

Explanatory Statement

SERIAL 100

WATER FURTHER AMENDMENT BILL 2019

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MINISTER FOR ENVIRONMENT AND NATURAL RESOURCES

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Water Further Amendment Bill 2019 amends the *Water Act 1992*.

The purpose of the Bill is to capture aspects of the Northern Territory Government's Strategic Aboriginal Water Reserves Policy Framework (October 2017) into legislation to ensure that strategic Aboriginal water reserves remain an enduring requirement of water allocation plans made under the *Water Act 1992*.

NOTES ON CLAUSES – AMENDMENTS TO THE WATER ACT 1992

Clause 1. Short Title

Provides for the Bill to be cited, when passed, as the *Water Further Amendment Act 2019*.

Clause 2. Commencement

Establishes that the *Water Further Amendment Act 2019* will commence on a day fixed by the Administrator in the Government *Gazette*.

Clause 3. Act amended

Identifies the *Water Act 1992* as the Act to which the *Water Further Amendment Act 2019* applies.

Clause 4. Section 4 amended (Interpretation)

Adds a new definition of ***Aboriginal economic development***, for the purpose of new section 4(3)(j).

Adds a definition of ***Aboriginal water reserve***, being a reserve of water allocated in water allocation plan related to ***eligible land***.

Adds a definition of **eligible Aboriginal people** through their ownership of or interest in eligible land.

Adds a definition of **eligible land**, established in section 4B.

Links the definition of water allocation plan to **section 22B**.

Adds and defines a new beneficial use category of Aboriginal economic development, the purpose of which is to provide water for that purpose.

Clause 5. Section 4B inserted

Provides three categories of land, which together comprise **eligible land**.

Excludes subleases from the categories of land.

Clause 6. Section 22A amended (Beneficial uses within water control district)

Adds **Aboriginal water reserve** to environment, as two beneficial use categories which apply to water resources in a water control district; in the case of **Aboriginal water reserve**, this applies where relevant, being except when all or none of the land in the water allocation plan area is **eligible land**.

Clause 7. Section 22B amended (Water allocation plans)

Adds new subsection (7) which provides that an allocation of water in a water allocation plan within the estimated sustainable yield, must include an allocation to the beneficial use category of **Aboriginal water reserve**; except when all or none of the land in the water allocation plan area is **eligible land**.

Clause 8. Section 22C inserted

Adds new section 22C which establishes generally applicable criteria for **eligible land** by both including and excluding certain categories of land at 22C(1)(a) and (b) and provides that **eligible land** can be designated by the Minister in a declared water allocation plan.

Requires the Minister to consult with the relevant Aboriginal Land Council prior to designating land in a declared water allocation plan.

Clause 9. Section 71BA

Inserts new section 71BA to prevent the Controller of Water Resources from granting a water extraction licence from an Aboriginal water reserve unless the relevant Aboriginal people, as prescribed by the Water Regulations, have given consent, and in the manner and form prescribed by regulation.

Clause 10. Section 108 amended (Regulations)

Allows for Regulations to be made to confer a new function on Land Councils in relation to Aboriginal water reserves.

Clause 11. Part 18 inserted

Inserts transition arrangements to bring forward beneficial use declarations in existence for water control districts prior to the Water Further Amendment Bill 2019.

Does not apply the requirement for Aboriginal water reserves to apply retrospectively to water allocation plans in existence prior to the Water Further Amendment Bill 2019.

Clause 12. Repeal of Act

Allows the amended *Water Act 1992* to take effect, by repealing the Water Further Amendment Bill 2019 on the day after it commences.