



## SAFE DRINKING WATER IN THE NORTHERN TERRITORY – FACT SHEET, NOVEMBER 2020

What do we mean when we say that the Northern Territory (NT) lacks adequate protections for safe drinking water, and that this is especially so in remote communities?

### ***Water Act 1992 (NT)***

In the NT, the *Water Act 1992 (NT)* provides for the declaration of Water Control Districts (WCDs), the development of Water Allocation Plans (WAPs) within WCDs, and statutory-based licences for certain water extraction activities. Water Allocation Plans allow for allocations for public water supply. However, existing Water Allocation Plans only account for a small proportion of the NT's landmass, predominantly applying to areas along the Stuart Highway and excluding many remote communities (see Appendix 1).

Even where Water Allocation Plans exist, the *Water Act* does not include a power to reserve public water supply above other uses, including extractive industries and pastoralism.

The NT charges citizens for residential water use. However, it is the only Australian jurisdiction that does not charge for water consumption by mining and petroleum companies, pastoralists, and agricultural users. Water Allocation Plans establish some limits on water use for consumptive purposes. For example, a licence is required for extracting groundwater within a WCD, though not elsewhere, provided groundwater is extracted at a rate of less than 15L per second. Exemptions for licenses exist for stock and domestic purposes, and road construction and maintenance.

In the NT, water is free for various consumptive purposes. Outside of WCDs, its extraction can proceed to the detriment of drinking water security.

### ***Water Supply and Sewerage Services Act 2000 (NT)***

The *Water Supply and Sewerage Services Supply Act 2000 (NT)* (WSSSA) regulates public water supply in the NT. It requires that "water supply services" in "water supply licence areas" are licensed by the Utilities Commission.

The government-owned Power and Water Corporation is the current and sole licensee. Its license contract requires meeting provisions related to asset management planning, license compliance reporting, a customer contract, and service planning.

The *Water Act* (s73), the WSSSA (s45), and the *Public and Environmental Health Act 2011* (s133), each include a power to establish minimum standards for drinking water quality. However, this power has not been used.

Instead, the Department of Health and Power and Water Corporation have a Memorandum of Understanding (MoU) that states the Australian Drinking Water Guidelines "will be used as a peak

reference”. The MoU appears to have expired in 2015. Legally, the MoU and Power and Water Corporation’s customer contract are unenforceable.

### **Power and Water Corporation and Indigenous Essential Services**

The “water supply licence areas” specified in Power and Water Corporation’s license include 18 gazetted towns where the vast majority of the NT’s non-Indigenous population lives. Outside of these towns, drinking water provision is not licensed.

This does not mean that treatment, testing, and planning measures are not taken to provide safe drinking water in contexts beyond license areas. But it does mean that there are no legal requirements for risk management plans (including monitoring programs and incident protocols), audits, reporting, and compliance with minimum standards.

In 72 remote communities and 79 outstations, Indigenous Essential Services Pty Ltd provides drinking water services. Indigenous Essential Services is a not-for-profit subsidiary of Power and Water Corporation (see Appendix 2) There is no legislation mandating service standards by Indigenous Essential Services.

Indigenous Essential Services is funded by a recurrent grant payment from the Department of Local Government, Housing, and Community Development according to an unpublished Service Level Agreement. This arrangement lacks transparency and does not meet National Water Initiative expectations for Community Service Obligation payments. Annual reports suggest that Indigenous Essential Services in turn pays Power and Water Corporation to manage drinking water services in those remote communities and outstations.

The *Information Act 2002* (NT) appears to protect Power and Water Corporation, as a government-owned corporation, from freedom of information requests that concern its business operations. There is limited publicly available information about IES.

This means that in 72 remote communities and 79 outstations, the drinking water services provider is unlicensed, operates without minimum quality standards in place, and with limited public information relating to its funding and service arrangements, day-to-day operations, and planning for future infrastructural needs. IES does not appear to be accountable to any government authority.

### **Towards Safe Drinking Water Legislation?**

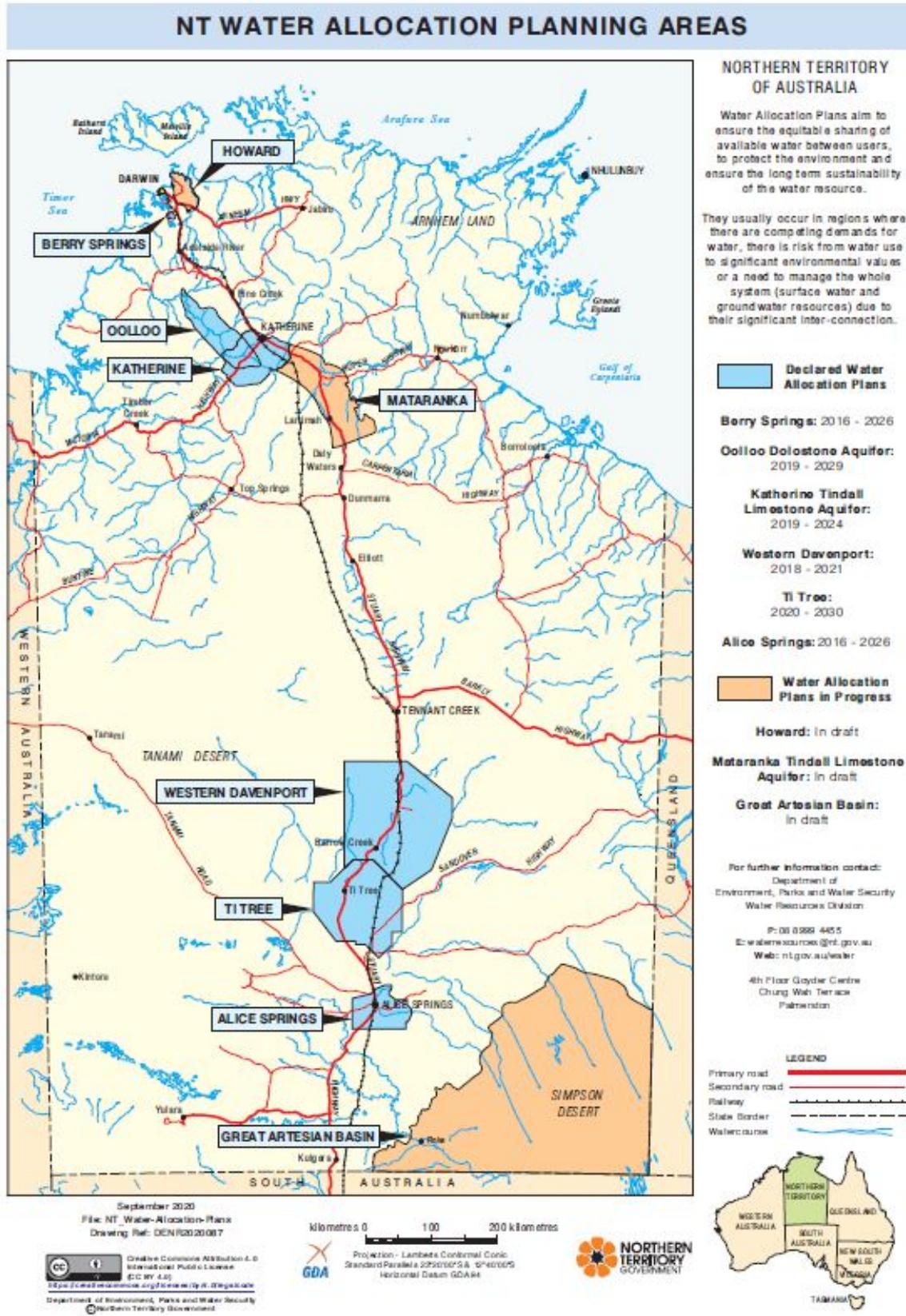
All four Northern Territory Land Councils have recently called for A Safe Drinking Water Act. Legislative reform is one important part of the solution. A Safe Drinking Water Act could:

- Establish a general power to reserve water for drinking water supply against other consumptive uses (which does not exist in the *Water Act*)
- Establish minimum water quality standards (which are currently governed by an unenforceable MoU)
- Establish the requirement that IES or PAWC is licensed by the Utilities Commission to deliver water services in 72 remote communities, according to similar standards governing existing license areas

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Appendix 1. NT Water Allocation Planning Areas



Appendix 2. Housing for Health Incubator, 2019, Drinking Water Regulation in the Northern Territory.

