern Territory Division (MCA NT) welcomes the opportunity to provide comment on the Northern Territory Government's *Environment Protection Authority Amendment Bill 2018*.

The MCA is the peak industry organisation representing Australia's exploration, mining and minerals processing industry, nationally and internationally, in its contribution to sustainable development and society. The MCA's strategic objective is to advocate public policy and operational practice for a world-class industry that is safe, profitable, innovative, and environmentally and socially responsible, attuned to its communities' needs and expectations.

Within this context, the MCA NT has advocated, through submissions on every Northern Territory Government draft policy, strategy, discussion paper and draft legislation, for policy and regulatory settings based on and commensurate with risk and developed via *bona fide* consultation with our organisation and members of Territory-based mining companies.

### **General comments**

Whereas the government agencies most relevant to development and operation of our industry, the Department of Primary Industry and Resources (DPIR) and Department of Environment and Natural Resources (DENR) have engaged with the MCA NT on many occasions during development and review of policies, administrative procedures and legislation, the NT Environment Protection Authority (NT EPA) has been inconsistent in such engagement.

For example, in 2017 the NT EPA sought feedback from the MCA NT on draft guidelines for notices of intent; definition of 'significant environmental effect;' and the *Roadmap for a modern environmental regulatory framework*; however, in 2018, it developed and published two new guidelines for environmental impact assessment (*NT EPA Environmental Factors and Objectives and Opportunities and timeframes for community engagement*) and drafted the *NT EPA Amendment Bill* with no consultation whatever. This is disappointing, because environmental impact assessment (EIA) and approvals are critically important processes for our industry, and the guidelines above have weaknesses that could have been avoided had the MCA NT and our members had the opportunity to discuss content of these with the NT EPA.

It could be strongly argued that the mining industry has considerably more understanding of the practical application of these processes for our sector than the EPA and could have helped guide the EPA in ensuring the guideline was written appropriately.

This lack of consultation by the NT EPA is also surprising in that the Territory government was elected on a platform that development of government policy and legislation would be consultative and transparent.

Deficiencies in consultation aside, the Amendment *Bill* has a number of features that are welcomed by the industry. The MCA NT's comments on specific aspects of the *Bill* are provided below.

### Specific comments

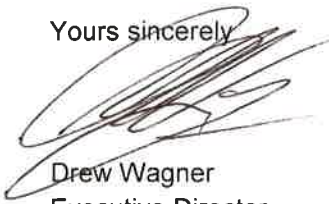
- Introducing a new definition in the Act, 'Statement of Intent,' a statement of the NT EPA's strategic priorities over the next 2 years.
  - The MCA NT welcomes this amendment, as it makes the NT EPA declare in writing what its priorities will be, this statement must demonstrate that its priorities are consistent with the objectives of the NT EPA.
  - It also states explicitly that that the Statement of Intent must demonstrate how the NT EPA's priorities contribute to the NT's objectives in relation to environmental management and economic development. The MCA NT continues to advocate that government decisions reflect a balance between a broad range of criteria, e.g. environmental sustainability, social and cultural benefits and economic development.
- Introduction of greater flexibility in number of NT EPA Board members, rather than limit numbers to five appointed by the Administrator plus the Chair of the NT Planning Commission.
  - The amendment allows for a minimum of 4 members and a maximum of 7 members, which should improve the Board's ability to meet the needs of changing demands for its services.
  - The MCA NT therefore considers this an improvement to the current system, which will also allow the Board to include new members with specialist experience and expertise as needed, e.g. for fracking matters.
- Introduction of a requirement for the NT EPA to demonstrate that its decisions are consistent with ESD principles.
  - The MCA NT believes that this amendment is consistent with the purpose of the NT EPA, and that it is reasonable to expect that it will have regard to the principles of ESD in developing policy advice and making decisions.
- The NT EPA must consider the breadth of NTG policies and priorities in providing advice to the minister, and not just economic policies. It also supports the NT EPA's new obligation to consider environmental management and economic development in its Statements of Intent.
  - As stated above, the MCA NT supports that the NT EPA's decisions should be aimed at maximising benefits across a range of criteria. In other jurisdictions, a Coordinator General is charged with doing just this.. balancing the range of benefits to be realised through a new development.

- The *Amendment Bill* introduces a new power and obligation for the NT EPA: to monitor the functioning of the Territory's reformed environmental regulatory framework and other matters captured under the broad definition of 'the NT's system of environmental management.'
  - 'The new powers reflect the NT EPA's new 'assurance monitor' role, aimed at building community trust, by completing periodic reviews of the NT's environmental management system and recommending improvements.'
  - The MCA NT supports this new role. As an independent entity it is better placed than the government to do such reviews.
- The *Amendment Bill* provides that the minister prepare a response to any advice or report prepared by the NT EPA, and the NT EPA may publicise the minister's response in any manner it considers appropriate.
  - It also allows the NT EPA to respond to a request for advice about specific proposals, plans, programs or other measures aimed at environment protection, that might be made by an Territory minister
  - The MCA NT does not see any problem with this added responsibility for the NT EPA unless these requests unnecessarily extend assessments and approvals processes. The MCA NT would therefore suggest that any such request must be supported by adequate evidence that a proposed activity has a credible risk of having unacceptable environmental impacts, and that the consent authority requires advice from the NT EPA to ensure its approvals are consistent with ESD principles.

The MCA NT would welcome opportunities to engage with the NT EPA on development of future policies, guidelines and legislation.

Should you require further information or clarification, please do not hesitate to contact me directly on 08 8981 4486.

Yours sincerely



Drew Wagner  
Executive Director

