

NORTHERN TERRITORY OF AUSTRALIA

WATER FURTHER AMENDMENT ACT 2019

Act No. 36 of 2019

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 36 of 2019

An Act to amend the *Water Act 1992*

[Assented to 6 November 2019]
[Introduced 14 August 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Water Further Amendment Act 2019*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Act amended

This Act amends the *Water Act 1992*.

4 Section 4 amended (Interpretation)

(1) Section 4(1)

insert

Aboriginal economic development means economic development by or for the benefit of eligible Aboriginal people.

Aboriginal water reserve means a reserve of water allocated in a water allocation plan for Aboriginal economic development in respect of eligible land designated under section 22C.

eligible Aboriginal people are Aboriginal people who have a legal entitlement to access water resources because of their ownership of or interest in eligible land.

eligible land, see section 4B.

water allocation plan means a plan declared under section 22B.

(2) Section 4(3)(i)

omit

activity.

insert

activity;

(3) After section 4(3)(i)

insert

(j) Aboriginal economic development – to provide water for Aboriginal economic development.

5 Section 4B inserted

After section 4A

insert

4B Meaning of *eligible land*

(1) **Eligible land** means the following:

(a) Aboriginal land as defined in section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

(b) land in relation to which, under the *Native Title Act 1993* (Cth), a determination of native title was made that native title rights and interests to possess, occupy, use and enjoy land and waters to the exclusion of all others exist on the land and those rights and interests were not subsequently extinguished;

(c) freehold land, land held under a lease in perpetuity or land held under a lease for a term that expires on or after the expiry of the water allocation plan:

(i) if the title holder of the land or lease is one of the following:

(A) an incorporated association under the *Associations Act 2004*;

(B) an Aboriginal and Torres Strait Islander Corporation established under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);

(C) a trust established under a law of the Territory; and

(ii) to which at least one of the following applies:

(A) the land or lease is granted under a law of the Territory as part of the settlement of a land claim under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

(B) the title to the land or lease is expressly held by or for the benefit of Aboriginal people and a law of the Territory or a law of the Commonwealth imposes a restriction on the use, occupation or any dealing with the land for the purpose of ensuring the title to the land or lease is held by or for the benefit of Aboriginal people.

(2) In this section:

lease does not include a sublease.

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

(1) Section 22A, before "The"

insert

(1)

(2) Section 22A, at the end

insert

(2) Each of the following is a beneficial use of water in a water control district:

(a) environment;

(b) Aboriginal economic development.

7 Section 22B amended (Water allocation plans)

After section 22B(6)

insert

(7) An allocation under subsection (5)(a) is to include an Aboriginal water reserve if any of the land in the water control district to which the water allocation plan relates is eligible land.

8 Section 22C inserted

After section 22B

insert

22C Designation of eligible land for Aboriginal water reserve in water allocation plan

(1) A water allocation plan may designate eligible land as land in respect of which an Aboriginal water reserve applies if:

(a) the land is of more than 1 hectare; and

(b) there are water resources on, under or adjacent to the land.

(2) Before declaring a water allocation plan that designates land as mentioned in subsection (1), the Minister must consult with the relevant Aboriginal Land Council in relation to the land.

(3) A water allocation plan must not designate land under subsection (1) that is held under a lease that permits the lessee to use the land solely or primarily for residential purposes.

9 Section 71BA inserted

After section 71B

insert

71BA Consent required before extraction licence given in respect of Aboriginal water reserve

- (1) The Controller must not grant a water extraction licence in relation to an Aboriginal water reserve unless the Aboriginal persons of a class prescribed by regulation have given consent.
- (2) The manner and form of consent required under subsection (1) is as prescribed by regulation.

10 Section 108 amended (Regulations)

- (1) Section 108(2)(a) to (t), at the end

insert

and

- (2) Section 108(2)(v)

omit

Regulations.

insert

Regulations; and

- (3) After section 108(2)(v)

insert

- (w) confer a function on Aboriginal Land Councils in relation to Aboriginal water reserves.

11 Part 18 inserted

Before the Schedule

insert

Part 18 Transitional matters for Water Further Amendment Act 2019**119 Saving of beneficial uses declarations**

A declaration under section 22A in force immediately before the commencement of section 6 of the *Water Further Amendment Act 2019* continues in force after that commencement, subject to any amendment or revocation.

120 Aboriginal water reserve not to apply to allocations made before commencement

Section 22B(7) does not apply to a water allocation plan that was in force before the commencement of that subsection.

12 Repeal of Act

This Act is repealed on the day after it commences.