



NORTHERN
TERRITORY
DIVISION

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

Dear Ms Knight

Comments on the *Water Legislation 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 *Water Legislation 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.

MCA member companies are signatories to *Enduring Value – the Australian Minerals Industry Framework for Sustainable Development* and have a long standing commitment to the effective and responsible management of Australia's water resources.

Although the minerals industry is a comparatively small user of water nationally (2.9 per cent), the industry can be a significant water user at the local or regional level, and the availability and security of supply is a critical business risk for the minerals sector.¹ Minerals operations face a wide variety of other water management challenges, including use and treatment of unacceptably-poor quality water, mine dewatering and the management of excess water. For these reasons, the MCA NT acknowledges the critical importance of a sound regulatory framework to effectively manage risks to the sustainable use of the Territory's water resources.

Within this context and the Government's election commitment to greater regulatory transparency, the MCA NT understands and supports the objectives for which the *Water Legislation Amendment Bill ('the Bill')* has been drafted, including bringing the mining and petroleum industries into line with other water-using industries in the Territory under the amended *Water Act*.

Our members have appreciated briefings provided by the Department of Environment and Natural Resources (DENR) regulatory reform team at various meetings this year on the progress in drafting however, have appreciated also being able to meet with the reform team prior to development of drafting instructions, to raise technical and other issues at a time when these could have guided the

¹ Australian Bureau of Statistics 2610 – Water Account Australia, 2012-13

drafting of the Bill. For this reason, our members share a level of uncertainty about the impact of the amended *Water Act* on the planning and day-to-day operations of their mineral developments.

On the whole, briefings by DENR's reform team have provided a measure of comfort that the particular needs and characteristics of our mineral exploration and operations will be adequately accommodated in the amended *Act*; however, until such time as the provisions of the amended *Act* are tested, including consequential amendments to the regulations, our members will be concerned about the reforms.

DENR has explained that once the amended *Act* is implemented, it will initiate an engagement and communications strategy to 'walk companies through' the new requirements. Through its attendance at MCA NT Council and Committee meetings, DENR has already been made aware of potential anomalies that might have to be addressed via exemptions for particular operations or activities, and DENR has requested that our members contact the reform team with such issues as they arise.


In addition to this one-on-one feedback, the MCA NT recommends that DENR convene one or more workshops with appropriate industry and government representatives to work through issues of concern and that DENR commit to a performance review of the amended *Act*, possibly after the first 12 months of implementation, to deal with unanticipated/unintended consequences, should they arise during this period.

The MCA NT has identified a small number of specific issues/concerns with the *Bill* and related matters, including administration and future amendments to the *Water Regulations*. These are included in Attachment A.

In closing, the MCA NT commends the Government for its commitment, through the *Bill*, to amend the regulatory framework for management of the Territory's precious water resources in a manner that, with hope, will be able to provide flexibility to accommodate innovative approaches to manage industrial water use that are consistent with the principles of environmentally sustainable development and the need to balance the needs of society, economic development and the environment.

The MCA NT would welcome further opportunities to engage with DENR on this and other legislative reform for managing the Territory's water resources. 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

ADDITIONAL COMMENTS FROM THE MCA NT ON THE NT WATER LEGISLATION AMENDMENT BILL 2018

1. **Concern: Duplicative reporting requirements.**

The Department of Environment and Natural Resources (DENR) has provided verbal assurances that reporting requirements for the Department of Primary Industry and Resources (DPIR), in relation to water use, will not be duplicated for reports required by both DENR and DPIR. The MCA NT looks forward to the industry engagement and consultation described by DENR that will commence after the Bill has received assent and its provisions implemented.

MCA NT recommends that during this period one or more workshops be held with appropriate representatives from DPIR, DENR, the MCA NT and industry members, to allow DENR to fully explain reporting requirements and how coordination between the two departments will avoid duplication of reporting efforts.

2. **Concern: protracted period to obtain permits and licences**

Under the current *Water Act* and *Regulations*, it can take up to 6 months for explorers or operators to obtain permits and licences. The MCA NT has received mixed messages from DENR in relation to reference to a statutory 30-day time limit in the future, for the processing of applications.

DENR has indicated that if all required information is supplied with the application and DENR completes an assessment (which may include modelling if not already done by the applicant) showing the licence should be granted on grounds of sustainability and effect on other users before lodging the application, then there would be a 30 day "exhibition" period after which (if no problematic comments have been received), 2 – 4 weeks may be required before the licence is granted.

Under this scenario, the minimum period for a license or permit to be granted to an applicant, if all paperwork is in order and DENR has adequate evidence to conclude that the proposed use is sustainable and impacts on other users is acceptable, would be 6-8 weeks.

3. **Query: protection of rights of explorers under licences and permits**

Will amendments to the *Water Act*, *Mining Management Act* or *Mineral Titles Act* protect the rights of explorers in relation to installation and exclusive use of monitoring equipment (including monitoring bores) against interference or unauthorised use by third parties? If so, what offences and penalties will apply to interference with monitoring equipment installed by a mineral explorer as part of their approval to conduct exploration activities on their Exploration Lease (EL)?

4. **Query: provisions addressing use of low-quality water for mineral operations**

In the context of water planning and allocation, will the *Act* or *Regulations* recognise that miners can use water of lower quality for particular purposes, water that would not be sought by other potential users? Much of the water used by the minerals sector is not fit for purposes other than industrial applications, with water ranging in quality from non-potable through to saline groundwater.