

Serial 83
Water Legislation Amendment Bill 2023
Ms Moss

A Bill for an Act to amend the *Water Act 1992*, the *Planning Act 1999*, the *Unit Title Schemes Act 2009*, the *Unit Titles Act 1975* and the *Water Regulations 1992*

NORTHERN TERRITORY OF AUSTRALIA

WATER LEGISLATION AMENDMENT ACT 2023

Act No. [] of 2023

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2023

An Act to amend the *Water Act 1992*, the *Planning Act 1999*, the *Unit Title Schemes Act 2009*, the *Unit Titles Act 1975* and the *Water Regulations 1992*

[Assented to [] 2023]
[Introduced [] 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Water Legislation Amendment Act 2023*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 21 March 2025, it commences on that day.

Part 2 Amendment of Water Act 1992

3 Act amended

This Part amends the *Water Act 1992*.

4 Section 4 amended (Interpretation)

Section 4(1)

insert

Restricted Water Extraction Area means an area of land declared under section 14A(1).

5 Section 11 amended (Rights of owners or occupiers of land in contact with waterway to take water for certain purposes)

(1) Section 11

omit

99

insert

14A

(2) Section 11(a)

omit

purposes;

insert

purposes on the land; or

6 Section 14 amended (Right of owners of overlying land to take groundwater for certain purposes)

(1) Section 14

omit

70 and 99

insert

14A and 70

(2) Section 14(a)

omit

purposes;

insert

purposes on the land; or

7 Sections 14A to 14E inserted

After section 14

insert

14A Restricted Water Extraction Area declaration

- (1) The Minister may, by *Gazette* notice, declare an area of land to be an area where the right to take water under section 11 or 14 is restricted when the land is subdivided or consolidated.
- (2) Before making the declaration, the Minister must be satisfied it is necessary to restrict taking of water from waterways or from groundwater in the area to:
 - (a) protect environmental or cultural values of water in the area; or
 - (b) ensure the ongoing supply of water to persons with a right to take water under this Part in the area.
- (3) For subsection (2), the Minister must take into account the following:
 - (a) the characteristics of waterways and groundwater in the area;
 - (b) the amount of water allocated under water extraction licences in the area;
 - (c) the amount of water permitted to be taken in the area in accordance with a declaration under section 44(8) or 47(1);
 - (d) the amount of water taken each year by owners and occupiers of land in the area under sections 11 and 14;
 - (e) availability of water in the area;
 - (f) any water allocation plan applying to the area;
 - (g) existing demand and likely future demand for water for purposes mentioned in sections 11 and 14 in the area;
 - (h) the provisions of any agreement made by or on behalf of the Territory with a State concerning the sharing of water;

- (i) other factors the Minister considers should be taken into account.
- (4) A declaration under subsection (1) must:
- (a) state the reasons for making the declaration; and
 - (b) describe the area of land to which the declaration applies; and
 - (c) state the effect of the restrictions in the area and whether the rights under section 11 or 14, or both, are restricted.

14B Effect of Restricted Water Extraction Area declaration

- (1) A subdivision of land in a Restricted Water Extraction Area results in the same number of owners of land having the right under section 11 or 14 that is restricted as did immediately before the subdivision.

Example for subsection (1)

An owner of land in a Restricted Water Extraction Area where taking groundwater is restricted subdivides the land into 2 lots. On one of the new lots the owner will be able to take groundwater for use on the lot. On the second new lot the owner will not be able to take groundwater.

- (2) A consolidation of land in a Restricted Water Extraction Area results in the same number of owners of land having the right under section 11 or 14 that is restricted as did immediately before the consolidation or, if the consolidation results in fewer owners of land, that number.

Example for subsection (2)

There are 3 adjacent lots in a Restricted Water Extraction Area where taking surface water is restricted. The 3 lots are consolidated into 2 lots. The owners of the 2 new lots will be able to take surface water for use on each lot.

- (3) For subsections (1) and (2), subdivision or consolidation is:
- (a) subdivision or consolidation of land under Part 2A, 4 or 5 of the *Planning Act 1999*; or
 - (b) preparation of a scheme statement under Part 2.3, Division 1 of the *Unit Title Schemes Act 2009* or lodgement of a scheme statement under section 111(1) of the Act for subdivision or consolidation of land; or

- (c) preparation of a units plan of subdivision or units plan of consolidation under Part IIIA of the *Unit Titles Act 1975* for land.

Note for section 14B

Section 14B prevents an owner of land creating more rights to take water by subdividing or consolidating the land.

14C Requirements for subdivision or consolidation in Restricted Water Extraction Area

- (1) If an owner of land in a Restricted Water Extraction Area proposes to subdivide or consolidate the land under Part 2A, 4 or 5 of the *Planning Act 1999*:
 - (a) the owner must nominate in the application under section 30C(1), 38(1) or 46(1) of the *Planning Act 1999* which of the titles proposed to be created by registration of the plan of subdivision or consolidation under section 51 of the *Land Title Act 2000*:
 - (i) the owner of which retains the right to take water that is restricted in the area; and
 - (ii) the owner (if any) of which no longer retains the right; and
 - (b) the owner must ensure that the application to register the plan of subdivision or consolidation under section 51 of the *Land Title Act 2000* specifies which of the titles proposed to be created on subdivision or consolidation:
 - (i) the owner of which retains the right to take water that is restricted in the area; and
 - (ii) the owner (if any) of which no longer retains the right.
- (2) If a person who prepares a scheme statement under Part 2.3, Division 1 or section 111(1) of the *Unit Title Schemes Act 2009* for land in a Restricted Water Extraction Area proposes to subdivide or consolidate the land by registration of the scheme statement under section 54B of the *Land Title Act 2000*:
 - (a) the person must nominate in the scheme statement prepared under section 18 or 111(1) of the *Unit Title Schemes Act 2009* which of the titles proposed to be created by registration:
 - (i) the owner of which retains the right to take water that is restricted in the area; and

- (ii) the owner (if any) of which no longer retains the right; and
 - (b) the person must ensure that the request for registration of a scheme statement under section 54B of the *Land Title Act 2000* specifies which of the titles proposed to be created by registration:
 - (i) the owner of which retains the right to take water that is restricted in the area; and
 - (ii) the owner (if any) of which no longer retains the right.
- (3) If a person who prepares a units plan of subdivision or units plan of consolidation under Part IIIA of the *Unit Titles Act 1975* for land in a Restricted Water Extraction Area proposes to subdivide or consolidate the land by registration of the units plan under section 9B of the *Real Property (Unit Titles) Act 1975*:
 - (a) the person must nominate in the units plan prepared under Part IIIA of the *Unit Titles Act 1975* which of the titles proposed to be created by registration:
 - (i) the owner of which retains the right to take water that is restricted in the area; and
 - (ii) the owner (if any) of which no longer retains the right; and
 - (b) the person must ensure that the application for registration under section 9B of the *Real Property (Unit Titles) Act 1975* specifies which of the titles proposed to be created by registration:
 - (i) the owner of which retains the right to take water that is restricted in the area; and
 - (ii) the owner (if any) of which no longer retains the right.
- (4) For section 35 of the *Land Title Act 2000*, a Restricted Water Extraction Area declaration imposes a restriction on land within the area and the Minister may lodge with the Registrar-General a memorandum in accordance with that section for land in the area.

Note for subsection (4)

The Registrar-General's directions and Regulations made under the Land Title Act 2000 may prescribe or provide for an approved form used for lodging a memorandum under section 35(1) of that Act.

14D Bores in Restricted Water Extraction Area

- (1) If land with a bore on it in a Restricted Water Extraction Area is subdivided or consolidated and results in a title to land the owner of which no longer retains the right to take groundwater under section 14, the owner must discontinue the use of and decommission any bore on the land with that title.
- (2) The Controller must not accept an application for a bore work permit made under section 57(1) in respect of the land with that title, other than:
 - (a) an application for a bore work permit for decommissioning or sealing off a bore; or
 - (b) an application for a bore work permit to take groundwater under any entitlement other than the right to take groundwater under section 14.

14E Effect of revocation of Restricted Water Extraction Area declaration

- (1) A declaration under section 14A(1) and the restrictions in the area continue in effect until the declaration is revoked.
- (2) If the Minister revokes a declaration under section 14A(1):
 - (a) in the case of a declaration restricting the right to take water under section 11 – the right to take water under section 11 is restored to owners of:
 - (i) all titles to land created by subdivision or consolidation under Part 2A, 4 or 5 of the *Planning Act 1999* after the declaration; and
 - (ii) all unit titles created by registration of a scheme statement under section 54B of the *Land Title Act 2000* after the declaration; and
 - (iii) all unit titles created by registration of a units plan of subdivision or units plan of consolidation under section 9B of the *Real Property (Unit Titles) Act 1975* after the declaration; and

- (b) in the case of a declaration restricting the right to take groundwater under section 14 – the right to take water under section 14 is restored to owners of:
- (i) all titles to land created by subdivision or consolidation under Part 2A, 4 or 5 of the *Planning Act 1999* after the declaration; and
 - (ii) all unit titles created by registration of a scheme statement under section 54B of the *Land Title Act 2000* after the declaration; and
 - (iii) all unit titles created by registration of a units plan of subdivision or units plan of consolidation under section 9B of the *Real Property (Unit Titles) Act 1975* after the declaration.
- (3) As soon as practicable after a declaration under section 14A(1) is revoked, the Minister responsible for administering the *Land Title Act 2000* must give a direction to the Registrar-General under section 36(1) of that Act to remove any memorandum made under section 35 of that Act in respect of the declaration.

Note for subsection (3)

The Registrar-General's directions and Regulations made under the Land Title Act 2000 may prescribe or provide for an approved form used for giving a direction under section 36(1) of that Act.

8 Section 19 amended (Delegation)

After section 19(3)

insert

- (4) The Minister cannot delegate the power to declare a Restricted Water Extraction Area under section 14A(1).

9 Section 45 amended (Licence to take water)

After section 45(4)

insert

- (5) The Controller must not grant a licence or accept an application for a licence to take water on land in a Restricted Water Extraction Area declared to restrict the right to take water under section 11, other than an application specified in subsection (6).

- (6) For subsection (5), the following applications are specified:
- (a) an application under subsection (1) in relation to Crown land in the Restricted Water Extraction Area, unless the land is leased from the Crown under the *Crown Lands Act 1992* or the *Special Purposes Leases Act 1953*;
 - (b) an application under subsection (1) made in accordance with section 71M;
 - (c) an application for a licence under section 71J(1);
 - (d) an application for an amendment or modification of 2 or more water extraction licences to give effect to an agreement to trade an entitlement to take water between those licences if:
 - (i) the terms of the agreement are in accordance with a water allocation plan; and
 - (ii) the total quantity of water that may be taken under all licences held by the parties to the agreement would not increase if the application is granted;
 - (e) an application made because of the subdivision or consolidation of land which is the subject of one or more water extraction licences if:
 - (i) a development permit for the subdivision or consolidation is in force under the *Planning Act 1999*; and
 - (ii) the total quantity of water that may be taken under all licences relating to the subdivided or consolidated land would not increase if the application is granted.

10 Section 60 amended (Grant of licence to take groundwater)

After section 60(4)

insert

- (5) The Controller must not grant a licence or accept an application for a licence to take water from a bore on land in a Restricted Water Extraction Area declared to restrict the right to take groundwater under section 14, other than an application specified in subsection (6).

- (6) For subsection (5), the following applications are specified:
- (a) an application under subsection (1) in relation to Crown land in the Restricted Water Extraction Area, unless the land is leased from the Crown under the *Crown Lands Act 1992* or the *Special Purposes Leases Act 1953*;
 - (b) an application under subsection (1) made in accordance with section 71M;
 - (c) an application for a licence under section 71J(1);
 - (d) an application for an amendment or modification of 2 or more water extraction licences to give effect to an agreement to trade an entitlement to take water between those licences if:
 - (i) the terms of the agreement are in accordance with a water allocation plan; and
 - (ii) the total quantity of water that may be taken under all licences held by the parties to the agreement would not increase if the application is granted;
 - (e) an application made because of the subdivision or consolidation of land which is the subject of one or more water extraction licences if:
 - (i) a development permit for the subdivision or consolidation is in force under the *Planning Act 1999*; and
 - (ii) the total quantity of water that may be taken under all licences relating to the subdivided or consolidated land would not increase if the application is granted.

11 Section 71F amended (Application by developer)

After section 71F(2)

insert

- (3) The Controller must not accept an application for a licence to take water in respect of a development on land in a Restricted Water Extraction Area, other than an application specified in subsection (4).

- (4) For subsection (5), the following applications are specified:
- (a) an application under subsection (1) in relation to Crown land in the Restricted Water Extraction Area, unless the land is leased from the Crown under the *Crown Lands Act 1992* or the *Special Purposes Leases Act 1953*;
 - (b) an application under section 71J(1).

12 Part 6C inserted

After section 71L

insert

Part 6C Revoked exemption licence decisions**Division 1 Licence to take water for exempt activity****71M Licence to take water for exempt activity**

- (1) This section applies in relation to an application under section 45(1) or 60(1) for a licence to take water:
- (a) that relates to an activity that was the subject of an exemption declared under section 44(8) or 47(1) that is revoked; and
 - (b) to which the circumstances prescribed by regulation apply.
- (2) The Controller may grant the licence on the application if the Controller is satisfied the requirements prescribed by regulation are met.
- (3) The Controller must decide the application in accordance with the procedure prescribed by regulation.
- (4) A decision on the application is not a decision to which Part 6A and section 90 apply.
- (5) Despite subsection (4), in making a decision on the application the Controller may have regard to the factors mentioned in section 90(1).

- (6) Despite section 30(1), a decision on the application may only be reviewed under Part 3, Division 3, on an application by the applicant for the licence.

Note for section 71M

An exemption declared under section 44(8) includes exemptions continued in force by section 116.

Division 2 Mining and petroleum activities

71N Definition

In this Division:

commencement means the commencement of Part 2 of the *Water Legislation Amendment Act 2023*.

71P Application of saving provision to mining and petroleum activity

- (1) On the commencement, section 113 ceases to apply in relation to a mining activity or petroleum activity.
- (2) On the commencement, section 114(1) ceases to apply in relation to a mining activity or petroleum activity.

71Q Termination of unlicensed water access for mining or petroleum activity

- (1) Subsection (2) applies to a person who, on the commencement, carries out a mining activity or petroleum activity without a licence.
- (2) The person has no authorisation to take water for the mining activity or petroleum activity if, on the expiry of a period of 2 years from the commencement, the person does not hold:
 - (a) a licence granted under section 45(1) in accordance with section 71R; or
 - (b) a licence granted under section 60(1) in accordance with section 71R.

71R Licence to take water for mining or petroleum activity

- (1) This section applies in relation to an application under section 45(1) or 60(1) for a licence to take water for a mining activity or petroleum activity if:
- (a) immediately before 1 July 2019 the person applying for the licence to take water was:
 - (i) carrying out a mining activity or petroleum activity reliant on water on the land from which the person proposes to take water; and
 - (ii) routinely taking surface water or water from a bore on the land for the mining activity or petroleum activity; and
 - (b) from 1 July 2019 until the making of the application, the person applying for the licence to take water:
 - (i) continued to carry out the mining activity or petroleum activity mentioned in paragraph (a)(i); and
 - (ii) routinely took surface water or water from a bore on the land for the mining activity or petroleum activity; and
 - (c) in the case of an application in relation to a petroleum activity:
 - (i) the petroleum activity is not related to hydraulic fracturing; and
 - (ii) the petroleum activity is carried out in accordance with an environment management plan approved under the *Petroleum Act 1984*; and
 - (d) in the case of an application in relation to a mining activity – the mining activity is carried out in accordance with a mining management plan approved under the *Mining Management Act 2001*; and
 - (e) the application is made within 2 years of the commencement.
- (2) The Controller may grant the licence on the application if is satisfied the requirements prescribed by regulation are met.
- (3) The Controller must decide the application in accordance with the procedure prescribed by regulation.
- (4) A decision on the application is not a decision to which Part 6A and section 90 apply.

- (5) Despite subsection (4), in making a decision on the application the Controller may have regard to the factors mentioned in section 90(1).
- (6) Despite section 30(1), a decision on the application may only be reviewed under Part 3, Division 3, on an application by the applicant for the licence.

71S Water extraction licence to prevail in event of inconsistency

- (1) If there is an inconsistency between a water extraction licence and a mining management plan approved under the *Mining Management Act 2001* in relation to the amount of water that may be extracted for a mining activity, the water extraction licence prevails to the extent of the inconsistency.
- (2) If there is an inconsistency between a water extraction licence and an environment management plan approved under the *Petroleum Act 1984* in relation to the amount of water that may be extracted for a petroleum activity, the water extraction licence prevails to the extent of the inconsistency.

13 Section 108 amended (Regulations)

After section 108(2)(m)

insert

- (ma) prescribe the circumstances, procedure and requirements for licence applications to which section 71M applies; and
- (mb) prescribe the procedure and requirements for licence applications to which section 71R applies; and

Part 3 Amendment of Planning Act 1999

14 Act amended

This Part amends the *Planning Act 1999*.

15 Section 3 amended (Interpretation)

Section 3(1)

insert

Restricted Water Extraction Area means an area of land declared under section 14A(1) of the *Water Act 1992*.

16 Section 30C amended (Making concurrent application)

After section 30C(4)(h)

insert

(ha) if the proposal relates to a subdivision or consolidation of land in a Restricted Water Extraction Area – the information required by section 14C(1) of the *Water Act 1992*;

17 Section 30P amended (Preliminary decision about development proposal)

After section 30P(2)(n)

insert

(na) if the development proposal relates to a subdivision or consolidation of land in a Restricted Water Extraction Area – whether the subdivision or consolidation complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act;

18 Section 30W amended (Determination of development proposal)

After section 30W(4)

insert

(4A) The consent authority must refuse to consent to a development proposal for the subdivision or consolidation of land in a Restricted Water Extraction Area unless the application complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act.

19 Section 38 amended (Application for permit or variation of permit)

After section 38(4)

insert

(5) An application under this section that relates to a subdivision or consolidation of land in a Restricted Water Extraction Area must be accompanied by the information required by section 14C(1) of the *Water Act 1992*.

20 Section 40 amended (Grant or variation of permit or refusal to grant or vary)

After section 40(4)

insert

- (4A) The Minister must refuse to grant an exceptional development permit for the subdivision or consolidation of land in a Restricted Water Extraction Area unless the application complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act.

21 Section 42 amended (Matters to be taken into account when making decision)

Section 42(1), after "(p),"

insert

(pa),

22 Section 46 amended (Development applications)

After section 46(3)(j)

insert

- (ja) in the case of a proposed subdivision or consolidation of land in a Restricted Water Extraction Area – the information required by section 14C(1) of the *Water Act 1992*;

23 Section 51 amended (Matters to be taken into account)

After section 51(1)(p)

insert

- (pa) for a proposed subdivision or consolidation of land in a Restricted Water Extraction Area – whether the subdivision or consolidation complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act;

24 Section 52 amended (Limits on consent)

After section 52(1)

insert

- (1A) The consent authority must not consent to a proposed development for the subdivision or consolidation of land in a Restricted Water Extraction Area unless the application complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act.

25 Part 12, Division 8 inserted

After section 215

insert

Division 8 Transitional matters for Water Legislation Amendment Act 2023**216 Definition**

In this Division:

commencement means the commencement of Part 3 of the *Water Legislation Amendment Act 2023*.

217 Applications for subdivision or consolidation made but not determined under *Planning Act 1999*

- (1) An application under section 30C(1) to subdivide or consolidate land in a Restricted Water Extraction Area that was made but not determined by the Consent Authority under section 30W(1) before the commencement is subject to the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act.
- (2) An application under section 38(1) to subdivide or consolidate land in a Restricted Water Extraction Area that was made but not determined by the Minister before the commencement is subject to the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act.
- (3) An application under section 46(1) to subdivide or consolidate land in a Restricted Water Extraction Area that was made but not determined by the Consent Authority under section 53 before the commencement is subject to the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(1) of that Act.

- (4) Sections 14A, 14B and 14C of the *Water Act 1992* do not apply in relation to an application under section 59 to extend a period of a development permit if the development permit relates to a subdivision or consolidation of land in a Restricted Water Extraction Area that was consented to by the Consent Authority under section 53(a) or (b) before the commencement.

Part 4 Amendment of Unit Title Schemes Act 2009

26 Act amended

This Part amends the *Unit Title Schemes Act 2009*.

27 Section 5 amended (Definitions)

Section 5

insert

Restricted Water Extraction Area means an area of land declared under section 14A(1) of the *Water Act 1992*.

28 Section 18 amended (Requirements about scheme statement)

After section 18(1)(c)

insert

(ca) if the scheme land is in a Restricted Water Extraction Area – the information required by section 14C(2) of the *Water Act 1992*;

29 Section 22 amended (Endorsement of consent authority)

After section 22(2)

insert

(2A) If the proposed scheme land is in a Restricted Water Extraction Area, the consent authority must not endorse the statement unless it complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(2) of that Act.

30 Part 4.6 inserted

After section 119

insert

Part 4.6 Transitional matters for Water Legislation Amendment Act 2023**120 Definition**

In this Part:

commencement means the commencement of Part 4 of the *Water Legislation Amendment Act 2023*.

121 Applications for subdivision or consolidation made but not determined under *Land Title Act 2000*

A request for registration of a scheme statement under section 54B of the *Land Title Act 2000* that proposes to subdivide or consolidate land in a Restricted Water Extraction Area that was made but not determined by the Registrar-General before the commencement is subject to the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(2) of that Act.

Part 5 Amendment of Unit Titles Act 1975**31 Act amended**

This Part amends the *Unit Titles Act 1975*.

32 Section 21GA inserted

After section 21G, in Part IIIA

insert

21GA Units plan in Restricted Water Extraction Area

- (1) If a units plan of subdivision or a units plan of consolidation is for land in a Restricted Water Extraction Area, the units plan must be lodged with the information required by section 14C(3) of the *Water Act 1992*.

(2) The Registrar-General must refuse to register a units plan of subdivision or a units plan of consolidation for land in a Restricted Water Extraction Area unless it complies with the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(3) of that Act.

(3) In this section:

Restricted Water Extraction Area means an area of land declared under section 14A(1) of the *Water Act 1992*.

33 Part XV inserted

After section 122

insert

Part XV Transitional matters for Water Legislation Amendment Act 2023

123 Definition

In this Part:

commencement means the commencement of Part 5 of the *Water Legislation Amendment Act 2023*.

124 Applications for subdivision or consolidation made but not determined under *Real Property (Unit Titles) Act 1975*

An application for registration under section 9B of the *Real Property (Unit Titles) Act 1975* that proposes to subdivide or consolidate land in a Restricted Water Extraction Area declared under section 14A(1) of the *Water Act 1992* that was made but not determined by the Registrar-General before the commencement is subject to the restrictions of sections 14A and 14B of the *Water Act 1992* and the requirements of section 14C(3) of the *Water Act 1992*.

Part 6 Amendment of Water Regulations 1992

34 Regulations amended

This Part amends the *Water Regulations 1992*.

35 Part 3, Divisions 2A and 2B inserted

After regulation 14

insert

Division 2A Licence to take groundwater for exempt activity**14A Licence to take groundwater in Darwin Rural Water Control District**

- (1) For section 71M(1)(b) of the Act, the following circumstances are prescribed:
- (a) the application for the proposed licence is in the Darwin Rural Water Control District;
 - (b) during the 12 months immediately before 6 July 2016 the person applying for the licence to take water was:
 - (i) engaged in a commercial undertaking reliant on groundwater on the land from which the person proposes to take water; and
 - (ii) routinely taking water from a bore on the land for the commercial undertaking;
 - (c) from 6 July 2016 until the making of the application the person applying for the licence to take water:
 - (i) continued to engage in the commercial undertaking mentioned in paragraph (b)(i); and
 - (ii) routinely took water from a bore on the land for that commercial undertaking;
 - (d) the application is not for a mining activity or petroleum activity;
 - (e) the application is made within 2 years of the commencement of this regulation.
- (2) In this regulation:

Darwin Rural Water Control District means the part of the Territory declared by the Minister under section 22 of the Act to be a water control district and allocated the name "Darwin Rural Water Control District" on 17 May 1999 and published in *Gazette* No. G21 of 2 June 1999.

14B Application requirements

- (1) For section 71M(2) of the Act, the following requirements are prescribed:
 - (a) the application for the proposed licence sets out the circumstances prescribed by regulation 14A(1) relied on by the applicant;
 - (b) the application includes evidence of the circumstances prescribed by regulation 14A(1);
 - (c) the application includes the total maximum volume of water required under the proposed licence for each proposed year of the licence.
- (2) Without limiting subregulation (1)(b), the application may include any of the following as evidence of the circumstances prescribed by regulation 14A(1)(b) and (c):
 - (a) imagery of the land before and after 6 July 2016 that is spatially referenced or mapped with geographical coordinates showing activity on the land that is dependent on taking groundwater;
 - (b) installation and operation of infrastructure to take groundwater of a volume sufficient to enable the circumstances prescribed by regulation 14A(1)(b) and (c);
 - (c) water extraction records, including records of metered water extraction;
 - (d) records of pumping rates and duration for taking groundwater.

14C Application procedure

For section 71M(3) of the Act, the following procedure is prescribed:

- (a) if a public sector employee of the Agency returns the application under regulation 3(5) the public sector employee must provide reasons for that decision;
- (b) the Controller must give a notice of the decision with reasons on the application within 20 business days after the Controller makes the decision;
- (c) if the Controller grants the licence the Controller must include the reasons for the decision in a register kept under section 95 of the Act.

Division 2B Licence to take water for mining or petroleum activity**14D Licence to take water for mining or petroleum activity**

- (1) For section 71R(2) of the Act, the following requirements are prescribed:
- (a) the application for the proposed licence sets out the circumstances mentioned in section 71R(1) of the Act relied on by the applicant;
 - (b) the application includes evidence of the circumstances mentioned in section 71R(1) of the Act;
 - (c) the application includes the total volume of water required under the proposed licence for each proposed year of the licence;
 - (d) the application includes:
 - (i) in the case of a mining activity – the authorisation granted, and mining management plan approved, under the *Mining Management Act 2001*; and
 - (ii) in the case of a petroleum activity – the environment management plan approved under the *Petroleum Act 1984*.
- (2) Without limiting subregulation (1)(b), the application may include any of the following as evidence of the circumstances mentioned in section 71R(1)(a) and (b) of the Act:
- (a) water use or water extraction records, including records of metered water extraction;
 - (b) a site water balance report for the site where the mining activity or petroleum activity is carried out;
 - (c) records of pumping rates and duration for taking water.
- (3) For section 71R(3) of the Act, the following procedure is prescribed:
- (a) if a public sector employee of the Agency returns the application under regulation 3(5) the public sector employee must provide reasons for that decision;
 - (b) the Controller must give notice of a decision (including reasons for the decision) on the application within 20 business days after the Controller makes the decision;

- (c) if the Controller grants the licence the Controller must include the reasons for the decision in a register kept under section 95 of the Act.

Part 7 Repeal of Act

36 Repeal of Act

This Act is repealed on the day after it commences.