

July 2019 – Progress report

Report: Independent Review of Water Extraction Licences (Northern Territory) July 2017

July 2019: Progress by Department of Environment and Natural Resources (DENR) against the 21 Review recommendations.

Recommendation	Considerations for inclusion	DENR action	Status
Priority one – to be completed in 12 months			
P1-1. Develop checklist and process for preparing Controller’s brief .	<p>Controller’s brief should contain all relevant material, including:</p> <ul style="list-style-type: none"> • verification that all procedural requirements have been met • detail of all assessments, advice and recommended findings • details of Notice of Intention (NoI) comments received (including copies of all comments), the way in which they have been assessed, and advice about how they should be taken into account. <p>Ensure that requests by the Controller for additional material relating to an application are documented, and that responses to those requests are also documented (including for example by provision of an amended Statement of Decision (SoD) or additional advice).</p>	<p>A Controller of Water Resources’ (Controller) brief (or memo) is created within the Water Act 1992 Licensing and Permit System (WALAPS) using automated templates that verify procedural requirements have been met.</p> <p>WALAPS also provides a mechanism for the Controller to make requests for additional material and receive responses.</p>	Completed
P1-2. Develop checklist for receipt and processing of licence application.	<p>Checklist should include items that will ensure that:</p> <ul style="list-style-type: none"> • applications are complete before being accepted • application amendments are clearly documented • date on which completed application is lodged is recorded (seek legal advice on this aspect) • applicant is correctly identified (including ensuring that applicant is a legal or natural person) • clear distinction made and maintained between applications for new licence, for entitlement increase of existing licences, and for renewed licence with entitlement increase. 	<p>All licence applications are processed through WALAPS which includes mandatory fields ensuring all required information is recorded and available to inform licensing decisions.</p> <p>A checklist has been prepared to support the WALAPS system providing an additional level of quality assurance to the receipt and processing of licence applications.</p>	Completed

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<p>P1-3. Develop and implement formal processes for assessment of licence application.</p>	<p>Ensure process applies FIFS (first-in, first-served) policy to the extent it is relevant (see also P1-7).</p> <p>Process should ensure assessment of all relevant aspects of each application:</p> <ul style="list-style-type: none"> • is undertaken and clearly documented on file • is verified by appropriate officer • has a sound and documented factual basis (including scientific basis where relevant) • is carried out individually on its merits (assessments should not be 'batched'). <p>Process should:</p> <ul style="list-style-type: none"> • include assessment guidelines that implement a risk-based approach to assessment, that is fit for purpose (i.e., the nature and extent of assessment should be tailored to the specific risks presented by each application) • be efficient and designed to achieve processing without delay and within statutory timeframes. <p>Assessment guidelines should be prepared, covering assessment of all aspects.</p>	<p>The Darwin Rural Water Licensing Policy was approved by Government to guide the prioritisation and assessment of licence applications following revocation of the 15 litre per second exemption.</p> <p>Procedures for assessment of licence applications are being developed and modified based on receipt of legal advices.</p> <p>Government approved a Policy for Prioritising Water Extraction Licence Applications in November 2018.</p> <p>Process Diagram for Processing an application for a water extraction licence – new or increase approved December 2018.</p> <p>Established a process for requesting a Licensing Assessment Modelling and Analysis Request which results in the provision of a Water Assessment Report.</p> <p>Policies are publicly available from the department's water website.</p>	<p>Complex and multi-faceted recommendation - Under development.</p>

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<p>P1-4. Develop and implement processes to ensure Nol requirements fulfilled and evidenced.</p>	<p>Ensure processes are established so that Nol requirements are accurately carried out and documented. These should include –</p> <ul style="list-style-type: none"> • clarity around when a new Nol is required to be published for an altered application • ensuring new Nol made for each new application, and a single Nol for each application (Nol should not be 'batched') • ensuring Nol template distinguishes between applications for new licence, amendment (increase of entitlement), and renewal (with increase of entitlement) • training in use of template use to ensure correct completion of Nol • clearly conveying the ESY, if included in Nol • retaining evidence on file of publication of Nol publication and provision to adjacent landowners and occupiers. <p>Ensure Controller's brief includes verification and substantiation of procedural requirements being met.</p>	<p>WALAPS makes provision for retaining publication of Nol and letters to adjacent land owners. Nol is also provided via the publicly accessible Water Licensing Portal.</p> <p>A Procedure documenting the Nol process has been developed and clarifies the requirements for publication of Nols.</p> <p>WALAPS requires a Nol to be developed for each application.</p>	<p>Completed</p>
<p>P1-5. Develop process to ensure licence conditions are consistent with SoD and application</p>	<p>Process should include:</p> <ul style="list-style-type: none"> • Reviewing inclusion of standard conditions for each licence to ensure suitable and adapted to SoD • Ensuring that conditions are included that reflect requirements of declared WAP • Seeking legal advice in relation to inclusion and drafting of any non-standard conditions • Ensuring licensee correctly named. 	<p>Development of standard licence conditions included in the 'licence form' approved by the Controller of Water Resources in May 2017.</p> <p>The approved licence form provides for unique or special conditions to be added for individual licences, as required.</p>	<p>Completed</p>
<p>P1-6. Ensure licence durations are consistent with Water Act 1992.</p>	<p>Seek legal advice regarding practice of granting licence amendment (i.e. increase in entitlement) as a new licence, with fresh 10-year term.</p>	<p>Policy and procedures for the management of licence amendments has been developed based on legal advice.</p>	<p>Completed</p>

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<p>P1-7. Formalise FIFS practices.</p>	<p>Formalise the approach to implementing FIFS, in particular whether there should be difference in priority as between applications for new licences, amended (increased) licences, and/or renewals with increase.</p> <p>Ensure approach is consistent with Water Act 1992 requirements for processing applications, and with requirements of any declared WAP. Take into account any draft WAP and review as WAPs are developed and finalised.</p> <p>Ensure processes are in place to support FIFS (in particular, ensuring clarity as to date of lodgement of application, and in assessment procedures (see recommendation P1-3)).</p>	<p>Applications are not accepted by the department until all information is on hand and the application is complete (Water Regulation 4). Government approved a Policy for Prioritising Water Extraction Licence Applications in November 2018. This is publicly available from the department's water website.</p>	<p>Completed</p>

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<p>P1-8. Review practice of issuing licences with AAA conditions in areas with limited water trading opportunity.</p>	<p>Ensure that applicant’s intended use and crop water requirements are taken into account during licensing decisions in areas that do not have WAPs.</p> <p>Ensure applicants for permanent crops are aware of risks associated with low reliability licences, in particular where no trade is available.</p> <p>Expedite WAPs in Top End resources which are at or approaching full allocation.</p> <p>Review water trading provisions in Water Act 1992 to allow development of efficient water markets.</p>	<p>The Northern Territory Water Regulatory Reform Directions Paper was released by Government in October 2018, closing on 31 March 2019.</p> <p>The Water Miscellaneous Amendments Bill 2019 addresses some legislative amendments to improve access to water trade.</p> <p>Crop water requirements are required within existing licence applications and addressed in WALAPS and associated checklists and procedures.</p> <p>Areas to which AAA conditions are included in licence conditions are being prioritised for water allocation planning and establishment of trade.</p> <p>WAPs in the Top End are progressing: public consultation has completed for the Draft Ooloo Dolostone Aquifer Water Allocation Plan 2019-2029, Draft Katherine Tindall Limestone Aquifer Water Allocation Plan 2019-2029 (both closed 15/7/2019), Draft Ti Tree Water Allocation Plan 2019-2029 (closed 20/5/2019).</p> <p>Mataranka WAP and Howard WAP are being drafted for public comment in 2019. Berry Springs WAP declared in 2016. Western Davenport WAP 2018-2021 declared in December 2018.</p>	<p>Completed</p>

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P1-9. Develop best practice in administrative decision-making	Institute regular training and professional development in administrative decision-making (including in the preparation of material for the Controller, and drafting of SoDs).	Water Licensing Officers responsible for preparing statements of decision have completed Clayton Utz, <i>Advanced Government Decision-making</i> training. Director Water Licensing and Regulation position filled to provide leadership in administrative decision-making practices within the Water Resources Division.	Completed
P1-10. Improve systems to ensure sound document control	Develop and implement a policy for the approval and use of process-related documents such as Standard Operating Procedures, forms and templates. Include provision for review and control, and (where required) for formal approval of documents for the purposes of Water Regulations. Review forms and templates (both those contained within WALAPS and those otherwise in use) to ensure accuracy and remove any obsolete items; seek legal assistance as required. Ensure relevant staff receive regular training in use of templates and procedures.	Practices established to improve document control. Documentation index and record management system implemented within Territory Records Management system.	Completed
P1-11. Improve systems to ensure sound record management	Continue to improve the capacity of WALAPS to record and maintain records of all aspects of licence assessment and determination. Ensure that staff are trained in and create records of all activities that form part of the process including file notes or other records of discussions within the department, with applicants, and with any other person in relation to the application.	WALAPS provides the mechanism for recording all documents and information associated with processing licence applications. Separate to WALAPS a procedure has been developed and implemented for documenting verbal communications with clients. This is now part of routine business.	Completed and part of routine business operations.

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<p>P1-12. Develop policy for preparing SoD and prepare SoD template</p> <p>(SoD = statement of decision)</p>	<p>Policy should include:</p> <ul style="list-style-type: none"> • appropriate use of maps and explanatory material to convey reasons for decision to range of readers • ensuring that past SoDs identified as 'best practice' are used as exemplars but not as templates • ensuring basis of material findings is substantiated • adequate summarisation of Notice of Intention (NoI) comments and explanation of how they were taken into account in the decision • ensuring that a single SoD is prepared for each application (SoDs should not be 'batched'). 	<p>A procedure has been documented and a template SoD developed based on best practice and legal advice. Procedural requirements and assessment of relevant factors including NoI comments is described in the reason for decision.</p>	<p>Completed</p>
<p>P1-13. Document integrated model-based assessment procedures and improve reporting on inherent uncertainties.</p>	<p>Ensure that current practices of modelling for ESY determination, licence reliability and AAA determination are formalised. Details should include:</p> <ul style="list-style-type: none"> • model version • filenames and metadata for source input files • date of model runs and success of each run • date and filenames of model output and post-processing of results. <p>Roper River catchment methodologies should be a priority.</p> <p>Assess and report on the uncertainty in model-based predictions of water availability. Reflect uncertainty in model-based predictions in the decision-making, at least in advice to planners.</p>	<p>A Procedure has been developed incorporating methodologies and metrics for determining uncertainty referenced against industry standards (where available), including provision to address all criteria for consideration as recommended.</p>	<p>Completed</p>

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<p>P1-14. Undertake a comprehensive hydrochemistry and environmental isotope assessment of the Mereenie Aquifer System</p>	<p>Assessment of groundwater resource dynamics including recharge, flow and potential for mixing between different water types.</p> <p>Results should feed into industry best practice groundwater flow model to assess impacts of current and future allocations on consumptive pool and water quality impacts.</p>	<p>A project to address the issues identified in the Licence Review is underway. Phase 1 of the project was successfully completed in July 2017, resulting in two reports:</p> <p>Cook, P.G., Knapton, A., and White, N. (2016). <i>The Potential Impact of Irrigated Agriculture on Groundwater Quality in the Rocky Hill Region, Northern Territory.</i> National Centre for Groundwater Research and Training, Australia.</p> <p>Knapton, A. (2017). <i>Development of a Groundwater Model for the Mereenie Aquifer System</i>, Prepared for the Department of Environment and Natural Resources by CloudGMS, Adelaide.</p> <p>Sampling for environmental isotopes and test pumping is complete.</p> <p>A supplementary water sampling program being undertaken in collaboration with Geoscience Australia to provide a comprehensive assessment of recharge and flow dynamics. This program is not expected to be completed until after September 2019.</p>	<p>Under Development - project is progressing and on-target for completion by end-2019.</p>
<p>Priority two – to be completed in 24 months</p>			
<p>P2-1. Improve processes for communicating and publishing licence decision</p>	<p>Ensure that NoD is approved for publication only after licence decision has been made.</p> <p>Retain evidence on file of publication of NoD in newspapers and provision to applicant.</p>	<p>WALAPs has in-built controls which ensure all documents are developed, approved and date stamped in the required order.</p> <p>WALAPs links NoD to public Water Licensing Portal.</p>	<p>Complete</p>

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P2-2. Develop policy and assessment process for own motion grants	<p>Establish policy regarding when to use own motion; obtain legal advice to ensure that policy is consistent with Water Act 1992 (i.e. own motion cannot be used for licence increases).</p> <p>Ensure necessary evidence is gathered so that own motion grant still takes into account all relevant section 90 factors.</p>	<p>The Controller of Water Resources has determined that provisions for own motion grants will not be used.</p> <p>This will be considered for repeal as part of future Water Act 1992 reform processes.</p>	Complete
P2-3. Develop formal process for preparing Ministerial briefing for section 30 review	<p>Formalise current processes to ensure briefing:</p> <ul style="list-style-type: none"> • contains all relevant material, which is accurately referred to and labelled • correctly represents and addresses each ground of review • correctly represents Minister's role on section 30 review • is prepared and signed off by senior officer other than Controller. <p>Ensure process includes quality control measures to provide confidence that briefing is complete and accurate, and that attachments are accurately labelled.</p>	Administrative procedures for processing an application for review of a decision are in place.	Complete
P2-4. Formalise key approaches to water allocation	<p>Identify, develop and formalise key approaches to water allocation, including the weight to be given to draft WAPs.</p> <p>Improve clarity in the way that different allocation approaches are conveyed (i.e. expression of ESY as a long-term annual average per current draft WAPs, vs expression of ESY as proportion of actual annual water available per current practice in some resources).</p> <p>Ensure that allocation policy is clearly disseminated within the water licensing decision process and to Water Advisory Committees, and that personnel understand its requirements.</p> <p>Support the ongoing review, revision and renewal of WAPs, including by establishing and maintaining statutory advisory committees.</p>	<p>Template and Glossary documentation for Water Allocation Plans has been developed and implemented.</p> <p>Development of a water allocation policy framework to ensure consistency of decision-making is underway and ongoing.</p> <p>Water Advisory Committees (WACs) are established and operating.</p>	Completed and part of routine business plans.

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<p>P2-5. Develop, recalibrate or refine key models</p>	<p>Recalibrate or at least validate the integrated Daly River catchment model, using more recent observation data post 2009. Continue to refine the integrated Roper River catchment model, including by improving confidence in the relationships between modelled and measured groundwater recharge, water levels and spring flows.</p> <p>The existing groundwater flow model for the Ti Tree Basin should be used in future to provide science-based estimates of sustainable yield, rather than relying on current and known future allocations to set the ESY. The model could also be used to assess individual licence applications, particularly as the total level of allocation increases, to enable assessment of the potential for saline intrusion to the better quality groundwater resource.</p>	<p>Models have been re-calibrated and refined based on relevant data.</p> <p>The existing groundwater flow model has been incorporated into setting the ESY in the draft Ti Tree WAP.</p>	<p>Completed and part of routine business operations.</p>
<p>P2-6. Establish local pumping rules for the Oolloo Aquifer</p>	<p>Rules should be used to protect specific GDEs (e.g. springs) from intolerable seasonal drawdown caused by localised pumping centres.</p>	<p>Local pumping rules and creation of Groundwater Discharge Protection Areas are included in the Draft Oolloo Dolostone Water Allocation Plan.</p> <p>In addition to seasonal drawdown, long term drawdown trends have also been identified as potential threats to springs in the Oolloo. This is subject to further investigations and assessment.</p>	<p>Completed.</p>

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Priority three – to be completed in 36 months			
<p>P3-1. Commit to ongoing monitoring and investigations</p>	<p>Improve the science base for water allocation planning, including studies of groundwater recharge and flow, processes affecting water quality, and non-baseflow GDEs.</p> <p>Determine improved estimates of recharge/ discharge for the Jinduckin Aquifer, Revisit the work of Jolly (1984) and undertake further field-based investigations, including specific environmental water requirements for Douglas River.</p>	<p>Assessment and monitoring programs are designed and implemented to meet requirements of each plan, regular revision undertaken to ensure new knowledge gaps are addressed.</p> <p>For areas not managed through a plan, such as the Jinduckin aquifer, the risk to the resource is considerably lower than in plan areas and is prioritised accordingly.</p>	<p>Completed and part of routine business operations.</p>