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Community Consultation Report

For the Western Davenport Water Allocation Plan
2011-2021

WRA11008



Water Resources Branch
Natural Resources Division
Department of Natural Resources, Environment, the Arts and Sport
PO Box 1120
Alice Springs NT 0871
Email: alicewaterplan@nt.gov.au
Web: www.nt.gov.au/wdwap

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Front page photo: Murray Creek, Murray Downs Station

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1. Introduction

On 8 October 2009 the Minister for Natural Resources, Environment and Heritage formally announced the commencement of the water planning process for the Western Davenport Water Control District (the District) in the Northern Territory (NT). The District encompasses over 24,500 square kilometres with approximately 1,000 residents spread over that area. The only major community within the District is Ali Curung with a population of approximately 500 people. The water resources subject to the proposed water allocation plan (the Plan) are currently in a low state of development and have not been comprehensively studied. Currently there is a low demand for the water resources and consequently little risk to local ecosystems within the District.

Due to the geographical spread of the inhabitants and the relatively limited state of current resource development, the Department of Natural Resources, Environment, the Arts and Sport (“NRETAS”) decided that a communications strategy which involved a combination of direct emails to targeted stakeholders, a dedicated website and a small number of public meetings would be the most effective means to communicate with interested stakeholders and to advise them of the context for the planning process, to provide them with the information relevant to the planning process as it became available, (including technical reports), and to update them on the progress of plan development.

Contributions by stakeholders and the inclusion of community needs and values were essential to the development of the draft Plan. Interested parties which were consulted, involved or notified during the planning process include:

- Power and Water Corporation
- Central Lands Council
- Barkly Shire Council
- Pastoralists
- Traditional Owners
- Local business owners including roadhouses
- Centrefarm Aboriginal Horticulture Ltd
- Department of Resources
- Environmental agencies

Initially information sessions were held in the District. Contact was then maintained by email and the web. The draft Plan was released for submissions and comments were solicited from stakeholders and the public during a four week round of public consultation from 17 June to 16 July 2010.

The purpose of this document is to detail the consultation process associated with development of the Plan and outline key issues that were raised through the consultation process and how they were addressed.

2. The Consultation Process

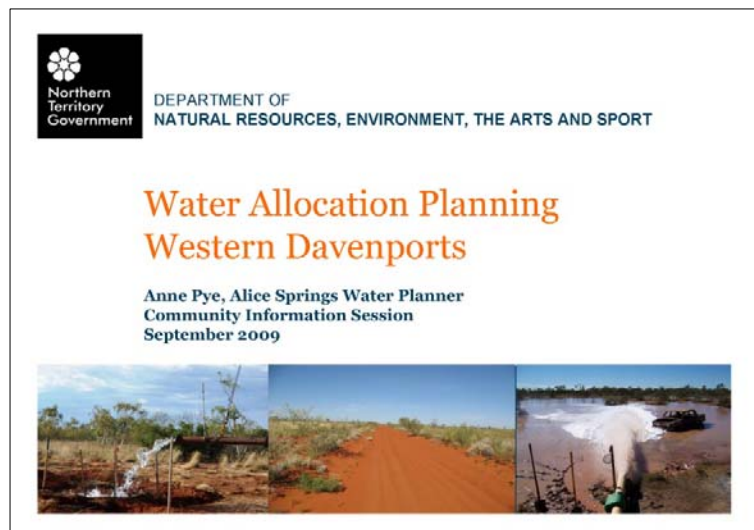
At the commencement of the planning process for the Western Davenport Water Control District, a number of public meetings were held to disseminate information about the planning process and to elicit stakeholder concerns from the District.

The first public meeting was held at Wycliffe Well on Friday 4th September 2009 to discuss the water allocation planning process for the District. Known stakeholders were invited by email to attend, and were also encouraged to advise anyone who was not on the email list, but who may be interested, to attend the meeting or to contact the Alice Springs water planner so they would be added to the stakeholder contact list in the future. Approximately 15 people attended the initial meeting including representatives from Neutral Junction, Singleton and Murray Downs stations, Central Land Council (CLC), Centrefarm Aboriginal Horticulture Ltd (Centrefarm), Department of Resources (Tennant Creek), PMG Melon Farm and Wycliffe Well roadhouse.

Two presentations were given by Anne Pye, the Southern Region Water Planner for NRETAS (Planner). The first was a summary of a technical report prepared by an independent consultant on the groundwater resources of the District. The second was on the water allocation planning process itself. Questions were encouraged at the end of the presentations and copies of the technical report were made available at the meeting.

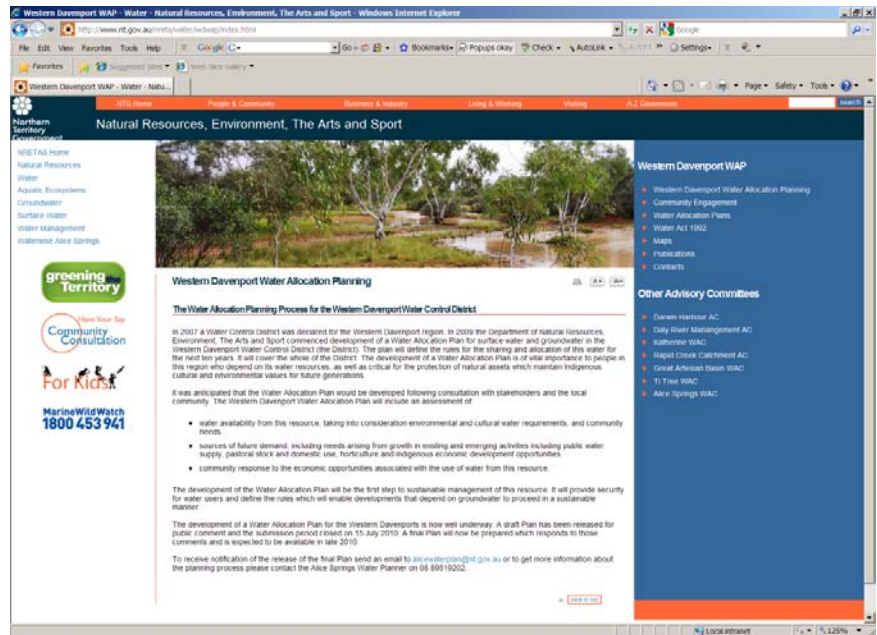
There was an active discussion and question session at the end of the presentations with good participation by a range of attendees. A lot of questions were asked about the operation of the *Water Act* and its regulations. Discussion centered on the need for clear provisions setting out the requirements relating to potential extraction of surface water, and also the need to protect cultural sites from impacts stemming from

groundwater extraction. It was agreed that it would be important to identify recharge zones within the District. CLC lawyers also asked about bore construction permits in relation to pastoral land and were advised that the current administrative procedures of NRETAS would not be changed as a result of the Plan.



Centrefarm representatives provided insight into the potential future developments within the area including some of the cattle stations (i.e. not just on Indigenous owned land) which could result in applications for groundwater extraction licences totalling between 30,000 to 55,000 ML being made in the next 5 to 10 years. The meeting then broke for lunch and participants were able to discuss these matters amongst themselves.

Shortly after the first meeting on 7th September 2009, a dedicated website for the planning process www.nt.gov.au/wdwap went online, containing information about the *Water Act*, the water planning process, downloads of relevant technical reports and maps, and with provision for individuals to add themselves to the contact email list for information and updates about the planning process.



A second round of community engagement commenced during late September when the Planner and the Water Conservation Officer (WCO), Tanya Howard, visited three of the larger schools in the District to discuss water conservation and other related topics, as well as participate in separate meetings with relevant stakeholders.

On 22nd September the WCO and Planner visited the primary school in Tara and engaged the children in educational activities aimed to teach them about the groundwater hydrological cycle and water conservation. Materials about the Western Davenport water allocation planning process were also distributed to the teachers at the school and to Barrow Creek Hotel on the way.

On 23rd September the Planner and WCO went to the school in Murray Downs where they talked to the junior and senior classes at the primary school and provided information on the NT Waterwise School program run by NRETAS www.nt.gov.au/nreta/water/wise/schools.html - which is a small grant program available to schools in the southern region of the NT.



Water Conservation Officer, Tanya Howard with children from Imangara School

In the afternoon the WCO visited Ali Curung School and provided information about water conservation as

well as the NT Waterwise School program. The WCO also discussed the resources available for water education with the school principal. The Planner went to the Shire Council Chambers where she showed maps of the District to a number of local people and discussed water sites and developments in the water planning process with them. She also discussed the planning process with the acting Shire Services Manager in Ali Curung.

On 24th September 2009 the Planner was able to meet with representatives from Power and Water Corporation, and from Barkly Shire Council in Tennant Creek to discuss the planning process and distribute the informational material which had been made available at the meeting on 4 September. These meetings proved very productive.

The CLC had been asked to facilitate a meeting at Ali Curung between a number of the traditional owners from throughout the Water Control District and the Planner at the start of the planning process. The meeting was held at the community park in Ali Curung on Wednesday 7th October 2009. Legal and anthropological staff from the CLC Tennant Creek and Alice Springs offices were present as well as approximately 12 to 15 men and five women who either lived in the community or who were Traditional Owners of the area.

The Planner spoke about the effect of the *Water Act* and the extent of the District which was demonstrated on the large copies of satellite images of the District brought to the meeting. The Planner talked about how the *Water Act* outlines that water plans need to protect the cultural values of water sites for the local people. The men in particular were engaged by the map and conferred about some of the water sites on the map which are important to them, in their own language.

Discussion centered on the fact that community water supplies will not be affected by the planning process and that people, particularly those in the smaller communities who are not serviced by Power and Water Corporation will continue to have full access to water for themselves, their houses and gardens, and for any cattle or other animals they may have. It was made clear that these people did not require a licence previously and will not require a licence when the water plan comes into effect. The water plan will regulate and set out the rules for big users who do require a water extraction licence to ensure the environment is not affected by their water use. Traditional owners and community members were adamant that the needs of the community, the environment and the protection of cultural sites should to be given preference before licences are provided for development such as the nearby melon farm*.

CLC staff again expressed concerns that pastoralists are able to sink bores or build dams on properties without consulting traditional owners about the location of sacred sites in close proximity to the proposed bores/dams. However, the previous advice was repeated that the current administrative arrangements for obtaining bore construction permits from NRETAS which operate across the whole of the NT would not be changed under the Plan. There were also concerns expressed by the traditional owners about drilling which had occurred recently in Singleton*.

The issue of water quality at Ali Curung was raised, particularly regarding fluoride levels, and these enquiries and concerns were directed to Power and Water Corporation. The other big issue was the potential damming of runoff from the Davenport Ranges. The Planner explained that only small dams are allowed under the *Water Act* and that no one is allowed to take more than 5 per cent of any river or creekflow at any time, so that 95 per cent should still be running past into the floodouts and swamps.

The meeting concluded in time for lunch and CLC staff advised that they would collate comments from the traditional owners and pass them on to NRETAS. CLC subsequently advised that the primary concern of the traditional owners present at the meeting was that community water needs should be paramount, followed closely by the importance of protecting the environment and cultural and sacred sites within the region that rely on water.

* Developments such as the PMG Melon Farm can only proceed on land excised from Aboriginal Land Trusts under agreements negotiated by organizations such as Centrefarm, where the consent of traditional owners has been obtained to the excision. This agreement is secured before the construction of any infrastructure, including borefields. NRETAS understands that the traditional owners are then consulted by Centrefarm on behalf of the business operator in relation to the location of any borefield constructed on the excised land.

* It should be noted that subsequent enquiries by the Planner were unable to find any knowledge of bore construction permits obtained or water drilling rigs working on Singleton station in the six months prior to the meeting other than in connection with the second borefield which had been drilled earlier in the year under instructions from Centrefarm for PMG melon farm with the consent of the traditional owners.

3. Submissions received through public feedback.

The consultation process assisted the internal development of the Plan by allowing various interest groups to express their viewpoints, needs and suggestions for improvements to the Plan. When the draft Plan was released for public feedback over a period of four weeks commencing on 17th June 2010, submissions from four stakeholders were received. The submissions, the response to the submissions and any amendment subsequently made to the Plan are outlined below in order of the date the submission was received.

3.1 S 5.4 The environmental section of the Plan

3.1.1 The issue and response

A comment was received from Dr Moya Tomlinson who is currently on a National Water Commission fellowship reviewing the policy and science of environmental water requirements for groundwater systems, noting that clause 5.4 of the Draft Plan does not discuss potential groundwater use by vegetation.

There was some discussion between Dr Tomlinson, the Planner and Angus Duguid, who had written a report for the Plan on the wetlands of the District. It was concluded that at present, research on dry land vegetation use of groundwater is still at such a preliminary stage that meaningful data which could be used in the calculation of evapotranspiration from broad landscape vegetation for the purposes of a water balance for the Plan area, is still unavailable and is likely to remain unavailable for some years.

3.1.2 Amendments to the final Plan

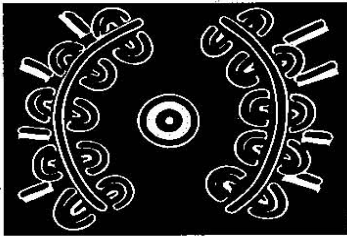
It was agreed that the sentence "More research and hard data will also be required on potential groundwater use by broader landscape vegetation before this particular environmental use can be adequately accounted for in this Plan (such as through an estimation of evapotranspiration that can be used in the water balance for the WCD)" would be added to s 5.4 of the final Plan.

3.2 Submission from Central Land Council

3.2.1 The issues and response

CLC initially sought minor text amendments to Objectives 2 and 4 of the Plan, which were made and clarification of particular points in the Plan. CLC was also concerned with the summary of the meeting with traditional owners held at Ali Curung in October 2009. While the summary given above broadly accords with the CLC perspective of that meeting, the summary is a reflection of the Planners recall of the meeting and footnotes have been added to clarify some of the legal issues for stakeholders who were not present at the meeting.

The letter which the CLC formally submitted in response to the release of the draft Plan for comment follows:



Central Land Council

27 Stuart Highway
Alice Springs
Northern Territory

P.O. Box 3321
Alice Springs
N.T. 0871

Tel: 08 8951 6234
Fax: 08 8958 2901
email: karina.menday@clc.org.au

Our ref: 2009/382

1 July 2010

Mr Ian Fox
Director, Natural Resources South
Natural Resource Division, Southern Region
Department of Natural Resources, Environment, the Arts and Sport
By email : ian.fox@nt.gov.au

Dear Ian,

RE: Western Davenport Plains Water Allocation Plan

I refer to our meeting on 29 June 2010 in relation to the above matter. As discussed, the CLC cannot make a formal submission on the Plan due to a lack of quality and ongoing community engagement on the contents of the Plan. However, those that attended the community meeting at Ali Curung on 7 October 2009 did raise concerns and provided feedback on the Plan. The CLC was instructed to advise you accordingly:

1. Traditional owners do not agree to provide a map as requested by NRETAS showing all sacred or cultural sites within the region.
2. Traditional owners and community members are concerned that there should be regular monitoring of the water available in the region and differences in the water table after the Plan has come into effect. They would like to be involved in any review processes.
3. A major concern for traditional owners generally is that on land where Native Title has been established, a pastoralist, for example, is able to sink bores or build dams (albeit under a certain size) without first consulting with traditional owners, potentially damaging or affecting sacred sites reliant on water. However, meeting attendees were advised that the Plan does not address such circumstances and thus it would not be worthwhile for traditional owners to make a submission on the issue.

Traditional owners consider it important that the Plan include text that outlines the risks involved to pastoralists, lessees or any other person or company that damages a sacred site in the Northern Territory. This would include sinking bores or building dams, regardless of their size, on or near a sacred site. It is an offence in the Northern Territory to damage a

sacred site¹ and prosecution under the *Northern Territory Aboriginal Sacred Sites Act* (NTASS) may result in costly penalties.² An Authority Certificate issued by the Aboriginal Areas Protection Authority (AAPA) will not always be an absolute defence to a prosecution under the NTASS, however, obtaining such a certificate through AAPA will provide the holder with some certainty and security before commencing works, and is certainly preferable to simply declining to consult with traditional land owners at all.

4. A primary concern of those present at the meeting is that community water needs should be paramount, followed closely by the importance of protecting the environment and cultural and sacred sites within the region that rely on water.
5. Finally, the view of those in attendance at the meeting was that there is a great deal of knowledge about water in the Plan area that is held by traditional Aboriginal owners, but that scientists and researchers may not have. This is a view supported by Duguid and others, who recognise that generally, it is the traditional owners of the land within the Plan area who, "... Have knowledge of how water moves through the landscape and how often individual wetlands are filled and how long the water lasts."³

Because there are significant gaps in current scientific knowledge relating to the existence of waterbodies in Central Australia,⁴ it is imperative to have in place a system whereby the people who do possess significant knowledge in relation to waterbodies within the control district, that is, the traditional Aboriginal land owners, are consulted, and their advice respected. In fact, this is a key recommendation of Duguid's report, commissioned by NRETAS.⁵

Please don't hesitate to contact me if you require any further information in relation to the above.

Yours sincerely,



Kanna Menday
Solicitor, Legal Services

¹ *Northern Territory Aboriginal Sacred Sites Act* Section 35.

² The penalty for entry onto a sacred site - \$130,000

The penalty for carrying out work on a sacred site - \$260,000

The penalty for desecrating a sacred site - \$260,000. see sections 33, 34 & 35 of the *Northern Territory Sacred Sites Act*.

³ Duguid, A., 2009. 'Wetlands of the Western Davenports Water Control District' Unpublished internal report to. Northern Territory Government Department of Natural Resources, Environment, the Arts and Sport. Alice Springs. at pg 6

⁴ Note 3. at pg 5, 6, 17 AND J.B. Box, A. Duguid, R.E. Read, R.G. Kimber, A. Knapton, J. Davis, A.E. Bowland, 'Central Australian waterbodies: The importance of permanence in a desert landscape' 2008, *Journal of Arid Environments*, 72 (2008)1395-1413, at 1404

⁵ Note 3. at pg6

In relation to the points raised in the letter from CLC, NRETAS also hopes that traditional owners will be involved in the five year review of the Plan; and when resources become available, their knowledge in relation to water in the Plan area is able to be documented so it can inform any future water planning in the District. With respect to item 2 of the letter, regular monitoring of the regional water table in the District will continue to occur as part of the normal NRETAS bore monitoring program for the southern part of the NT. In relation to Item 3, CLC's concerns are noted, however NRETAS draws attention to the existing sentence at the end of clause 8.2.1 (as numbered in the draft Plan) which refers to the application of existing legislation intended to protect sacred sites: *"Granting of bore construction permits will not absolve the permit holder from any responsibilities they may have under any sacred sites, heritage conservation or other applicable legislation."*

NRETAS reiterates that the Plan essentially sets out the rules for water use by licensees within the District, and it does not otherwise affect or amend the general operation of the *Water Act* and its regulations, either within the District or more generally across the NT. In relation to Item 4, the current Objectives of the Plan encompass these aspirations, and NRETAS endorses the importance of these considerations when determining the framework for future water use in the District.

3.2.2 Amendments to the final plan

Objectives 2 and 4 had the phrase *"who have the support of the traditional Aboriginal landowners"* added and the wording of the second strategy for Objective 4 was amended to use the word *"strive"*.

3.3 Submission from Dept of Resources

3.3.1 The issues and response

The Department of Resources advised in writing that Raghu Sathyamuthy (Team Leader of Plant Industries in Alice Springs) and Neil Macdonald (Regional Director for the Katherine and Barkly regions) had reviewed the draft Plan and it presented no significant issues for them.

The submission also contained the following comment:

"The plan noted the possibility of producers becoming interested in growing fodder in the Singleton/Murray Downs basin in the future. Our department conducted trials on a range of fodder crops and pasture species on Murray Downs Station in 1990-94 and again from 1996-99 using waterponding. The conclusion was that growing these crops was quite feasible but cost-effectiveness depended on favourable market conditions. There have been no commercial planting since, but it is possible that interest may increase in the future, probably with irrigation rather than waterponding. As a guide, irrigated lucerne might require 7-8 ML per ha, so a moderately sized enterprise of 60 ha (two average sized pivots) might require about 450 ML."

Amendment to the final Plan in response to these comments was considered unnecessary.

3.4 Submission from Centrefarm Aboriginal Horticulture Ltd

3.4.1 The issues and response

Centrefarm commented publicly on the draft Plan in addition to making a submission. The general manager of Centrefarm, Allan Cooney, indicated on ABC Rural Radio NT* on 14th July 2010 that he was generally supportive of the plan and that it was “a pretty exciting opportunity for that whole region to develop economically”. He also noted that the water allocation plan would ensure that irrigators in the Western Davenports would not face the same challenges of over allocation that are present in the southern states.

The submission was made by Graham Ride, Divisional Manager of Centrefarm seeking clarification of the operation of clauses 9.2 (X), (XI) and (XII); as well as confirmation that the water allocations set out in cl.7 of the Plan only refer to water with a TDS below 1000 mg/l. In fact there are no water quality parameters on the water allocations which can be made under the Plan.

NRETAS also advised Centrefarm that subclauses X and XI were inserted on the advice of the hydrogeologist who had prepared the technical report for the Plan and reflected his concerns about the connectivity of regional aquifers in the District. As there is little data currently available on the operation of the aquifer and the effect of pumping from production bores, these paragraphs also reflect the application of the precautionary principle by NRETAS in preparation of the Plan. For example, a de facto buffer distance of 100m is routine throughout Australia between bores and potential pollution sources, and the extra 100m in the Plan reflects the advising hydrogeological experts’ understanding of the aquifer system in the District and in particular the system as it operates near the PMG Farm borefields, which are under licence from Centrefarm. The rationale for these buffer zones is explained in further detail in the *Addendum to the Assessment of Groundwater Resources in the Western Davenport Water Control District: Designation of well protection zones* prepared by Entura Consulting in 2011

Clause 9.2(X) as worded in the draft Plan was intended to allow licensees to seek to have these buffer zones reduced if they could establish that no detrimental impacts on other users or the environment would occur from operating the bore.

* www.abc.net.au/rural/nt/content/201007/s2953423.htm



Draft water allocation plan gets thumbs up from horticulturalist

By Paul Serratore
Wednesday, 14/07/2010

The owner of an Ali Curung watermelon farm says he is happy with the NT Government's water allocation plans for his region.

The draft allocation plan for the Western Davenport Water Control District is taking submissions until tomorrow.

Alan Cooney is the general manager of Centrefarm Aboriginal Horticulture Limited.

He says his submission will be short and supportive.

"I think it's a pretty exciting opportunity for that whole region to develop economically.

"There is quite a bit of distance to travel on these plans, through the whole process, and this is really just the first part of that."

Mr Cooney says the water allocation plan will ensure irrigators don't face the same challenges as those in the southern states.

"We don't really want to get ourselves in the situation where water users in New South Wales have found themselves at the moment where there's several different claims to the same amount of water."

In this report: Alan Cooney, general manager, Centrefarm Aboriginal Horticulture Limited

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The relevant provisions of the Plan will affect bores sunk after the Plan is adopted and are not retrospective. Nevertheless evidence of any water quality changes, for example, from pollution, affecting any currently licensed bore will be investigated by NRETAS, and is likely to affect the operation of the relevant licence.

3.4.2 Amendments to the final plan

It may be noted that cl.9. of the Plan has been reworded after the draft Plan was released for comment so that the Plan may better reflect the requirements of the *Water Act*. Clauses 9.2 (X) and (XI) have become cl.9.2 (V) and (VII) in the final Plan, and rephrased to indicate that it is 'generally undesirable' for new production bores to be constructed within the relevant buffer zones.

The intent of the current cl.9.2 is that if licence applicants, when they make their application, provide hydrogeological evidence that the construction of bores within the de facto buffer zone will not have adverse impacts, and that the existing operational bores will not be affected (e.g. because they source the water from a different aquifer or for example, that the bores (or sites) are otherwise not closely hydraulically connected), that such evidence will be taken into consideration by the Controller of Water Resources when making a decision in respect of licensing.

4. Summary

This report describes the outcomes from the community consultation undertaken as part of developing the Water Allocation Plan for the Western Davenports Water Control District. Consultation was as inclusive as possible of the stakeholders and broader community of the Western Davenports, given the logistical constraints of a small community spread over some twenty four thousand square kilometres. Opinion was sought through public and private consultations and through soliciting submissions during a four week period for public comment. Community input was very valuable in the development of the Plan.

The main messages from community feedback were broadly:

1. The Plan should be as clear as possible about the operation of the *Water Act* and Water Regulations and about the procedures regulating the grant of water extraction licences under the Plan.
2. The traditional owners emphasized in particular that community water needs should be given paramount consideration in the Plan, followed closely by the need to protect the environmental and/or culturally significant water-dependent sites within the District.

NRETAS expresses its sincere thanks to the people who participated in the planning process, who attended the community information sessions and to all those who made submissions.