

Attachment 2: Errors in National Water Reform 2024 Interim Report

Item	Page reference	PC report content	Issue
1	14	<i>Statutory, long term, water entitlements in Western Australia and the Northern Territory have not been legislated for. This increases transaction costs, reduces confidence and increases investment risk, threatens environmental outcomes and risks political interference in decision making.</i>	Factual basis of claims not provided.
	68	<p><i>However, the Commission heard concerns regarding the NT government’s lack of consultation and engagement with First Nations people in water planning (chapter 11). As outlined by the Northern Land Council in their submission, water planning processes over the last few years have not included adequate consultation with First Nations:</i></p> <p><i>The lack of jurisdictional commitment of the [Northern Territory Government] in relation to Aboriginal access and inclusion is illustrated by the Georgina Wiso WAP [Water Allocation Plan], declared in November 2023, the largest water allocation plan in the NT. The WAP was developed in the absence of a stakeholder Water Advisory Committee, and without consultation with local Aboriginal people. As a result, there has been no opportunity for Aboriginal people to have meaningful involvement in decision making or to have their needs and rights represented, including consideration of cultural values. (sub 38, p. 3-4)</i></p>	<p><u>Contextual information which is relevant to statements in the report:</u></p> <p>While all plans attract debate, the Georgina Wiso Water Allocation Plan 2023–2031 generated more interest than previous NT plans for two main reasons. Firstly, because development of the plan was not advised by a water advisory committee and secondly that the development of the plan was explicitly in response to a recommendation of the Scientific Inquiry into Hydraulic Fracturing in the NT (the inquiry).</p> <p>The plan commits to multiple forms of engagement with Aboriginal people (which have commenced) to support and monitor its implementation over the next 8 years.</p> <p>The Consultation Summary provides additional contextual information, and outlines engagement that was undertaken on the plan.</p>

Item	Page reference	PC report content	Issue
	72	<i>The Central Land Council also outlined that the Northern Territory’s Water Allocation Planning Framework: makes no mention of and does not provide for Aboriginal water interests or cultural values. (sub 44, p.12)</i>	<p><u>Factual errors</u></p> <p>The NT Water Allocation Planning Framework prioritises allocations for environment and other public benefit. Per the definitions in Schedule B(ii) of the National Water Initiative, other public benefits include indigenous and cultural values.</p>
	72	<p><i>The Georgina Wiso Water Allocation plan is the only plan established or updated since 2021. The plan specifies environmental and cultural outcomes plus a Strategic Aboriginal Water reserve (NT DEPWS 2023b). However, the Commission heard frustrations with the consultation process for the plan, that was finalised with minimal consultation:</i></p> <p><i>No Water Advisory Committee was created and no consultation occurred: Schedule B(i) makes clear that water plans are to be ‘developed in consultation with all relevant stakeholders’. Schedule E also states that ‘water planning processes include consultation with stakeholders including those within or downstream of the plan area’. There was no WAC for this plan. No consultation occurred outside of an online ‘Have Your Say’ submission process ... ALEC understands that there was no attempt to consult indigenous stakeholders. (sub 53, p. 38–39)</i></p>	<p><u>Factual error</u></p> <p>The submission’s claim in regards to indigenous stakeholder consultation is presented as fact, and it is incorrect.</p> <p>To support public consultation on the Georgina Wiso Water Allocation Plan 2023-2031, meetings were held with key stakeholders to provide an overview of information and activities in the draft plan area. This included the Beetaloo Regional Reference Group and the Northern Land Council.</p> <p>The Consultation Summary provides additional contextual information, and outlines engagement that was undertaken on the plan.</p>

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1	76-77	<p>The interim report says:</p> <p><i>In addition, [Strategic Aboriginal Water Reserves] in the Northern Territory are only available:</i></p> <p><i>in areas where the minister has declared a water allocation plan (5% of the Northern Territory) where systems are not overallocated.</i></p> <p><i>to Aboriginal people with rights to land under the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth) and Exclusive Possession Native Title and only allow for licenses for the purpose of extraction for economic use. Leaving water in the ground for environmental and cultural uses is not supported (CLC, sub. 44, p. 21-22).</i></p>	<p><u>Factual errors</u></p> <p>There are six current water allocation plans that cover 14 % of the Northern Territory's land area, not 5%. If you include the two draft plans, it rises to 16%. Currently 36% of the NT is covered by a water control district.</p> <p><u>Contextual information which is relevant to statements in the report:</u></p> <p>Since 2019 the Water Act 1992 has required that a Plan's allocation of water must include an Aboriginal Water Reserve if any of the land to which the plan relates is eligible aboriginal land (Water Act s22B(5)(a) and 22B(7)). There has been no change to this requirement since the previous inquiry.</p> <p>Plans also include implementation actions which are used to address water resource management issues in the area over the life of the plan</p> <p>The Draft Mataranka Water Allocation Plan (Draft Mataranka water allocation plan 2024-2034 (nt.gov.au)) provides a current example of how Aboriginal Water Reserve is considered where extraction licences have limited the volume available for the Aboriginal Water Reserve. The <i>Oolloo Dolostone Aquifer Water Allocation Plan 2019-2029</i> provides an example of implementation actions being used to significantly increase water in the Aboriginal Water Reserve over the life of the Plan. The AWR volume available rose from 9,825ML in 2019 to 15,627ML in 2023.</p> <p>Under the <i>Water Act 1992 (NT)</i> and the NT's Water Allocation Planning Framework, water for environmental and cultural values is allocated upfront, before any water is allocated for extraction. As a result, Aboriginal water reserves are intended to provide for extraction, to support Aboriginal economic</p>

Item	Page reference	PC report content	Issue
			development. Aboriginal people may also choose to not take water from the Aboriginal water reserve.
2	77	<p>The interim report says:</p> <p><i>As the Environment Centre NT (sub. 54, p. 7) said:</i></p> <p><i>The Northern Territory's Water Allocation Plans (WAP) allocate a small amount of water to the Aboriginal Water Reserve...</i></p>	<p><u>Contextual information which is relevant to statements in the report:</u></p> <p>The total volume of water allocated to Aboriginal water reserves in the Northern Territory is more than 81,000 ML/year and is equivalent to 20% of the total volume of consumptive pools in all water allocation plans excluding allocations to public water supply and rural stock and domestic purposes in the Northern Territory (406 GL). Of this, 66,000 ML (80%) is provisioned and available to use.</p> <p>This volume is significant nationally, where only 2.32% of strategic reserves and water entitlements are held by Aboriginal and Torres Strait Islander corporations (Inland Waters Statistical Baseline Exercise DAWE 2022, 28144 (dcceew.gov.au))</p>
	110		
3	110-111	<p>The interim report says:</p> <p><i>The Scientific inquiry into hydraulic fracturing of onshore unconventional reservoirs in the Northern Territory noted that if the arid zone rule were applied to the Beetaloo Sub-basin, it would "essentially permit 'mining' of the groundwater resource, and would be ecologically unsustainable" (Pepper et al. 2018, p. 137).</i></p>	<p><u>Contextual information which is relevant to statements in the report:</u></p> <p>NT Water Allocation Planning Framework Arid Zone allocation rules require that 'there will be no deleterious change in groundwater discharges to dependent ecosystems'. This measure ensures that impact of take is assessed, in addition to the volume.</p> <p>The estimated sustainable yield established in the Georgina-Wiso Water Allocation Plan 2023-2031 (which overlies the Beetaloo Basin) was determined based on maintaining the volume of water stored in the Georgina and Wiso Basins, with an annual permitted extraction of less than 0.03% of stored volume.</p>

Item	Page reference	PC report content	Issue
			Detail on how the estimated sustainable yield was determined is available in the Background Report to the plan.
4	111	<p>The interim report says:</p> <p><i>The NT Government also released a draft of its Surface Water Take – Wet Season Flows Policy for consultation in 2024. The policy establishes a hierarchy of allocation rules for surface water take during the wet season in the Top End, including guidance on water licensing. Allocations will be based on scientific research in the first instance (relating to the maximum sustainable level of take), followed by a contingent allocation rule. The contingent allocation rule specifies that 5% of the 25th percentile of total flows for the three highest flow months of the year (generally January, February and March) is available for consumptive use. Much like the contingent allocation framework previously discussed, the scientific basis for the contingent allocation rule for wet season flows is unclear.</i></p>	<p><u>Contextual information which is relevant to statements in the report:</u></p> <p>The Surface Water Take – Wet Season Flows Policy sets precautionary allocation rules aimed at maintaining free flowing rivers in the Top End. Science that underpins the policy includes Mapping the world’s free-flowing rivers Nature</p> <p>The Consultation Report shows how the policy was developed in consultation with scientists and technical specialists (Independent researcher - Charles Darwin University, Surface water monitoring - DEPWS) as well as representatives of industry and interest groups.</p> <p>This para graph is in accurate and should be revised to:</p> <p>The NT Government also released a draft of its Surface Water Take – Wet Season Flows Policy for consultation in 2023, which was adopted in February 2024. The policy establishes a maximum amount of take for surface water take during the wet season in the Top End, without a water allocation plan and guidance on water licensing. Allocations is that 5% of the 25th percentile of total flows for the three highest flow months of the year (generally January, February and March) is available for consumptive use. The scientific basis for the maximum allocation rule for wet season flows is based on a highly precautionary approach that protects the largest flows, which are the most productive to riparian ecosystems and poor wet season flows less than the 25th percentile.</p>
	115	<p><i>Since 2021, the NT Government declared a water allocation plan (WAP) for Georgina Wiso. Community concerns have been raised about the approach taken by the NT Government in developing this WAP,</i></p>	<p><u>Contextual information which is relevant to statements in the report:</u></p> <p>While all plans attract debate about appropriate levels of water allocation, the Georgina Wiso Water Allocation Plan 2022–2030 generated more interest than</p>

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		<p><i>including that it was developed in the absence of a stakeholder water advisory committee, and without consultation with local Aboriginal people (NLC sub. 38, p. 3; Ferguson & Stephens sub. 19, p. 1). Nor does it establish environmental or cultural requirements for water, or trigger rules for assessing unacceptable impacts. The Northern Land Council (sub. 38, p. 3) and the Environmental Defender's Office (sub. 50, p. 26) also highlighted concerns around the separation of the WAP into three documents, only one of which is statutory, with technical information, risk assessments, implementation and monitoring removed to non-statutory documents.</i></p>	<p>previous plans. Within the plan area there is currently no competition for the resource and limited interaction between the CLA and environmental values. The plan was developed explicitly in response to a recommendation of the Scientific Inquiry into Hydraulic Fracturing in the NT (the inquiry) and provides a greater level of protection of the aquifer than was previously possible under contingent allocation approaches. Additionally the plan provides for management mechanisms including additional monitoring and Aboriginal reference group to guide knowledge on the system and inform its review in 2028.</p> <p>The potential for onshore gas development in the region has made it the focus of campaigns and advocacy against this type of development.</p> <p>The Consultation Summary provides additional contextual information, and outlines engagement that was undertaken on the plan. Detail on how the estimated sustainable yield and other measures in the plan were determined is available in the Background Report to the plan.</p>
	115	<p><i>The NT Government also declared a revised WAP for Western Davenport in December 2021. Similar concerns have been raised around the degree of community consultation and the protections provided for cultural values and environmental sites (CLC sub. 44, p. 23). Chapter 11 also discusses concerns with community consultation for water planning in the Northern Territory.</i></p>	<p>The concerns are about the Draft Western Davenport water allocation Plan released in 2023 for public comment not the plan declared in 2021. The Western Davenport WAP declared in December 2021 was the first declaration of the Aboriginal water reserve under new sections 22B(7) and 22C of the Water Act</p>
	143- 144	<p>The Commission highlighted the scope to improve arrangements in Queensland, where total planning and management costs are only partially recovered,</p>	<p>The Territory Water Plan commits the NT government to a cost recovery for water resource management costs to be implemented over the 2023-2026 plan horizon, and work on this policy is progressing as scheduled in consultation with a stakeholder advisory committee. Progress towards implementing water resource</p>

Item	Page reference	PC report content	Issue
		<p>and the Northern Territory, where there is little to no reporting....</p> <p>...No significant changes have been observed since the Commission’s assessment in 2021. The Commission’s view remains unchanged – this requirement is partially achieved, with scope for improvement in Queensland, Tasmania, Western Australia and the Northern Territory in terms of reporting the extent to which fees and charges cover water planning and management costs.</p>	<p>management charges to recover the cost of management were outlines in part 4.7 of the NT RFI and also mentioned in parts 1.3, 3.6 and 4.1.</p> <p>Until the framework is adopted the extent to which fees and charges cover water planning and management costs can’t be quantified; however the impact of recovering the cost will be assessed in a social and economic impact assessment and a regulatory impact statement before the NTG recovers costs.</p>
153		<p>The <i>Georgina Wiso water allocation plan</i> (WAP) specifies environmental outcome objectives in terms of ‘understanding characteristics’ and ‘condition is monitored as far as practicable’ in the WAP rather than what environmental outcomes the WAP is aiming to achieve (NT DEPWS 2023b, p. 8)... This is a lower level of detail than previous WAPs for other regions (for example, compared the Katherine Tindall WAP 2019 (NT DENR 2019, p. 17)).</p>	<p><u>Contextual information which is relevant to statements in the report:</u></p> <p>The Georgina Wiso Water Allocation Plan 2022–2030 was explicitly in response to a recommendation of the Scientific Inquiry into Hydraulic Fracturing in the NT (the inquiry).</p> <p>Within the plan area there is currently no competition for the resource and limited interaction between the CLA and environmental values.</p> <p>The Consultation Summary provides additional contextual information, and outlines engagement that was undertaken on the plan. Detail on how the estimated sustainable yield and other measures in the plan were determined is available in the Background Report to the plan.</p>
5	154	<p>The interim report says:</p>	<p><u>Factual errors are included in the report:</u></p> <p>Statements asserting that extraction within the Georgina Wiso WAP pose significant risk to the Roper River are inaccurate.</p>

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		<p><i>In the absence of clearly specified environmental and other public benefits in the Georgina Wiso WAP, there is concern that licensing decisions could be:</i></p> <p><i>irreparably damaging the Roper River and associated springs, as well as sacred sites, the tourism industry, the recreational fishing industry and water supply to the downstream Indigenous community of Ngukurr. (ECNT sub. 54, p. 8)</i></p>	<p>The Georgina and Wiso basins contribute approximately 6 per cent of total discharge to the Roper River. In the planning process, impacts of extraction from the Georgina Basin on the Roper River was modelled. The decline in flow for all years and scenarios was almost imperceptible.</p> <p>The Georgina Wiso Background Report describes the connectivity of groundwater within the plan area and the Roper River.</p>
6	154	<p><i>Further, a number of submissions said that WAPs, regardless of format, do not provide a statutory basis for environmental and other public benefits (NLC sub. 38, p. 3; CLC sub. 44, pp. 11 12; EDO sub. 50, p. 12; ECNT sub. 54, p. 2).</i></p> <p><i>Water allocation plans are the only process for identifying and providing for water requirements to sustain environmental and cultural assets in the NT ... The weakness of water plans ... means these key functions as per the NWI are not being carried out sufficiently (nor are they required to be) before extraction can occur. This puts environmental outcomes and cultural values at significant risk. (CLC sub. 44, p. 13)</i></p>	<p><u>Factual errors are included in the report:</u></p> <p>Water allocation plan are statutory documents declared by the Minister under section 22B of the Water Act. Water allocation plans are not the only process for assessing impacts of extraction. The Controller of Water Resources must consider factors set out in section 90 of the Water Act in deciding whether to grant, amend or modify a licence (this includes modifications to support water trade) of which water allocation plans are one of a number of factors to consider.</p> <p>Further, section 50 of the <i>Environment Protection Act 2019</i> (NT) provides referral powers to the Controller of Water Resources where they consider that the action (water extraction) has the potential to have a significant impact on the environment*. This power has been exercised (refer to water extraction licence decision for licence 9031020)</p> <p>*under the EP Act <i>Environment</i> means all aspects of the surroundings of humans including physical, biological, economic, cultural and social aspects</p>
6	184	The interim report says:	<u>Factual errors are included in the report:</u>

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PWC 1	14	<p><i>The Commission understands that the Northern Territory Government has committed to developing and legislating a Safe Drinking Water Act by 2024, which intends to guarantee safe drinking water and regulate all suppliers across the Northern Territory (NT OWS 2023b, p. 24). Although in its submission, the Environment Centre NT noted that it 'understands that this commitment has recently been delayed until 2026' (sub. 54, p. 11).</i></p> <p>Access to quality water supplies, in a manner consistent with the <i>Australian Drinking Water Guidelines (ADWG)</i>, remains problematic in some remote communities both during and outside of drought conditions, particularly as a result of colour and palatability of the water supplied. The ADWG highlights how the provision of unpalatable drinking water risks public health outcomes where consumers seek alternative sources, that may not be as safe (NHMRC 2011, p. 104).</p>	<p>The description of the NT's proposed safe drinking water legislation is not accurate. The legislation is intended to establish a risk management and reporting regime for water service providers. Refer to the Territory Water Plan for further detail.</p> <p>The claim that safe drinking water legislation has been delayed until 2026 is false and has no basis. The NT Government is currently engaging with key stakeholders on a draft Bill for safe drinking water legislation, and is on track to introduce legislation in late 2024, as per the Territory Water Plan commitment.</p> <p>Power and Water believes that achievement of the ADWG needs to be prioritised under a risk-based approach and this needs to incorporate palatability issues systematically and holistically to acknowledge the indirect health outcomes, rather than just the traditional health vs. aesthetic paradigm.</p> <p>While colour and palatability are acknowledged as issues affecting consumption in water supply for remote communities, Power and Water considers there are more significant issues that warrant attention.</p> <p>Key amongst these is microbially safe supply / reliability of disinfection. Defining the scale of this issue in remote communities is problematic due to:</p> <ul style="list-style-type: none"> • operational technology / standards but also funding models that consider good practice rather than least cost. • overreliance on traditional ADWG indicators like presence or absence of E.coli in public reporting. <p>The root cause of difficulties in resolving issues like total dissolved solids (TDS) in remote contexts stem back to a need to identify and validate treatment solutions appropriate for remote operating environment constraints. Solutions can be</p>

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PWC2	Draft finding 9.2	<p>There continues to be a lack of consistency and transparency in relation to the publication of drinking water quality data...</p> <p><i>There have been improvements to the publication of data across all ADWG standards for the regions and communities serviced by Power and Water Corporation in the Northern Territory.</i></p>	<p>geared to large urban centres which operate under different constraints. Coordinated resolution of the root cause of the problem would be beneficial.</p> <p>Power and Water transparently reports drinking water quality assessments across urban and remote communities (91 in total). Drinking water reports, including historical reports are published online and can be accessed at the link below.</p> <p>Past drinking water quality reports Power and Water Corporation (powerwater.com.au)</p> <p>Power and Water uses sophisticated approaches to assess microbial safety of water. This includes the pre-emptive adoption and application of health-based targets assessment methodology. This has occurred prior to its adoption into the ADWG in 2022. This has been applied to all 91 communities (both urban and remote).</p>
PWC3	NWI renewal advice 12.4	Ensuring access to a basic level of service	<p><u>Advice to PC</u></p> <p>The level of service definition to meet 'safe' needs national level technical advisory review to define minimum industry standards, with independent oversight.</p>
PWC4	183	<p><i>Power and Water Corporation has a legal responsibility to deliver safe drinking water to urban centres but its subsidiary Indigenous Essential Services (IES) only has a non-binding agreement with the Northern Territory Government regarding the 72 remote centres and communities it services (WSAA 2022, p. 108). This gap was highlighted by the Central Land Council:</i></p>	<p>The WSAA does not place a legal responsibility on Power and Water to deliver safe drinking water to urban centres. However, this is only applicable to licenced areas and does not cover remote communities. The Minister can set minimum standards, including water quality standards.</p>

Item	Page reference	PC report content	Issue
PWC5	184	<i>The Commission understands that the Northern Territory Government has committed to developing and legislating a Safe Drinking Water Act by 2024, which intends to <u>guarantee</u> safe drinking water and regulate all suppliers.</i>	<p>The method for monitoring compliance with minimum water quality standards is approved by the Chief Health Officer and Power and Water, as the licensee, must report to the Chief Health Officer.</p> <p>The ADWG is acknowledged to be the primary reference for the management of drinking water quality under the Memorandum of Understanding between Power and Water, Indigenous Essential Services and NT Health. Power and Water's Drinking Water Quality Management system applies equivalently to urban and remote communities, as does Power and Water's monitoring program approved by the Chief Health Officer and its public reporting on drinking water quality against the ADWG. Consistent with the ADWG framework, Power and Water's drinking water quality management system is independently audited in accordance with our safe water plan.</p> <p>While changes to Legislation cannot guarantee safe water supply, measures can be put in place with the aim of providing a safe water supply. It is envisioned that this legislation will allow for the definition of 'safe' by the Chief Health Officer.</p>
PWC6	186	However, the Commission understands that there is no drinking water quality data published for 79 outstations supplied by IES.	The IES agreement provides for access to water supply systems for 16/17 outstations listed in the IES agreement (1 is abandoned). Twenty-three outstations are supplied from within the urban reticulation systems, 21 of which are within the Alice Springs reticulation area. Power and Water acknowledges that more can be done to improve and clarify these connections and service obligations.
PWC7	186	<i>Power and Water Corporation (2022) provides an Australia wide benchmark for better practice in reporting of drinking water quality data.</i>	Thank you for the acknowledgement of Power and Water's hard work in this space. It is a remarkable achievement considering the spatial context over which we operate and that monitoring programs need to be implemented. Power and

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			Water's focus area for improvement is providing data in a way communities can understand – that is, customer centric reporting. A national database for long-term data that people can clearly visualise and extract data/report cards from would be the ultimate long-term goal.