



**NORTHERN  
LAND COUNCIL**

**Submission to the Northern Territory Government**

**on**

**DRAFT GEORGINA WISO WATER ALLOCATION PLAN 2022–2030**

**DRAFT GEORGINA WISO BACKGROUND REPORT 2022–2030**

**DRAFT GEORGINA WISO 2022-2030 IMPLEMENTATION ACTIONS**

**December 2022**

## 1. About the Northern Land Council

The Northern Land Council (NLC) was established in 1973 and following the enactment of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth), the NLC became an independent statutory authority responsible for assisting Aboriginal people in the northern region of the Northern Territory (NT) to acquire and manage their traditional lands and waters.

In 1994 the NLC became a Native Title Representative Body under the *Native Title Act 1993* (Cth), whose role and functions are set out under Part 11, Division 3 of the Act.

The NLC represents more than 51,000 Aboriginal people and assists its constituents by providing services in output areas including land, sea and water management, land acquisition, community development, Aboriginal land trust administration, native title services, advocacy, information and policy advice.

A key function of the NLC is to express the wishes and protect the interests of Aboriginal people. Importantly, over 80% of the land covered by the Draft Georgina Wiso Water Allocation Plan 2022-2030 is designated under the Land Rights Act or subject to native title.

The term traditional owner is used in this submission to include traditional Aboriginal owners (as defined in the Land Rights Act) and native title holders (as defined in the Native Title Act).

## 2. Introduction

*For stakeholders to have confidence in decisions affecting water resources and the wider environment, they need to know that these decisions are based on sound information, have canvassed all relevant issues, and have been subjected to a methodical, transparent and accountable decision-making process.*

National Water Initiative Policy Guidelines for Water Planning and Management, 2010

The NLC provides this submission on the draft Georgina Wiso water allocation plan documents for consideration by the Department of Environment, Parks and Water Security (DEPWS).

The submission relates to the three documents associated with the draft water allocation plan:

- Draft Georgina Wiso Water Allocation Plan 2022-2030.
- Draft Georgina Wiso Background Report 2022-2030.
- Draft Georgina Wiso 2022-2030 Implementation Actions.

In summary, the draft water allocation plan documents do not provide adequate information for the NLC to have confidence in the proposed water management arrangements for the Georgina Wiso area.

The draft plan does not integrate the management of all water resources in the region; adequately address risks and identify mitigation responses; or put effective water management arrangements in place.

Despite the background report highlighting the importance of cultural knowledge and values, the draft water allocation plan does not include justification of how the water requirements for cultural values will be preserved. Instead it defers the documentation of water places for after the water plan is declared when substantial water extraction may already be occurring.

To adequately address these issues, a full water planning process should be undertaken to develop a comprehensive water allocation plan. However, in the short-term, a streamlined and fast-tracked water planning process could be used to develop an interim water allocation plan that goes some way towards addressing these concerns, until the comprehensive plan can be developed.

### **The NLC requests:**

1. The three documents be withdrawn and an interim water allocation plan of up to three years duration be redrafted.
2. In order to develop an interim water allocation plan, the NLC is part of an advisory group to undertake a streamlined, fast-tracked water planning process in early 2023.
3. As part of the redrafting process, advice be sought from relevant authorities to ensure that a redrafted interim water plan meets the requirements of the National Water Initiative.

### 3. Comments on the Draft Georgina Wiso Water Allocation Plan Documents

#### 1. Adherence to National Water Initiative requirements and the inclusion of relevant information

The NT Government is a party to the Intergovernmental Agreement on a National Water Initiative (NWI). The NWI includes a number of requirements for water plans and water planning processes.

Amongst other requirements, the NWI requires statutory water plans for groundwater systems to be developed in consultation with all relevant stakeholders on the basis of best available scientific and socio-economic assessment, to provide secure ecological outcomes and resource security for users.<sup>1</sup>

The NWI also notes that a water allocation plan should include all sources of water, recognise connectivity between surface and groundwater, and ensure that water quality is considered.<sup>2</sup>

The draft water allocation plan only provides water management arrangements for the Cambrian Limestone Aquifer of the Georgina and Wiso groundwater systems. It does not include other groundwater resources or surface water resources, nor does it consider water quality.

The draft water allocation plan does not adequately consider possible impacts on receiving environments in the Roper and Flora catchments, despite the NWI requiring the impact of water plans on water resources outside the planning area to be taken into consideration.<sup>3</sup>

In addition, the draft plan does not include any groundwater extraction rules to ensure localised drawdown of the water table is avoided, or to ensure groundwater gradients are maintained in so that detrimental impacts outside of the water plan boundary are avoided.

While the driver for the water allocation plan appears to be the Scientific Inquiry into Hydraulic Fracturing in the NT (HFI) requirements, given the majority of the water allocations are to beneficial uses other than petroleum activity, it is important that the water plan includes water management arrangements for surface water resources, along with other groundwater resources that may be accessed for development purposes.

The NT Government's Strategic Regional Environmental and Baseline Assessment (SREBA) intends to provide robust scientific baseline data for a range of study domains across the Beetaloo Sub-Basin. The water allocation plan Background Document notes that the SREBA will not be completed until the end of 2022. The NLC is concerned that the outputs from the SREBA study domains were not made publicly available prior to the water allocation plan being developed.

It is impossible to determine whether and how the findings from the SREBA have been considered in the draft water allocation plan.

The NLC cannot support a water allocation plan that does not meet the minimum standards established under the NWI and is not precautionary in nature. In order for the NLC to support the water allocation plan for the Georgina Wiso area, a new, interim water allocation plan could be

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<sup>1</sup> Intergovernmental Agreement on a National Water Initiative, Schedule B(i).

<sup>2</sup> Refer to NWI Renewal Advice 3.3 Modernised Goals <https://www.pc.gov.au/inquiries/completed/water-reform-2020/report/water-reform-2020-findings.pdf>.

<sup>3</sup> NWI Policy Guidelines for Water Planning and Management (2010).

redrafted to meet the NWI requirements and includes information from the SREBA and other relevant studies.

### **Estimated sustainable yield**

The draft water allocation plan identifies an estimated sustainable yield of 262,560ML per year which will become available for consumptive uses. The background report notes that current water use is only 20,981ML per year.

The proposed estimated sustainable yield is significant, and far exceeds current water demand. As it stands, the draft water plan does not include sufficient information to determine the possible impacts that may occur as a result of extracting over 12 times the current volume of water currently used in the region.

The Productivity Commission's advice to the Commonwealth Government on National Water Reform identifies the need to put precautionary interim consumptive limits in place where systems are relatively undeveloped.<sup>4</sup> A redrafted, interim water allocation plan will need to include precautionary interim consumptive limits, well below the draft estimated sustainable yield of 262,560ML per year.

### **Adaptive management and water management rules**

The NWI requires water plans to include risks that could affect the size of the water resource, including the impact of climate change and land use change, and limitations to the state of knowledge underpinning estimates of the resource.<sup>5</sup>

The draft water allocation plan does not consider the impacts of climate change, land use change or any risks that may result from the state of knowledge underpinning the water resource estimates, and it is therefore inappropriate for the draft plan to be declared as is currently drafted.

In addition, the draft water plan does not include any water allocation rules. Allocation rules set out the basis of allocation decisions for the water resource throughout the life of the water plans; are robust for a range of water availability scenarios; and identify trigger points where management actions need to be taken to respond to changes in circumstances.<sup>6</sup>

Given the water resource does not reliably recharge on an annual basis, the default tool to manage allocations (i.e. annual announced allocations) will not be appropriate. This does not mean that the water plan should be silent on allocation rules, but rather include mechanisms that are appropriate to the water resource.

### **Statutory declaration of the water allocation plan**

In accordance with the NWI, water allocation plans should be statutory documents.<sup>7</sup>

The draft water allocation plan notes that the plan will be declared by the Minister, but makes no mention of the Background Report and the Implementation Activities being similarly declared. It therefore appears that only the water allocation plan itself will be a statutory document.

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<sup>4</sup> Productivity Commission Inquiry Report No. 96, 28 May 2021. National Water Reform.

<sup>5</sup> Intergovernmental Agreement on a National Water Initiative 2004

<sup>6</sup> NWI Policy Guidelines for Water Planning and Management, 2010.

<sup>7</sup> Intergovernmental Agreement on a National Water Initiative, Schedule B(i).

This is a significant shift from other water allocation plans in place in the NT where the information underpinning the water management decisions, along with the implementation activities, monitoring and evaluation components and risk assessments, were included in a document declared by the Minister.

The reasons for the change in the water allocation plan structure and the implications of this change have not been communicated to the community or stakeholders. The NLC is concerned that the change in structure diminishes the reliability of the water management arrangements and strongly recommends that a water plan structure adhering to best practice be applied for water plans in the NT.

### **Designated eligible land for the Aboriginal Water Reserve**

Section 22C(2) of the *Water Act 1992* requires the Minister to consult with the relevant land council in relation to land eligible for an Aboriginal Water Reserve (AWR) prior to declaring the water allocation plan.

The draft water allocation plan states that the NLC had been consulted in identifying the land eligible for an AWR. The NLC was not consulted regarding the AWR prior to the plan being released.

The DEPWS provided the *Consultation Report: Land to be designated eligible land for the Aboriginal Water Reserve in the Georgina Wiso Water Allocation Plan 2022-2030* to the NLC for comment on 18 November 2022, when the draft water allocation plan was released for public consultation.

In order to comply with our functions, the NLC must ensure that the information presented in the consultation report is correct. There is a considerable amount of work involved in reviewing the information presented in the consultation report to ensure it is sound.

The NLC has been unable to undertake this task in the four-week consultation period, and as such is not yet in a position to comment on the designated land for AWRs. We anticipate this task will be completed by 31 March 2023.

## **II. Consideration of cultural values**

The NLC acknowledges there is a timing imperative to have the water allocation plan declared prior to hydraulic fracturing production permits being issued, in accordance with the recommendations of the Scientific Inquiry into Hydraulic Fracturing in the NT (HFI).

The draft water allocation plan does not contain any specific objectives for cultural values and does not include recognition of Aboriginal knowledge sources. This issue cannot be rectified in the short-term.

It will not be possible to adequately consider cultural values or engage with traditional owners as part of the development of a water plan that meets the timing imperative of the HFI. Rather than progress with a long-term water allocation plan as is currently drafted, we request that an interim water allocation plan be developed.

The interim plan should be declared for a maximum of three years duration and will need to include a commitment to develop a new longer-term water allocation plan that considers Aboriginal needs for water access and management.

The NWI Policy Guidelines for Water Planning and Management (2010) recognise that water planning processes should *consider Indigenous needs in relation to water access and management, incorporating Indigenous social, spiritual and customary objectives and strategies; respecting traditional knowledge; and taking account of the possible existence of Native Title rights.*

This is supported by the Productivity Commission in their advice to the Commonwealth Government on national water reform. In that advice they state *cultural values of Traditional Owners need to be incorporated into water planning for all systems.*<sup>8</sup>

### **III. Implementation actions**

The NLC has been assigned a significant amount of actions in the implementation plan. The water allocation plan was developed without a stakeholder advisory committee, and while the Beetaloo Regional Reference Group did receive a briefing on the draft plan in the week prior to its release, this did not extend to discussing the implementation actions with NLC.

We note that there is a large body of work required to ensure that Aboriginal rights and interests are appropriately considered in the water allocation plan. It is important to ensure that the responsibilities for the implementation actions are assigned to the correct people or organisations, and that there is sufficient funding available to undertake the work.

The NLC requests the implementation actions be redrafted in collaboration with the NLC and appropriate Aboriginal representatives.

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<sup>8</sup> Productivity Commission Inquiry Report No. 96, 28 May 2021. National Water Reform.