

27<sup>th</sup> May 2020



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ABN: 45118364079

Philip Glyde  
Chief Executive Officer  
Murray Darling Basin Authority

**Re. MLDRIN Assessment of ACT Water Resource Plans**

Dear Mr Glyde,

MLDRIN conducted an assessment of the amended ACT WRPs for Groundwater and Surface Water on 1<sup>st</sup> April 2020 and submitted advice to the MDBA arising from that assessment on the 21<sup>st</sup> April.

MLDRIN would like to advise that on the basis of discussions and agreements between the Dhawura Ngunnawal Committee and the ACT Government detailed in the email correspondence attached, we have amended our assessment advice on the submitted ACT WRPs.

MLDRIN is confident that the positive discussions and commitments made between Ngunnawal community members and the ACT Government provide grounds for supporting the accreditation of the ACT WRPs.

MLDRIN therefore amends its previous advice submitted on the 21<sup>st</sup> April 2020. Based on our assessment of the WRPs and subsequent engagement between Ngunnawal and ACT, to address outstanding issues, MLDRIN recommends that the ACT Groundwater and Surface Water WRPs should be accredited as a Water Resource Plan under the Basin Plan.

We look forward to being able to continue to work with Basin States, The MDBA and Aboriginal Nations to ensure that the preparation and assessment of WRPs achieves best practice and supports genuine outcomes for Traditional Owners.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rene Woods', written in a cursive style.

Rene Woods  
Chairperson, MLDRIN



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## Dhawura Ngunnawal Committee Meeting

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Wed, May 27, 2020 at 10:54 AM

To: [REDACTED]

Cc: [REDACTED]

UNCLASSIFIED

Yuma Will

'As the Co-Chair of the Dhawura Ngunnawal Committee and on behalf of the committee, I would like to endorse and support the current accreditation submission of the ACT Water Resource Plan.

At a special meeting of the Dhawura Ngunnawal Committee on 21 May the committee membership, including [REDACTED] MILDRN Representative agreed to support the accreditation of the ACT Water Resource Plan within the current submission process with agreement being reached on the following:

1. That all amendments requested by the committee and the Ngunnawal community will be made to the ACT Water Resource Plan within one month of the accreditation prior to the Water Resource Plan being published on the MDBA website.
2. The changes requested by the committee and community are as follows:
  - a) removal of the wording 'and broader Aboriginal and Torres Strait Islander' from the accredited text and column five where applicable.
  - b) reference to other nations is to be removed from the acknowledgement.
  - c) the references to Ngambri are to be removed as well as removed from other MLDRN documentation.
  - d) the references to other nations is to be removed from column 5 where applicable.
3. That amendments to Appendix K are also to be made and will be made by committee members [REDACTED] working with [REDACTED], EPSDD, to better represent the views of Ngunnawal people.

The committee is satisfied that the ACT Government have committed to making the requested changes as outlined above to address the issues identified by the Ngunnawal people and we would appreciate your support in amending MLDRIN's advice to the MDBA to reflect our support and agreement to the accreditation of the ACT Water Resource Plan.

We take this opportunity to acknowledge MILDRIN for their support of the Ngunnawal People in the development of the ACT Water Resource Plan. MLDRIN's support has enabled us to move forward in a strong and positive manner in achieving our aspirations for water rights for the Ngunnawal people.'

I look forward to a document that reflects the cultural heritage and aspirations of Ngunnawal as the only traditional custodians of the ACT and Region.

If you would like to discuss further, please contact [REDACTED] or myself.

Kind Regards

[REDACTED]

Co-Chair Dhawura Ngunnawal Caring for Country Committee

5/27/2020

mldrin.org.au Mail - Dhawura Ngunnawal Committee Meeting

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21<sup>st</sup> April 2020



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ABN: 45118364079

Philip Glyde  
Chief Executive Officer  
Murray Darling Basin Authority

**Re. MLDRIN Assessment of ACT Water Resource Plans**

Dear Mr Glyde,

We are pleased to submit our revised advice following an assessment of the re-submitted ACT (Surface Water) Water Resource Plan and ACT (Groundwater Water) Water Resource Plan (ACT WRPs).

Following an assessment process outlined below, MLDRIN has formed the view that the ACT WRPs have fulfilled eleven of the thirteen requirements listed in Basin Plan, Chapter 10, Part 14 and met all five of the MDBA's Part 14 Assessment Criteria to a satisfactory degree.

Based on our assessment of the material relating to Basin Plan, Chapter 10, Part 14, MLDRIN recommends that the ACT WRPs, as submitted to MLDRIN, should **not** be accredited as a Water Resource Plan under the Basin Plan.

MLDRIN's review of the plan, informed by input from Delegates and representatives of the First Nations engaged, identified positive aspects of the ACT Government's approach to consultation and WRP development. These include:

- A growing willingness to support inclusive and meaningful engagement with Ngunnawal Nation, the recognised Traditional Custodians of the ACT region.
- Significantly improved consultation and communication with Ngunnawal Traditional Owners following submission and assessment of the previous Water Resource Plan in 2019, including additional dedicated workshops with Ngunnawal
- Significantly improved opportunities for Ngunnawal input into water and natural resource management in the ACT through the establishment of the Dhawura Ngunnawal Caring for Country Committee
- An effective response to the concerns previously raised by MLDRIN regarding poor communication and notification for engagement opportunities and events

- Use of the Aboriginal Waterways Assessment tool provided some good opportunities for Traditional Owners to work together on Country and collect detailed information about cultural values.
- Objectives and outcomes identified in the WRPs are meaningful and reflect Ngunnawal community desires in managing natural resources as discussed on-Country and in workshops. The content of objectives and outcomes included in the plan has significantly improved since an earlier version of the WRP submitted in 2019.

Despite these positive approaches, the assessment noted some remaining shortcomings in the content of the WRP documents and the consultation process. Specific concerns included:

- The inclusion of text referring to ‘broader Aboriginal & Torres Strait Islander people’ (ATSI) in the content of some Objectives and Outcomes listed as part of the accredited text for the purpose of 10.52(1)(a) and 10.52(1)(b).
  - The text, under Objective a) and Outcome i) appear to suggest that the ‘broader Aboriginal and Torres Strait Islander people’ should be able to ‘actively practice culture’ on ACT waterways. This statement contradicts other statements in the WRP which explicitly identify the Ngunnawal people as the ‘Indigenous people’ of the WRP area. It also contravenes the accepted cultural protocols regarding ‘right people for Country’ and may be seen to undermine future Ngunnawal claims in the context of Native Title of Treaty.
- The revision and submitted content of Appendix K (‘Indigenous Values and Uses Report’) is viewed as a significant shortcoming.
  - Ngunnawal representatives are concerned and dissatisfied with the narrow scope of their reported uses and values. The material that is included is incomplete and the content of Appendix K does not do justice to the views, values, connection and emotions that were put forward about assessed waterways and Country during AWAs. Ngunnawal representatives were not aware that the ACT Government had amended the Appendix in this way and were disappointed by the changes.

MLDRIN recommends that the ACT WRPs, in their current form, should **not** be accredited as a Water Resource Plan under the Basin Plan. We submit this advice to the MDBA in order to inform the Authority’s advice to the Minister for Agriculture and Water Resources.

In providing this advice, MLDRIN delegates wish to highlight the following views and considerations:

- The use of the “broader Aboriginal & Torres Strait Islander people’ terminology in the Objectives and Outcomes is a significant risk, and a serious violation of cultural protocols relating to ‘right people for Country’ from the perspective of Ngunnawal Traditional Owners and MLDRIN. MLDRIN believes

that inclusion of this terminology alone would be just cause for any First Nation to recommend against accreditation of a WRP. We are unclear why these changes have been made, especially in light of the inconsistency with other parts of the Plans.

- Participants noted that the weakness of the provisions under Basin Plan 10.52, 10.53 and 10.54 means that, in providing a satisfactory response to any of these requirements, the ACT Government has still not responded adequately to the substance of First Nations' water rights and interests. First Nations water rights and interests have not been addressed through the ACT water allocation framework.
- In identifying compliance with any of the Chapter 10, Part 14 requirements, this assessment does not constitute an endorsement by MLDRIN or Ngunnawal Nation, of the WRPs or the frameworks governing water allocation and management in the ACT.

### **Assessment approach**

This formal assessment of the ACT WRPs was undertaken by MLDRIN in accordance with the note included under Part 14 of Chapter 10 of the Basin Plan. MLDRIN's assessment approach was informed by reviewing key requirements and guidelines (including Basin Plan Chapter 10 - Part 14, MDBA Guidelines, the *Akwe:Kon* guidelines and MLDRIN's 2016 WRP Discussion Paper). The assessment was conducted in a way that respects the cultural authority and decision-making of Nations, reviewing the plan in line with their objectives, outcomes, values and uses.

MLDRIN formulated an assessment framework. The framework uses a Leichardt Scale to guide and focus assessment of performance against key requirements, criteria and guidelines. It also included qualitative input based on discussions between Nation Delegates, MLDRIN staff and others. This resulted in a user-friendly but comprehensive assessment.

MLDRIN performed an assessment of a previously submitted version of the ACT WRPs in June 2019. The current assessment of re-submitted plans has followed the same broad procedure as previous assessments, but focussed on changes in the WRP documents and how the ACT had addressed concerns and recommendations noted in the previous assessment.

The MLDRIN assessment approach was informed by:

- An initial 'scan' review of the re-submitted WRP to identify changes to key text and responses to MLDRIN recommendations arising from the previous assessment.
- A one-day workshop held by video conference (1<sup>st</sup> April 2020) attended by MLDRIN staff, MDBA WRP and Aboriginal Partnerships Team staff members and MLDRIN Delegates or representatives of the Ngunnawal Nation.
- Ngunnawal and MLDRIN participation in WRP workshops convened by the ACT Environment Directorate between June and December 2019.

The assessment allowed MLDRIN to identify where the ACT WRP had met the Basin Plan requirements and where there was partial fulfilment or major gaps.

## Findings

When assessing the ACT WRP's against the requirements stipulated in Chapter 10, Part 14 of the Basin Plan, MLDRIN found that the Plan demonstrated good compliance with the following requirements:

- 10.52(1)(a): identify the objectives of Indigenous people in relation to managing the water resources of the water resource plan area
- 10.52(1)(b): identify the outcomes for the management of the water resources of the water resource plan area that are desired by Indigenous people.

The Assessment identified satisfactory compliance with regard to the following requirements:

- 10.52(3): Identifying opportunities to strengthen the protection of Indigenous values and Indigenous uses
- 10.53(1) (a): having regard to the views of First Nations in relation to Native Title
- 10.53(1) (b) having regard to the views of First Nations in relation to registered cultural heritage
- 10.53(1) (c): having regard to the views of First Nations in relation to inclusion of Indigenous representation in the preparation and implementation of the plan
- 10.53(1) (d): having regard to the views of First Nations in relation to Indigenous social, cultural, spiritual and customary objectives, and strategies for achieving these objectives
- 10.53(1) (e) having regard to the views of First Nations in relation to encouragement of active and informed participation.
- 10.53(1) (f) having regard to the views of First Nations in relation to risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area
- s10.54: having regard to the views of Indigenous people with respect to cultural flows
- 10.55: maintenance of levels of protection as provided for in interim WRPs

The following requirements were found to have been only partially fulfilled:

- s 10.52(2)(a): Having regard to the social, spiritual and cultural values of Indigenous people that relate to the water resources of the water resource plan area
- s 10.52(2)(b): Having regard to the social, spiritual and cultural uses of Indigenous people that relate to the water resources of the water resource

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plan area

Further detail of Nations' views on performance against the Basin Plan requirements, positive achievements and shortcomings is provided in the attached Assessment Matrix Report.

When assessing the ACT WRPs against the Part 14 'Assessment Template' criteria provided by the MDBA, MLDRIN found the plan had met all five of the criteria.

The plan demonstrated excellent compliance with the following criterion:

- Appropriate Nations were identified and involved throughout all stages of the water planning process.

The plan demonstrated good compliance with the following criteria:

- A planned approach was applied to properly engaging Nations and resulted in an Indigenous Engagement Strategy that guided preparation of the water resource plan (e.g. adequate time, appropriate venues and resources)
- Nations were properly notified of the opportunities to be involved in the water resource planning process, (e.g. print, phone, electronic and personal media and town meetings)
- Information about water resource planning processes and content provided was clear to Nations

MLDRIN found that the RM WRP demonstrated satisfactory compliance with the following criterion:

- Appropriate tools and mechanisms for recording, understanding and incorporating Aboriginal objectives and outcomes were used.

Due to time constraints, MLDRIN staff and Ngunnawal representatives were unable to complete an assessment of the ACT WRPs against the Akew:Kon Guidelines. However, MLDRIN notes that in many cases, approaches to consultation and the preparation of the WRP fell short of best practice guidelines provided by the MDBA and by MLDRIN in collaborative forums and formal guidance, such as the MDBA's *Water Resource Plan Part 14* Guidance document.

## **Recommendations**

MLDRIN believes the content of the ACT WRPs in most cases, meets the requirements of Chapter 10, Part 14 of the Basin Plan. We note that our review of the WRP and the assessment workshop discussions indicate that the ACT Government has addressed or made efforts to address to all the recommendations included in MLDRIN's June 2019 Assessment Report. Nevertheless, the two outstanding matters highlighted on Page 2 of this report represent substantial risks that must be addressed before the WRPs could be recommended for accreditation.



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MLDRIN has proposed to the MDBA that an optimal solution would be to:

- Allow ACT Government to make an edit of the WRPs text to remove references to 'broader Aboriginal and Torres Strait Islander people'
- Allow Appendix K to be amended, in close collaboration with the Ngunnawal Caring for Country Committee.

We understand that both these actions would require withdrawal and re-submission of the WRPs. Given this constraint, MLDRIN recommends that MDBA advise the Minister for Water Resources not to accredit the Plans in their current form. ACT Government should withdraw the plans and rectify the identified shortcomings in collaboration with Ngunnawal representatives and the Dhawura Ngunnawal Caring for Country Committee before re-submitting revised versions.

We look forward to being able to continue to work with Basin States, The MDBA and Aboriginal Nations to ensure that the preparation and assessment of WRPs achieves best practice and supports genuine outcomes for Traditional Owners.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rene Woods', written in a cursive style.

Rene Woods  
Chairperson, MLDRIN

**MLDRIN Assessment Matrix Report – Australian Capital Territory Water Resource Plans. April 2020.**

Criteria	Assessment of performance and comments - June 2019	Assessment of performance and comments – April 2020										
<b>MDBA Assessment Criteria</b>												
<p>A planned approach was applied to properly engaging Nations and resulted in an Indigenous Engagement Strategy that guided preparation of the water resource plan (e.g. adequate time, appropriate venues and resources)</p>	<table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Absent 1</td> <td style="text-align: center;">Partial 2</td> <td style="text-align: center;"><b>Satisfactory</b> 3</td> <td style="text-align: center;">Good 4</td> <td style="text-align: center;">Excellent 5</td> </tr> </table> <p>Ngunnawal representatives noted that the <i>Part 14: ACT Indigenous Water Engagement Consultation Report</i> (Appendix K) (<i>‘Consultation Report’</i> hereafter) detailed the First Nations consultation undertaken by the Australian Capital Territory government (ACT) to prepare the Water Resources Plans (WRPs).</p> <p>Representatives discussed the development of the engagement process. It was noted that while some early planning did take place, as demonstrated by early 2014 meetings in the <i>Consultation Report</i>, this planning was poor and included unrealistic timelines. For example, the ACT intended to submit their Water Resource Plans (WRPs) in 2014 and 2016, but inadequate consultation and engagement with First Nations (among other efforts) obstructed this. At this time, MLDRIN provided critical feedback, and it seems the ACT subsequently reviewed its approach.</p> <p>Ngunnawal representatives noted that from late-2015, active engagement increased, particularly via the ACT’s use of Aboriginal Waterways Assessments (AWAs). It was suggested that new representation from Ngunnawal delegates on MLDRIN may also have put pressure on the ACT to improve its First Nations engagement efforts. During 2017 and particularly 2018, representatives felt the ACT took First Nations engagement more seriously, but meetings and workshops were sporadically held. For example, the <i>Consultation Report</i> records no workshops between February 2017 and February 2018, but workshops then became</p>	Absent 1	Partial 2	<b>Satisfactory</b> 3	Good 4	Excellent 5	<table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Absent 1</td> <td style="text-align: center;">Partial 2</td> <td style="text-align: center;">Satisfactory 3</td> <td style="text-align: center;"><b>Good</b> 4</td> <td style="text-align: center;">Excellent 5</td> </tr> </table> <p>The Ngunnawal representatives reflected on the ACT Government’s engagement since the June 2019 assessment, concerning the ACT WRPs specifically, as well as other environmental and water matters. The Ngunnawal representatives expressed that in this time, the ACT Government has responded specifically to their requests about how they want consultation to work. The Ngunnawal representatives feel listened to in this regard. They see this response and associated commitments by the ACT Government about further engagement in the future as positive and favourable for both Ngunnawal and the ACT Government.</p> <p>Representatives note that the Consultation Report contained in Appendix K of the WRP is now only 7 pages long (pp. 266-272). Unlike the Consultation Report included in the 2019 WRP which included detailed meeting notes for each engagement and workshop, this one lists a table of meetings with three added in late 2019 (relating to reviewing WRP Part 14 text), as well as a series of tables containing information collected from AWA events. The latter is assumed to demonstrate consideration of Indigenous values and uses and is discussed further in the assessment of 10.52(2).</p>	Absent 1	Partial 2	Satisfactory 3	<b>Good</b> 4	Excellent 5
Absent 1	Partial 2	<b>Satisfactory</b> 3	Good 4	Excellent 5								
Absent 1	Partial 2	Satisfactory 3	<b>Good</b> 4	Excellent 5								

	<p>more regular. Representatives felt if this level of engagement occurred earlier and more consistently, a higher level of assessment would be awarded. No records of consultation or engagement are listed since December 2018.</p> <p>Overall, representatives felt that the ACT practiced some good engagement, and that attendance and engagement from Ngunnawal and other traditional custodians was usually good. However, they felt that the overarching engagement approach was not planned or well thought-out. They also noted some limitations and weaknesses to the approach. The ACT did not seek First Nations’ views or preferences for how the consultation should occur. Even where First Nations did offer suggestions, they felt the ACT did not consider them. Several key examples were provided by Ngunnawal representatives during the assessment workshop relating to these issues:</p> <ul style="list-style-type: none"> <li>- Ngunnawal involvement in planning workshops: Representatives expressed preferences to be involved in planning workshops, including timing some on weekends to ensure participation and succession of young people while not at school and provide opportunities for cultural teaching and transmission, and knowledge transfer. The opportunity to use the WRPs and surrounding engagement as a succession process was not taken up by the ACT.</li> <li>- Workshop venues and locations, frequency and cancellations: Representatives explained that workshops were not always localised or in community-preferred location/s. They saw that workshop timing could have been better both in duration and frequency.</li> <li>- ACT cancelation of meetings: Representatives reported this happened multiple times and saw it started affecting Ngunnawal and other community members’ participation,</li> </ul>	
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**MLDRIN Assessment Matrix Report – Australian Capital Territory Water Resource Plans. April 2020.**

	<p>as people began to doubt that (re)scheduled meetings would proceed. The Ngunnawal representative felt these cancellations occurred due to convenience for the ACT.</p> <ul style="list-style-type: none"> <li>- Consultation around the draft WRP: The Ngunnawal representative explained he had requested, on several occasions, that the ACT bring their draft WRPs to the Ngunnawal community (not only the Ngunnawal delegate) and workshop the plan’s content together. As reflected in assessment items below, this lack of workshopping has negatively affected the Ngunnawal representative’s acceptance and assessment of the WRP.</li> </ul>																					
<p>Appropriate Nations were identified and involved throughout all stages of the water planning process.</p>	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td>Satisfactory</td> <td>Good</td> <td><b>Excellent</b></td> </tr> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td><b>5</b></td> </tr> </table> <p>Ngunnawal representatives commended the ACT for correctly acknowledging Ngunnawal as the Traditional Custodians throughout all stages of engagement and WRP development, while also inviting others to participate. This identification is reflected in the explanatory texts detailing Nations involved in ACT water resource planning (pp. 109-110, Surface Water [SW] WRP; p. 102, Groundwater [GW] WRP) and noted in <i>ACT Water Resource Plan: Indigenous Objectives, Desired Outcomes, Values and Uses Report 2019</i> (Appendix K) (<i>‘Indigenous ODOVU Report’</i> hereafter).</p> <p>Other Traditional Owner group participating in ACT’s engagement activities (like AWAs) also acknowledged Ngunnawal as the Traditional Owners (TOs) of the ACT region. The Ngunnawal representatives saw that the ACT helped to create and facilitate space and opportunities for local communities to work, travel and eat together. The consultation process created good opportunities for strengthening relationships within community and with Country. Ngunnawal representatives particularly wished to commend the ACT on this.</p>	Absent	Partial	Satisfactory	Good	<b>Excellent</b>	1	2	3	4	<b>5</b>	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td>Satisfactory</td> <td>Good</td> <td><b>Excellent</b></td> </tr> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td><b>5</b></td> </tr> </table> <p>Ngunnawal representatives again commended the ACT Government for correctly identifying the Ngunnawal as the Traditional Custodians of the ACT for the development of the WRP. This has continued since the June 2019 assessment. For example, the ACT Government sought Ngunnawal advice about removing Ngambri as a traditional custodian group in the WRP text and this advice was followed, as reflected in the explanatory text of the SW WRP matrix (p. 97) and GW WRP matrix (p. 170).</p> <p>Other evidence of the ACT Government’s commitment to engaging with Ngunnawal people was identified by the representatives. In particular, the ACT Government’s follow-through with establishing the Dhawura Ngunnawal Caring for Country Committee demonstrates commitment to engagement into and beyond the implementation of WRP. The ACT Government has also pursued engagement with the Ngunnawal Elders Council and the wider Ngunnawal community.</p>	Absent	Partial	Satisfactory	Good	<b>Excellent</b>	1	2	3	4	<b>5</b>
Absent	Partial	Satisfactory	Good	<b>Excellent</b>																		
1	2	3	4	<b>5</b>																		
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**MLDRIN Assessment Matrix Report – Australian Capital Territory Water Resource Plans. April 2020.**

	Absent 1	Partial 2	Satisfactory 3	<b>Good</b> 4	Excellent 5	Absent 1	Partial 2	Satisfactory 3	<b>Good</b> 4	Excellent 5
<p>Nations were properly notified of the opportunities to be involved in the water resource planning process, (e.g. print, phone, electronic and personal media and town meetings)</p>	<p>Ngunnawal representatives reflected on the communications and logistics surrounding their involvement in water resource planning processes.</p> <p>Overall, they generally felt community were appropriately notified about engagement opportunities. The means of notification, advertising and invitation were discussed, including email, phone, and word of mouth. These notifications were open and inclusive. Ngunnawal representatives felt that this was done well.</p> <p>However, Ngunnawal representatives also identified some areas of weakness that require improvement:</p> <ul style="list-style-type: none"> <li>- Decision making about meeting cancellations and associated communication of cancellations was poor. As noted in earlier criteria, Ngunnawal representatives felt that meetings and workshops were cancelled by the ACT too regularly. Sometimes, notification of cancellation was made only the day before or on the day of the event. These decisions were made unilaterally within government without collaboration with anyone from Ngunnawal. These issues were frustrating and contributed to some community members disconnecting and disengaging from the engagement process.</li> <li>- Sometimes community members were unable to locate the specific meeting places for AWAs listed in notifications due to differences in understanding and knowledge about Ngunnawal and European place names.</li> </ul>					<p>Representatives reflected on the communication and logistical matters associated with Ngunnawal involvement in water resource planning processes particularly since the June 2019 assessment.</p> <p>They felt that the ACT Government had directly addressed MLDRIN’s previously raised concerns about poor communication and notification regarding engagement opportunities and events. Ngunnawal representatives felt the ACT Government was now clear about when and where meetings and workshops were taking place, what the focus of those meetings would be, and that this information was being provided with sufficient advance notice.</p> <p>Another issue that Ngunnawal representatives previously identified regarded the very delayed communication about event cancellations and associated lack of transparency in making cancellation decisions. They report the ACT Government has now addressed these concerns too, citing a recent example when the ACT Government rang the Ngunnawal representative to discuss possibly cancelling a workshop due to the risks associated with COVID-19. The discussion was transparent, and the Ngunnawal representatives felt that they came to a consensus about cancelling the event <i>together</i> with the ACT Government. This starkly contrasts with how events had been cancelled previously.</p> <p>Overall, the Ngunnawal representatives felt that the ACT Government is showing significant improvement in its</p>				

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<p>Information about water resource planning processes and content provided was clear to Nations</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent  1            2            3            4            5</p> <p>Ngunnawal representatives reflected on the information and material provided to community during targeted Indigenous consultation, as well as that provided in mainstream consultation.</p> <p>Overall, representatives assessed the information and content provision to be ‘Satisfactory’, bordering on ‘Partial’. Some information and content were provided to community, but more handouts, including for example PowerPoint print outs, were desirable. This content also needed to be of greater depth and quality. The Ngunnawal representative had hoped that Elders <i>and</i> young people could develop greater understanding of water resource planning and how First Nations views and interests fit in. While some Ngunnawal participants have developed familiarity with the water resource planning process, it was noted that other Ngunnawal community members still don’t understand why they were involved.</p> <p>Several specific weaknesses and limitations that contribute to this assessment were noted. First, concerned WRP-specific information, process and context. The Ngunnawal representative attended both First Nation and mainstream consultation events and found information presented at the latter to be much more useful and detailed, including about the overarching legislative context: “It was like they dumbed it down for us.” In reflection, the representative felt that the ACT had only consulted on the elements it thought First Nations needed to know and in doing so, left out important information. Related to this, the Ngunnawal representative did not recall receiving much specific-purpose communication material to assist with understanding WRPs.</p>	<p>approach to engagement.</p> <p>Absent    Partial    Satisfactory    <b>Good</b>    Excellent  1            2            3            4            5</p> <p>Ngunnawal representatives reflected on the series of workshops held by the ACT Government since the June 2019 assessment. They felt that in these workshops the ACT Government was more transparent about the purpose of the WRP than before. The ACT Government clearly communicated the goals and objectives of the WRP and what the strategic planning for the future entailed. As a result, Ngunnawal people in attendance better understood what the WRP was about.</p> <p>The Ngunnawal representatives really felt that the ACT Government had specifically addressed previously raised concerns and issues. For instance, TOs at the workshop could actually ask questions <i>and</i> receive answers to those questions. Overall, the Ngunnawal representatives acknowledge and appreciate the ACT Government for its observed willingness to work with Ngunnawal, for being transparent about what is happening, and for taking the time to answer TO’s questions and address their concerns. Because of this responsiveness, the Ngunnawal representatives saw that it was appropriate to raise the level of assessment to ‘Good’ for this criterion.</p>
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	<p>Second, related to lack of continuity between meetings. Workshops often did not review that which was covered in the previous workshop or event. Ngunnawal representatives found this particularly frustrating as the ACT did not return to or address commitments made or follow-up items from previous meetings as expected by community. One example of this is discussion around Water Access Entitlements (WAE), which were eventually discussed in further depth during consultation only because Ngunnawal representatives pushed the issue repeatedly. While representatives acknowledged they received meeting agendas, Ngunnawal did not help set or organise these.</p> <p>Third, more support for greater Traditional Owner involvement in AWAs were needed. For example, understanding and responding to the questions was difficult among some of the Elders. Use and effectiveness of the AWA tool are considered further in the next criteria.</p>	
<p>Appropriate <u>tools and mechanisms</u> for recording, understanding and <u>incorporating Aboriginal objectives and outcomes</u> were used.</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent  1            2            3            4            5</p> <p>Ngunnawal representatives reflected on the use of AWAs, which were the main tools used by the ACT to collect information to determine Aboriginal objectives and outcomes as well as values and uses. The WRP documentation generally<sup>i</sup> confirms this (see accreditation text in p. 110 and p. 115, SW WRP; p. 102 and p. 107, GW WRP; p. 5 of the <i>Indigenous ODOVU Report</i>). The initial AWA occurred in 2015, with additional follow up field days and supporting workshops occurring in 2016, 2017 and two in late-2018.</p> <p>Overall, Ngunnawal representatives assessed the suitability and use of AWAs and supporting workshops to record and collect</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent  1            2            3            4            5</p> <p>Ngunnawal representatives again reflected on the use of AWAs which were used to collect information to determine Aboriginal objectives, outcomes, values and uses. They also reflected on the June 2019 assessment, as well as other recent activities and future commitments from the ACT Government in regard to broadening Ngunnawal engagement.</p> <p>The June 2019 assessment of ‘Satisfactory’ was conditional on the ACT Government following up particular commitments in relation to AWAs. The Ngunnawal representatives reported that the ACT Government has indeed responded to and advanced on these commitments over the past 10 months</p>

	<p>information as ‘Satisfactory’. As noted in above criteria, representatives felt there were some positive results and outcomes from using these tools including bringing community together and uniting people with Country. However, the views, objectives and outcomes recorded via these tools are only partially reflected in the WRPs and other implementation activities. Moreover, other holistic views were not collected via the site-focused AWA tool, and therefore other mechanisms were needed to collect and record these views. A further issue is that the ACT committed to actions arising from the results of AWAs and workshops – including more frequent site visits – but these have not progressed. Therefore, this satisfactory assessment is conditional on the ACT following up these commitments (as discussed below).</p> <p>Despite the noted beneficial outcomes and results from the AWAs, Ngunnawal representatives raised several concerns relating to the use and facilitation of the tool. Elders found the language and nature of the questions difficult to understand and answer in written form. An oral or video recording approach may have been more appropriate. The process and schedule felt rushed, which led AWA participants to only provide brief and to-the-point responses. The support provided by MDBA and ACT Parks staff in the initial assessments did help those who were struggling, but an alternative approach to facilitating and collecting information was preferred. For example, more time was needed for conversations to support assessment and value identifications. There was no TO input into or guidance for running these assessments.</p> <p>Concerns were raised about the consistency of assessments across visits too. Questionnaires and forms changed between site visits, which Ngunnawal representatives felt disrupted continuity and the development of ideas. More frequent assessments, including in</p>	<p>including, for example:</p> <ul style="list-style-type: none"> <li>• The establishment of the Dhawura Ngunnawal Caring for Country Committee.</li> <li>• This committee includes a secretary who takes minutes for meetings and reports back on what has been discussed. This enables Ngunnawal to have an action plan that comes out of the meetings– it means that key actions and points are not being left behind and instead, are being followed up.</li> <li>• The broader Ngunnawal community are able to come to these Committee meetings and ask questions too, which is also positive.</li> <li>• The amended accredited text in s10.52(3) now lists which specific management groups that the ACT Government is including male and female Ngunnawal representatives on.</li> <li>• The ACT Government has expressed a commitment to hire two Ngunnawal people.</li> </ul> <p>The Ngunnawal representatives are of the opinion that the ACT Government’s engagement of the Dhawura Ngunnawal Caring for Country Committee and the broader community is advancing Ngunnawal’s interests. They wish to see this continuing into the future. Ngunnawal feel more included in joint management and are reconnecting to and with Country.</p> <p>Additionally, the ACT Government appears to be looking beyond the AWA tool as a primary engagement instrument. Recognising that the AWA has limitations and shortcomings (as raised in the June 2019 assessment), the ACT Government is now broadening its engagement and information gathering approaches. Overall, the Ngunnawal representatives are happy to see and experience the ACT Government shifting in this way. But, given that AWAs are still the main tools used by</p>
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	<p>different seasons (ideally on a quarterly basis), were requested by community, but this has not eventuated.</p> <p>AWAs were followed by workshops to assess each site and identify outcomes and actions to improve the sites (such as those in late-2018 outlined in the <i>Consultation Report</i>). Ngunnawal representatives explained that they left those workshops looking forward to discussed outcomes, and expectant that the work to enhance these places would continue, based on commitments by the ACT. These commitments include Ngunnawal representation on assorted natural and water resource governance arrangements and reassessment of AWA sites. However, they are yet to see the majority of these outcomes and commitments matched with progress.</p> <p>For example, the <i>Consultation Report</i> shows that discussion at the workshop held on 7 May 2018 incorporated AWA results into objectives and actions. Objectives are limited to “identifying organisations and forming relationships” to progress preferred (and listed) TO actions. During the assessment workshop, Ngunnawal representatives noted this has not yet happened, with no clear pathway or funding yet identified.</p> <p>The Ngunnawal representatives emphasised that while sites are important, Ngunnawal and other Aboriginal peoples see environments holistically. This is reflected in the WRPs tables (see explanatory text on p. 110, SW WRP; p. 103, GW WRP). To collect and understand these views and ensure they informed the WRPs, the ACT needed to conduct broader assessment and discussions beyond only the AWAs. Finally, it was noted that although the ACT spent a lot of time collecting information to inform the WRPs, momentum with the community has been lost. If community engagement was maintained – including engagement about the</p>	<p>the ACT Government to develop the values and uses depicted in the WRP (Appendix K) and all the limitations and concerns previously raised with this (see column to the left), still only a rating of ‘Satisfactory’ is possible.</p>
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	specific contents of draft WRPs – Ngunnawal representatives believed that they may have more confidence in the process and the ACT’s commitments.	
<b>Basin Plan Chapter 10, Part 14</b>		
<p><b>10.52(1)(a)</b> A water resource plan must identify the objectives of Indigenous people in relation to managing the water resources of the water resource plan area</p> <p><i>[Assessment Note: Are these Objectives tangible and detailed enough to be addressed? Has the content of the Objectives been informed and shaped by genuine consultation with appropriate TOs?]</i></p>	<p>Absent    <b>Partial</b>    Satisfactory    Good    Excellent 1            2                3                4                5</p> <p>Ngunnawal representatives reviewed the accredited text from pp. 110-114 of SW WRP and pp. 102-106 of GW WRP, as well as the <i>Indigenous ODOVU Report</i>.</p> <p>It is noted the objectives identified in the WRPs are broadly meaningful and generally reflect Ngunnawal community desires in managing natural resources as discussed on-Country and in workshops. However, compliance with this requirement has been assessed as ‘Partial’. Several interconnected reasons substantiate this position, all relating to articulating, framing and finalising these objectives. Overall, the Ngunnawal representatives believe that addressing these deficiencies should not take a lot of time and have expressed great interest in the ACT re-writing these objectives and outcomes <i>with</i> the Ngunnawal community.</p> <p>The assessment workshop concluded that the included objectives are vaguely worded, too narrow in scope and lack linkages to supporting strategies and implementation plans. Ngunnawal representatives felt the objectives neither cover the breadth or scope of their aspirations, nor adequately reflect the specific views put forward during consultation. For example, the objectives do not address the tiers of cultural, social, environmental, and economic values and interests that Ngunnawal expressed during engagement. Many are isolated to specific programs and projects. Some – like objective (a) – are focused on the management of</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent 1            2                3                4                5</p> <p>The Ngunnawal representatives considered the amended accredited text on pp. 97-99 of the SW WRP matrix and pp. 170-173 of the GW WRP matrix.</p> <p>The Ngunnawal representatives approved of the additions to the objectives text. The additions and clarifications around joint management, economic development, employment opportunities, and access to water entitlements were particularly appreciated. The Ngunnawal representatives explained that these objectives now much better reflect the Ngunnawal community’s perspectives and aspirations from the WRP, and that the ACT Government has listened to them.</p> <p>Concern was raised, however, about the inclusion of ‘broader Aboriginal &amp; Torres Strait Islander people’ (ATSI) in some objectives. This inclusion does not make sense and/or may be misinterpreted in some objectives. Moreover, Ngunnawal representatives specifically asked the ACT Government in WRP drafting workshops over the last 10 months to refer to Ngunnawal people explicitly rather than use this kind of terminology. This was confirmed by MLDRIN and MDBA staff in attendance at the assessment workshops. This terminology is also inconsistent with the explanatory text which very explicitly states that “<i>For the purposes of Basin Plan (Part 14) requirements, the Ngunnawal people are recognised as the</i></p>

	<p>specific water sites. This does not reflect TOs’ holistic views. Additionally, no objectives address the role of TOs in overall water resource management, which Ngunnawal believes should take place in partnership with the ACT. Overall, the Ngunnawal representatives see that these objectives do not clearly articulate Ngunnawal aspirations and preferred courses of action to progress their interests.</p> <p>As noted above, Ngunnawal representatives made clear requests to the ACT to discuss and workshop the objectives (and outcomes) with community so that the community’s – and not only an individual’s – views could be heard and included. Only the Ngunnawal MLDRIN Delegate received the draft WRP, which included the objectives and outcomes, but the Delegate did not have the resources to generate or facilitate community input to this. The Ngunnawal representatives wished to stress that these objectives require community deliberation.</p> <p>The Ngunnawal representatives also expressed frustration that MLDRIN received the draft ACT WRP for comment in March 2019, and that it was presented at a MLDRIN full-delegate meeting in April 2019 in Canberra (i.e. on Ngunnawal Country), without having first been viewed – let alone workshopped or approved – by the Ngunnawal community.</p> <p>A related point of concern is the changes made by the ACT to the objectives following MLDRIN’s comments on the draft objectives in March 2019, without Ngunnawal’s approval or review. For example, in the March 2019 draft, the first objective was “to ensure and improve the land and waters of the ACT are healthy.” MLDRIN’s suggestion was to check the grammar of this statement. In the now submitted WRPs, this objective is absent. Removal of this casts doubt on the validity of the objectives included in the</p>	<p><i>‘Indigenous people’ of the WRP area. As such, any reference to the Ngunnawal Nation or Ngunnawal people replaces the use of Indigenous people as used in the Basin Plan”</i> (p. 97, SW WRP matrix; p. 170, GW WRP matrix). This noted inconsistency occurs here and throughout the WRP document.</p> <p><b>Overall, while this Basin Plan requirement section is now assessed as ‘Satisfactory’, feedback from the ACT Government is required to explain the use of ATSI terminology against the Ngunnawal’s request and advice.</b></p> <p>The Ngunnawal representatives appreciated the clarity of commitments included in the last two paragraphs of the explanatory text, as this was noted to be lacking previously. However, the Ngunnawal representatives felt the commitment to (only) cultural flows did not reflect the discussions had with the ACT Government about natural flows and environmental flows as well. These other flows have a focus of thinking about “What would this waterway look like if it had natural flows without dams/manmade structures?” The intent of these broader discussions, which are not reflected in the WRP, was to look more holistically across water resources, participation and joint management.</p>
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	<p>WRP, as well as the endorsement and review of these by Ngunnawal. That is, if the initial set of objectives were developed with and therefore reflected Ngunnawal input, then this objective should not have been deleted without consultation or approval. No consultation is listed in the <i>Consultation Report</i> since December 2018. Further, the Ngunnawal representative recalled a commitment from the ACT to review MLDRIN’s comment and notes on the draft WRP with them, but this did not happen.</p> <p>Beyond these procedural and due process matters, the following concerns with the WRP text and supporting <i>Indigenous ODOVU Report</i> were raised during the assessment workshop:</p> <ul style="list-style-type: none"> <li>- There are inconsistencies relating to how Ngunnawal’s objectives (and outcomes) were developed for the WRPs. For example, the accredited text on p. 110 of the SW WRP states: “The following objectives and outcomes were developed from the knowledge collected from the Aboriginal Water Assessments to ensure the cultural values are both tangible and intangible.” Then, the explanatory text on the same page states “The objectives of the Indigenous people set out in the plan were captured from consultation with the Traditional Owners, the Aboriginal Water Assessment process ... and <i>also from background information sources</i>” (emphasis added). Workshop participants were unclear about what this background information is and requested clarification. The <i>Indigenous ODOVU Report</i>, for comparison, says: “Objectives ... have been developed through consultation with ACT Indigenous nations” (p. 4) as well as: “The main method to identify objectives, values and uses was the Aboriginal Water Assessment (AWA) process” (p. 5). Ngunnawal representatives request that the ACT clarify – and specify with more consistency – how Ngunnawal’s</li> </ul>	
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	<p>objectives (and outcomes) were developed.</p> <ul style="list-style-type: none"> <li>- The assessment workshop conclude that the ACT needs to more clearly elaborate on how its parallel and supporting strategies will help progress the WRP identified Ngunnawal objectives (and outcomes). These include (but are not limited to): <ul style="list-style-type: none"> <li>o <i>ACT Water Strategy 2014-44: Striking the Balance</i> ('ACT Water Strategy' hereafter),</li> <li>o <i>ACT Water Strategy Striking the Balance 2014-44: Implementation Plan Two (2019-23)</i> ('ACT Water Strategy Implementation Plan' hereafter),</li> <li>o the <i>ACT Aboriginal and Torres Strait Islander Agreement 2019-2028</i> and the Action Plan for the Environment, Planning and Sustainable Development Directorate (EPSDD),</li> <li>o Directorate's Reconciliation Action Plan (RAP), and,</li> <li>o the recently established Caring for Country Program and Committee.</li> </ul> </li> <li>- References to these (and other) programs need to more clearly link to the Basin Plan requirements, and/or advancing the Ngunnawal's objectives and outcomes in ACT's water resource planning. If this linkage cannot be articulated or demonstrated, then some sections of text should be removed. For example, the relevance of earlier (and outdated i.e. from 2011 and 2013) programs listed in the accredited text below the objectives and outcomes needs to be clarified, or text be removed. If specific programs listed have purposes or linkages to objectives and outcomes, then clearer statements of relevance are required. The ACT should consider relocating this text to explanatory text if it is not directly relevant to the Basin Plan requirement.</li> </ul>	
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10.52(1)(b)	Absent	Partial	Satisfactory	Good	Excellent
1	2	3	4	5	
<p>A water resource plan must identify the outcomes for the management of the water resources of the water resource plan area that are desired by Indigenous people.</p> <p><i>[Assessment Note: Are these Outcomes tangible and detailed enough to be addressed? Has the content of the Outcomes been informed and shaped by genuine consultation with appropriate TOs?]</i></p>	<p>Ngunnawal representatives reviewed the accredited text from pp. 110-114 of SW WRP and pp. 102-106 of GW WRP, as well as the <i>Indigenous ODOVU Report</i>.</p> <p>Ngunnawal representatives’ assessment of this Basin Plan requirement overlapped considerably with the above detailed assessment of the WRPs identification of objectives desired by Indigenous people. Responses there are also applicable to this requirement. Only points and responses specific to the identification of outcomes are reported here.</p> <p>The outcomes identified in the WRPs are broadly meaningful and generally do reflect Ngunnawal community desires in managing natural resources as discussed on-Country and in workshops. However, these have been assessed as ‘Partial’ particularly due to issues around their development, review and approval.</p> <p>MLDRIN understands that the inclusion of outcomes in the WRPs occurred only after March 2019 as they were not included in the draft version sent to and reviewed by MLDRIN at this time. The <i>Consultation Report</i> does not list any consultation with Ngunnawal community occurring after December 2018. Workshop participants interpreted that the included outcomes were extrapolated from AWA results, as they do somewhat correspond with the Ngunnawal desires. As noted in the discussion regarding objectives above, this extrapolation without verification and review by community has led to narrow interpretations. Outcomes need to be region (not site) specific and have a more encompassing and holistic focus.</p>	<p>The Ngunnawal representatives considered the amended accredited text on pp. 97-99 of the SW WRP matrix and pp. 170-173 of the GW WRP matrix. Comments and assessment here largely overlap with those about the objectives (see above 10.52(1)(a)).</p> <p>Representatives feel that Ngunnawal aspirations are addressed and captured in the now edited outcomes. One exception is that there had been discussion between Ngunnawal and the ACT Government about joint naming of waterways, which is important for reconnecting Ngunnawal people to and with Country. This aspiration is not reflected in the outcomes.</p> <p>The inconsistent use of ATSI terminology noted already in this assessment is problematic here too. Again, an explanation is needed from the ACT Government about the use of this terminology against the Ngunnawal’s request and advice.</p> <p>A couple of small editing and formatting errors are observed in reference to the outcomes:</p> <ul style="list-style-type: none"> <li>• Is there a comma missing after ‘health’ in outcome “I” (surface water text) and “ee” (groundwater text)?</li> <li>• “Employment within the Caring for Country space has increased to improve the Ngunnawal people’s aspirations for increased economic participation” should be listed as an itemised outcome in the surface water text and groundwater text, as should the one above it in the groundwater text.</li> <li>• List numbering in the GW WRP is linked to that in the</li> </ul>			

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	<p>The workshop participants noted inconsistent statements in the WRP text regarding the development of these outcomes. For example, immediately preceding the listed outcomes in the WRP text, the accreditation text says: “The engagement process identified the following desired outcomes” (p. 111, SW WRP; p. 103, GW WRP). This is inconsistent with the lack of engagement about these outcomes reported by the Ngunnawal representatives and the <i>Consultation Report</i>, as mentioned above. While it is likely these outcomes are originally informed by engagement events, this statement can be construed as misleading and requires attention.</p> <p>The phrasing of the outcomes requires greater care and attention to ensure coherence. The outcome listed at the fourth dot point, for example, seems to have two outcomes contained within one statement. The second sentence under the fourth dot-point (“Improved representation on ACT water resource management groups and activities”) is an incomplete sentence and does not appear to be coherently linked to the preceding sentence.</p> <p>Overall, these outcomes require clarification and must reflect community aspirations and goals, determined through transparent processes.</p>	<p>SW WRP text. Numbering and dot points throughout the GW WRP requires checking.</p>
<p><b>10.52(2)(a)</b> In identifying the matters set out in subsection (1), regard must be had to the social, spiritual and cultural values of Indigenous people that relate to the water resources of the water resource plan area (<i>Indigenous values</i>)</p> <p>[Assessment Note:</p>	<p>Absent <b>Partial</b> Satisfactory Good Excellent 1 2 3 4 5</p> <p>Representatives reviewed material detailing the ACT’s approach used to ‘have regard to’ Ngunnawal’s values and uses in identifying the outcomes and objectives (pp. 114-116, SW WRP; pp. 106-108, GW WRP). Detail contained in the <i>Indigenous ODOVU Report</i> was also considered.</p> <p>The Ngunnawal representatives assess the ACT’s compliance with</p>	<p>Absent <b>Partial</b> Satisfactory Good Excellent 1 2 3 4 5</p> <p>Representatives reviewed material detailing the ACT Government’s approach to ‘having regard to’ Ngunnawal’s values and uses in identifying the outcomes and objectives (pp. 99-100, SW WRP matrix; pp. 173-174, GW WRP matrix). Detail contained in Appendix K was also considered.</p> <p>On the whole, Ngunnawal representatives are not satisfied</p>

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<p><i>Is the matter specifically addressed in the text of the WRP? Does the WRP set out how proper, genuine and realistic consideration of Traditional Owner views informed the Plan? Is the matter addressed as part of the accredited text? Is the matter addressed as part of the supporting text? Are there strategies in place to address the matter? Are the strategies binding and measurable?]</i></p>	<p>this requirement as ‘Partial’ primarily due to only a narrow scope of Ngunnawal values and uses being considered, and confusion and inconsistencies about whether Ngunnawal values and uses can be reported.</p> <p>The <i>Indigenous ODOVU Report</i> suggests the AWA process was the ‘main method’ within broader consultation and engagement by the ACT between 2014 and 2019 (p. 5). However, commentary provided about values and uses in the WRP tables appears to consider only those identified through AWAs. Ngunnawal representatives emphasised AWAs should not be the only source for this information. The ACT appears to have employed a reductive interpretation of this requirement, focusing only on the collection of values and uses from AWAs and workshops. Broader discussions in which values and uses beyond specific sites appear to have been ignored and therefore, the WRP text reflects a constrained consideration of Indigenous water resources values and uses.</p> <p>WRPs contain statements that the values and uses are not recorded in the text “as they remain the intellectual property of the Traditional Owners” (pp. 115-116, SW WRP; pp. 107, GW WRP). It is correct that Ngunnawal do not want individuals’ written values and uses information collected through AWAs distributed or made available as sources of information. However, Ngunnawal were not opposed to holistic and overarching discussion or description of their values and uses being represented in the WRPs.</p> <p>A further contradiction relating to the WRPs representation of values and uses is that the <i>Indigenous ODOVU Report</i> actually does provide an explicit list of values and uses (see p. 5). Of concern is the fact that the items listed as “values and uses” in this report are</p>	<p>that the ACT Government’s changes to the WRP and Appendix K have adequately addressed their concerns raised in the June 2019 assessment. Thus, the assessment remains as ‘Partial’.</p> <p>Considerable differences between the previous and current Appendix K content relating to Ngunnawal’s values and uses were noted and discussed at length. In the 2020 WRP version, Appendix K includes select elements from the Consultation Report and from the <i>Indigenous ODOVU Report</i> and is far shorter than before. Ngunnawal representatives were not aware that the ACT Government had amended the Appendix in this way and were disappointed by the changes.</p> <p>More specifically, Ngunnawal representatives are concerned and dissatisfied with the narrow scope of their reported uses and values, especially as depicted in Appendix K. The material that is included here is incomplete – the content of Appendix K does not do justice to the views, values, connection and emotions that were put forward about assessed waterways and Country during AWAs, nor to the Ngunnawal people and the essence of who they are. The Ngunnawal representatives asserted, for example, that waters are their lifesource and part of Ngunnawal theology. These kinds of overarching, deep and holistic values, uses and meanings are not depicted in Appendix K.</p> <p>It was suggested that perhaps the cultural information included in Appendix K by the ACT Government was not intended to be a comprehensive list of all Ngunnawal values and uses and instead, perhaps was included to serve as a snapshot of the kinds of Ngunnawal values and uses that the ACT Government considered in developing the objectives and outcomes. However, there is no explanation clarifying this</p>
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	<p>expressed as strategies and objectives. This raised significant questions about whether the ACT had given proper, genuine and realistic consideration of these matters. Ngunnawal representatives explained, as with the objectives and outcomes, these “values and uses” somewhat reflect engagement with Ngunnawal but have not been reviewed or workshopped with community.</p> <p>Overall, a consistent description is needed in terms of how values and uses were collected, and what intellectual property (or cultural knowledge) is to be protected or can and should be shared (as determined by Ngunnawal). The ACT must ensure that values and uses determined with and approved by community to include in the WRPs are actually expressed and identified as such. Finally, a clearer statement about how Ngunnawal water values and uses were taken into consideration in outlining the objectives and outcomes is desirable.</p> <p>As a note specific to the GW WRP table, accreditation and explanatory text on p. 107 refers to that WRP incorrectly as the “ACT (Surface Water) WRP”. Correction is required.</p>	<p>scope or purpose anywhere in the WRP text or Appendix K. Ngunnawal and MLDRIN are concerned that the cultural information listed in Appendix K will be misinterpreted as a complete set of Ngunnawal values and uses without some kind of commentary to clarify or explain the scope of included values and uses. This should be developed with Ngunnawal.</p> <p>Additionally, the following concern captured in MLDRIN’s June 2019 assessment still stands: <i>“Ngunnawal representatives emphasised AWAs should not be the only source for this information. The ACT appears to have employed a reductive interpretation of this requirement, focusing only on the collection of values and uses from AWAs and workshops. Broader discussions in which values and uses beyond specific sites appear to have been ignored and therefore, the WRP text reflects a constrained consideration of Indigenous water resources values and uses.”</i> The Ngunnawal representatives commented that the ACT Government has expressed a willingness to hold additional workshops to identify additional (and broader) values and uses missed or overlooked by the AWA process. However, this commitment is not reported in the WRP or Appendix K, and could reinforce the above-noted possible misinterpretations of the information presented in Appendix K.</p> <p>Changes to the accredited text have reduced the previously reported confusion and inconsistencies about whether Ngunnawal water uses and values can be included in the WRP. however, the Ngunnawal representatives expressed strong interest and desire to work with the ACT Government to determine exactly what content is including in Appendix K.</p> <p>A final point of concern is that the accredited text mostly talks</p>
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						about the process of identifying and collecting values and uses. There is very little in the WRP table text to explain <i>how</i> the ACT Government actually considered these values and uses or ‘had regard for’ them in outlining the objectives and outcome, as is required by this Basin Plan section.
<p><b>10.52(2)(b)</b> In identifying the matters set out in subsection (1), regard must be had to the social, spiritual and cultural uses of the water resources of the water resource plan area by Indigenous people (<i>Indigenous uses</i>);</p> <p><i>[Assessment Note: Is the matter specifically addressed in the text of the WRP? Does the WRP set out how proper, genuine and realistic consideration of Traditional Owner views informed the Plan? Is the matter addressed as part of the accredited text? Is the matter addressed as part of the supporting text? Are there strategies in place to address the matter? Are the strategies binding and measurable?]</i></p>	Absent 1	<b>Partial</b> 2	Satisfactory 3	Good 4	Excellent 5	<p>Absent 1</p> <p><b>Partial</b> 2</p> <p>Satisfactory 3</p> <p>Good 4</p> <p>Excellent 5</p> <p>Comments in the above Basin Plan section (Indigenous social, spiritual and cultural values) are applicable here.</p>
<p><b>10.52(3)</b> A person or body preparing a water resource plan may identify opportunities to strengthen the protection of Indigenous values and Indigenous</p>	Absent 1	Partial 2	<b>Satisfactory</b> 3	Good 4	Excellent 5	<p>Absent 1</p> <p>Partial 2</p> <p><b>Satisfactory</b> 3</p> <p>Good 4</p> <p>Excellent 5</p> <p>Representatives reviewed the amended the WRP text for this Basin Plan component. The improved clearer commitments to</p>

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<p>uses in accordance with the objectives and outcomes identified under subsection (1), in which case the opportunities must be specified in the water resource plan</p>	<p>opportunities to strengthen the protection of Ngunnawal values and uses. Ngunnawal representatives view these strategies as ‘Satisfactory’, but see they lack detail and clarity. Each of the listed opportunities needs elaborating and to be consistent with commitments made in consultation workshops. Issues with vague or confusing wording, the degree and scope of commitment, lack of clarity, and measurability were discussed for each identified opportunity, and these specific comments and suggestions can be provided on request.</p> <p>A particular concern that Ngunnawal representatives raised is that Traditional Custodian representation on any natural resource or water governance boards or groups ideally needs to allow for male and female representation (due to cultural reasons). Reflecting on experiences and obstacles experienced by TO representation on Environmental Water Advisory Groups (EWAGs) in NSW, MLDRIN supports this assertion.</p> <p>Issues with vague wording are demonstrated in the opportunity related to WAE provisions, for example. This response is provided below in the assessment about the regard had for cultural flows.</p> <p>Again, clearer linkages with other supporting strategies and implementation plans needs to be demonstrated. This will provide greater certainty and assurance about the listed strategies and demonstrates how relevant commitments, strategies, milestones and actions across the ACT interconnect and support each other.</p>	<p>strengthen the protection of Ngunnawal values and uses was appreciated. In particular, the explicit need for male and female representation is now captured in the WRP, as are more direct and specific links to other ACT Government strategies, plans, agreements, etc.</p> <p>Ngunnawal representatives acknowledged that the ACT Government has indicated it will work with Ngunnawal (including via the Dhawura Ngunnawal Caring for Country Committee) to improve these opportunities and to bring further clarity to the opportunities, particularly where they are only broad in principle at the moment. Ngunnawal representatives appreciate these improvements and commitments.</p> <p>The ‘IP2’ abbreviation in relation to the Fisheries Act amendment could be worth clarifying.</p>																					
<p><b>10.53 A</b> water resource plan must be prepared having</p>	<p><b>10.53(a)</b> Native title rights, native title claims and Indigenous Land Use Agreements provided for by</p>	<table border="0"> <tr> <td><b>Absent</b></td> <td>Partial</td> <td>Satisfactory</td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td><b>1</b></td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p>Ngunnawal representatives reviewed the accredited and explanatory text relating to native title and associated rights agreements (pp. 117-119, SW WRP; pp. 109-110, GW WRP). In</p>	<b>Absent</b>	Partial	Satisfactory	Good	Excellent	<b>1</b>	2	3	4	5	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td><b>Satisfactory</b></td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td>1</td> <td>2</td> <td><b>3</b></td> <td>4</td> <td>5</td> </tr> </table> <p>The Ngunnawal representatives reviewed the altered accredited and explanatory text relating to native title and associated rights agreements (p. 103, SW WRP matrix; pp.</p>	Absent	Partial	<b>Satisfactory</b>	Good	Excellent	1	2	<b>3</b>	4	5
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<p>regard to the views of relevant Indigenous organisations with respect to:</p> <p><i>[Notes for Assessment: Is the matter specifically addressed in the text of the WRP? Does the WRP set out how proper, genuine and realistic consideration of Traditional Owner views informed the Plan? Is the matter addressed as part of the accredited text? Is the matter addressed as part of the</i></p>	<p>the <i>Native Title Act 1993</i> in relation to the water resources of the water resource plan area</p>	<p>making this assessment the group was informed by MDBA’s <i>Part 14 Assessment Guidelines</i> which provides specific guidance on how states should meet this requirement including identifying “how the native title right interacts with the WRP requirements” and how “the views of relevant Aboriginal organisations have been incorporated in the proposed water resource management actions and measures.” It was noted that First Nations in the WRP area have Native Title rights relevant to the management of water resources whether or not those rights have been formally recognised through a determination or other process.</p> <p>While WRP text highlights that no successful native title determinations or ILUAs are in place in the ACT at present, Ngunnawal representatives have assessed the WRPs compliance with this requirement as ‘Absent’ for the following reasons:</p> <ul style="list-style-type: none"> <li>- As above, the Basin Plan requires that WRPs must have regard to TO’s <i>views</i> with respect to native title rights, claims and matters relating to the water resources of the WRP area. The ACT has not, however, discussed with Ngunnawal nor sought their views about native title. This is not only based on Ngunnawal representatives’ reporting. The WRP tables also include the statement: “Given the nature of Native Title in the ACT in general there was very little coverage of Native Title rights.” The sentence is unclear but ‘very little coverage’ is interpreted as an acknowledgement that the ACT did not cover the matter during engagement with Traditional Custodians. TOs’ views must be sought on this matter.</li> <li>- Additionally, Ngunnawal representatives identified that the WRP text does not include the ACT’s agreement to cooperatively management Namadgi National Park with the Ngunnawal people, arising from native title-related negotiations in 2001.<sup>ii</sup> This agreement was established</li> </ul>	<p>176-177, GW WRP matrix). They also reflected on discussions that have taken place between their community and the ACT Government since the June 2019 assessment.</p> <p>The new accredited text recognises that despite there being no native title determinations in the ACT, the Ngunnawal will pursue a native title claim and/or Treaty. The Ngunnawal representatives affirmed that this text matches the views put to the ACT Government by Ngunnawal during recent engagement, including through the Dhawura Ngunnawal Caring for Country Committee meetings. As such, Ngunnawal’s views have now actually been sought n these matters and thus the ACT Government’s response to this requirement was assessed as ‘Satisfactory’.</p> <p>Ngunnawal representatives explained that in fact, Treaty has been an active discussion over the last 6 months between Ngunnawal and the ACT Government and Directorates, with several Ngunnawal elders sent to a Melbourne conference in December 2019 to learn about Treaty processes. Moreover, the Ngunnawal recognised the respect and sensitivity that the Environment, Planning and Sustainable Development Directorate is showing in talking about native title and Treaty. Ngunnawal recognises the unique regulatory challenges experienced by the ACT Government given the overlapping national and territory jurisdictions and authorities.</p> <p>The improved structure of the ACT Government’s response to 10.53 was noted.</p>
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<p><i>supporting text?</i> <i>Are there strategies in place to address the matter?</i> <i>Are the strategies binding and measurable?]</i></p>		<p>under section 86F of the <i>Native Title Act</i>.<sup>iii</sup> Reason/s for omission of this native title-based agreement, as well as the withdrawn Ngunnawal and Ngunawal native title claims in the late 1990s that led to this agreement,<sup>iv</sup> are unclear.</p> <p>As a structural observation, the ACT’s commentary about native title matters in the WRP text should be grouped for clarity and ease of reading.</p>																					
	<p><b>10.53(b)</b> Registered Aboriginal heritage relating to the water resources of the water resource plan area</p>	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td><b>Satisfactory</b></td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td>1</td> <td>2</td> <td><b>3</b></td> <td>4</td> <td>5</td> </tr> </table> <p>Ngunnawal representatives reviewed the accredited and explanatory text about how registered (and other) Aboriginal cultural heritage relates to water (pp. 117-120, SW WRP; pp. 109-111, GW WRP). Ngunnawal representatives also reflected on the ACT’s consideration of Aboriginal heritage matters during AWAs and workshops as part of First Nations engagement, some of which is documented throughout the <i>Consultation Report</i> (e.g. July 2014; February 2017; February and October 2018).</p> <p>Overall, Ngunnawal representatives commended the processes, discussion and resources provided during site visits and workshops relating to Aboriginal heritage. They agree that elements of the related discussions between the ACT and Ngunnawal are included in the WRP text. However, the major shortcoming is that articulation of Ngunnawal desires and preferences are too narrow in focus and therefore, incomplete. Additionally, the role Ngunnawal will play in cultural heritage protection – including via implementation of other (related) ACT strategies and agreements – is not articulated despite the ACT’s commitments about this in consultation. The Ngunnawal representatives assess this requirement as ‘Satisfactory’ on the provision that these ACT</p>	Absent	Partial	<b>Satisfactory</b>	Good	Excellent	1	2	<b>3</b>	4	5	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td><b>Satisfactory</b></td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td>1</td> <td>2</td> <td><b>3</b></td> <td>4</td> <td>5</td> </tr> </table> <p>Ngunnawal representatives reviewed the WRP text and noted the additional text included. They were satisfied with these improvements and chose to keep the assessment as ‘Satisfactory’.</p> <p>The improved structure of the ACT Government’s response to 10.53 was noted.</p>	Absent	Partial	<b>Satisfactory</b>	Good	Excellent	1	2	<b>3</b>	4	5
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		<p>commitments are clarified within the WRPs. Had the WRP text more accurately reflected these matters, Ngunnawal sees this area of the plan could have scored an ‘Excellent’ assessment for this requirement.</p> <p>The representatives recalled extensive discussions about Aboriginal heritage during engagement, including having ACT heritage officers attend site visits with community, and explained their roles and the ACT’s heritage management and protection legislation and processes. This also included discussion about ways to manage water (including storage and flow regimes) to protect heritage at specific sites. This process and the consultation-based activity is documented in the WRP text and was appreciated by representatives. Greater attention to managing water so as to protect more holistic and integrated cultural heritage matters (beyond specific sites) is still needed, such as to mitigate damage to fish stocks, vegetation, fish breeding, which are all matters of cultural heritage significance.</p> <p>As a structural observation, the ACT’s commentary about heritage matters in the WRP text should be grouped and expression clarified for ease of reading.</p>																					
	<p><b>10.53(c)</b> Inclusion of Indigenous representation in the preparation and implementation of the plan</p>	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td><b>Satisfactory</b></td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td>1</td> <td>2</td> <td><b>3</b></td> <td>4</td> <td>5</td> </tr> </table> <p>Ngunnawal representatives reflected on the overall engagement approach employed by the ACT, including detail contained with the <i>Consultation Report</i>. Representatives felt that the ACT had appropriately included Ngunnawal and other traditional custodians through this engagement and on-Country. However, they did not see that this quality of engagement was reflected in the WRPs themselves.</p>	Absent	Partial	<b>Satisfactory</b>	Good	Excellent	1	2	<b>3</b>	4	5	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td><b>Satisfactory</b></td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td>1</td> <td>2</td> <td><b>3</b></td> <td>4</td> <td>5</td> </tr> </table> <p>Ngunnawal representatives reflected on changes to the WRP text as well as stronger commitments made by the ACT Government over the past 10 months and what this means for looking to the plan’s implementation into the future.</p> <p>Overall, Ngunnawal representatives do feel that the ACT Government is (now) listening to what their community is saying. This is evidenced in the inclusion of economic</p>	Absent	Partial	<b>Satisfactory</b>	Good	Excellent	1	2	<b>3</b>	4	5
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		<p>Indigenous engagement and input into the drafting and preparing of the plan has been limited to advice from MLDRIN. No input was sought from the Ngunnawal community directly on this matter, as highlighted throughout this assessment. The preparation of the WRPs has in a broad sense, though, drawn from engagement with Ngunnawal over five years of engagement.</p> <p>Ngunnawal’s role in implementation, though, is still lacking or unclear. As noted above, the ACT’s commitments and the role(s) for Ngunnawal in implementation through ACT’s complementary strategies and agreements require clarification. Attention to these issues would see this assessment score increase.</p>	<p>participation and joint management priorities and aspirations in the WRP objectives and outcomes (10.52) as well as the establishment of the Dhawura Ngunnawal Caring for Country Committee. Rather than specific inclusions with this part of the WRP text, it is these points together with other ACT Government commitments coming to fruition that indicate the roles that Ngunnawal will have in implementation. The WRP text also does not include strong statements that the ACT Government is committed to the Ngunnawal community and the community’s future, which may feature different objectives and aspirations.</p> <p>As already noted, Ngunnawal and Aboriginal terminology is used inconsistently throughout the WRP. This is apparent here too. For example, the ACT Government commits to assist future <i>Ngunnawal</i> claimants, but then in the next paragraph, provides for <i>Aboriginal</i> representation on the ACT and Region Catchment Management Group as well as the Environmental Flows Technical Advisory Group (see p. 104, SW WRP matrix; p. 178 GW WRP matrix). Terminology must be consistent and must be checked across the whole document (including both SW and GW WRP matrices).</p> <p>The improved structure of the ACT Government’s response to 10.53 was noted.</p>																				
	<p><b>10.53(d)</b> Indigenous social, cultural, spiritual and customary objectives, and strategies for achieving these</p>	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td><b>Satisfactory</b></td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td>1</td> <td>2</td> <td><b>3</b></td> <td>4</td> <td>5</td> </tr> </table> <p>As per ‘inclusion of Indigenous representation in the preparation and implementation of the plan’ assessment and responses.</p>	Absent	Partial	<b>Satisfactory</b>	Good	Excellent	1	2	<b>3</b>	4	5	<table border="0"> <tr> <td>Absent</td> <td>Partial</td> <td><b>Satisfactory</b></td> <td>Good</td> <td>Excellent</td> </tr> <tr> <td>1</td> <td>2</td> <td><b>3</b></td> <td>4</td> <td>5</td> </tr> </table> <p>As per the above ‘inclusion of Indigenous representation in the preparation and implementation of the plan’ assessment and responses.</p> <p>The WRP refers the reader to examine the text regarding</p>	Absent	Partial	<b>Satisfactory</b>	Good	Excellent	1	2	<b>3</b>	4	5
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	objectives		s10.52. See assessment and responses there too.
	<p><b>10.53(e)</b> Encouragement of active and informed participation of Indigenous people</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent 1            2            3            4            5</p> <p>As per ‘inclusion of Indigenous representation in the preparation and implementation of the plan’ assessment and responses.</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent 1            2            3            4            5</p> <p>As per the above ‘inclusion of Indigenous representation in the preparation and implementation of the plan’ assessment and responses.</p>
	<p><b>10.53(f)</b> Risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area</p>	<p>Absent    <b>Partial</b>    Satisfactory    Good    Excellent 1            2            3            4            5</p> <p>Workshop participants noted that assessment of this requirement was challenging due to inconsistencies between different WRP documents provided to MLDRIN. For instance, Ngunnawal representatives reviewed the WRP text regarding risks (pp. 120-121, SW WRP; p. 112, GW WRP), including the statement within the accredited text noting that: “The ACT WRP risk assessment does not explicitly evaluate risks to Aboriginal values and uses.” Workshop participants also examined the risk assessment for WRPs (Appendix F).<sup>v</sup> Contrary to this accredited statement, this risk assessment actually includes risk 2.17 “Loss of knowledge of Indigenous water-related values and uses” (pp. 103-104). (Based on the identical nature of the accredited text in both SW and GW WRPs, workshop participants have made an informed assumption that this risk is also contained both WRPs.)</p> <p>While this risk is identified and assessed in the risk assessment, responses from Ngunnawal representatives raise serious issues regarding the ACT’s considerations of risks to Indigenous values and uses in preparing the WRPs, in addition to the above-stated contradiction. These include:</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent 1            2            3            4            5</p> <p>Representatives noted the significant WRP text changes regarding risks and see that these generally respond to the issues raised by MLDRIN in the June 2019 assessment. For instance, inconsistencies in the previous WRPs, about whether the ACT Government assessed risks pertaining to Aboriginal values and uses, appear to have been addressed.</p> <p>Ngunnawal representatives also described how the ACT Government has improved its approach to risk identification and management. Now, the ACT Government is:</p> <ul style="list-style-type: none"> <li>• seeking Ngunnawal input to identify and manage risks;</li> <li>• communicating important information to Ngunnawal elders and communities about risks to values and uses (e.g. such as from the recent bushfires); and,</li> <li>• developing and implementing activities to address identified risks.</li> </ul> <p>These improvements in communication transparency and action have occurred particularly via the Dhawura Ngunnawal Caring for Country Committee. These changes, and the</p>



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		<ul style="list-style-type: none"> <li>- On-Country First Nation engagement included discussion regarding risks to Aboriginal uses and values particularly relating to the availability and quality of water. Ngunnawal participants put forward detailed views on joint management approaches and other strategies to minimise and mitigate these risks, including roles for Ngunnawal. Some relevant discussions are noted in the <i>Consultation Report</i> – see specifically ‘Objectives and Actions’ tables from 7 May 2018 (pp. 60-72). Yet, these risks are not reflected in the accredited WRP tables, nor in the risk assessment section. Attention is required here.</li> <li>- Without verification with Ngunnawal community, the accredited text in the WRP conflates cultural with ecological/environmental risks and mitigation.</li> <li>- The statement attempting to address risks to other Indigenous values and uses (“For those Indigenous cultural values and uses that are not addressed by managing environmental or ecological risks more work may need to be carried out to define and specify those values and use in a culturally way”) is vague and its meaning is unclear.</li> <li>- Risk 2.17, while not referred to in the WRP accredited text in relation to this Basin Plan requirement, considers “Loss of indigenous water-related values and uses.” However, this requirement is actually concerned with “risks to Indigenous values and uses.” Given this disconnect, this risk only partially (at best) address this requirement. Moreover, some of the wording relating to the risk needs reconsideration and clarification.</li> </ul>	<p>optimism it gives Ngunnawal representatives for improvements into the future, is the reason for changing the assessment to ‘Satisfactory’. However, representatives stress that more work needs to be done.</p> <p>In terms of the content of the WRP, the following issues require further attention:</p> <ul style="list-style-type: none"> <li>• We note that the WRP accredited text refers the reader to pages 60-72 of Attachment K. This inclusion responds to MLDRIN’s recommendation in the June 2019 assessment. However, with the already noted considerable changes (and reduction of) Appendix K, this reference is no longer correct.</li> <li>• The text in the risk matrix in Appendix F is unchanged and thus, MLDRIN’s previously raised concerns about this part of the WRP remain. Risks captured in 2.17 and 2.18 overlap considerably, and the formatting and structure of Risk 2.17 is inconsistent with all other assessed risks. Wording of these risks in Appendix F should still be reconsidered and clarified (i.e. contains references to a chapter 13 and 13.4.2 – unsure what that these mean).</li> </ul>
<p><b>10.54</b> A water resource plan must be prepared having regard to the views of Indigenous people with</p>	<p>Absent 1    <b>Partial 2</b>    Satisfactory 3    Good 4    Excellent 5</p> <p>Ngunnawal representatives reviewed the WRP tables in relation to</p>	<p>Absent 1    Partial 2    <b>Satisfactory 3</b>    Good 4    Excellent 5</p> <p>The representatives reviewed the small changes to this</p>	

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<p>respect to cultural flows</p> <p><i>[Notes for Assessment: Is the matter specifically addressed in the text of the WRP? Does the WRP set out how proper, genuine and realistic consideration of Traditional Owner views informed the Plan? Is the matter addressed as part of the accredited text? Is the matter addressed as part of the supporting text? Are their strategies in place to address the matter? Are the strategies binding and measurable?]</i></p>	<p>the cultural flow requirement (p. 122, SW WRP; pp. 113-14, GW WRP), as well as the referenced <i>ACT Water Strategy Implementation Plan</i> (Action 6, Strategy 2, p. 17).</p> <p>The accredited text does accurately acknowledge the Ngunnawal’s strong interest in cultural flows, as confirmed by Ngunnawal representatives. It includes a brief positive statement of action with regards to WAE (though, further detail is needed).</p> <p>Beyond this, the representatives assessed the ACT’s attempt at addressing this requirement as ‘Partial’ due to its vague language, poorly articulated commitments, and failure to adequately and appropriately reflect the detail and breadth of Ngunnawal’s assertions and views with respect to cultural flows. Overall, while the text states that the WRPs have been prepared “having regard to the views of Indigenous people with respect to cultural flows,” exactly how is not explained or demonstrated.</p> <p>Within the WRPs text, workshop participants observe inconsistent – or unclarified – terminology. First, the explanatory text includes ACT’s “acknowledgement” of the Echuca Declaration definition for cultural flows. However, the text does not specify if the ACT <i>adopts</i> this definition. The placement of this acknowledgement in explanatory rather than accredited text raises doubts about the degree of the ACT’s commitment to this definition.</p> <p>Second, regarding the ACT’s advancement of arrangements for the provision of WAEs to TOs for cultural flows purposes, the text refers to these arrangements as being “consistent with other Basin States”. Arrangements across the other Basin States are diverse and acknowledgement of this, and associated clarification of meaning, is needed. As an aside, other Basin State arrangements have generally not been particularly successful at achieving the</p>	<p>section of WRP. It was also noted that other sections of the WRP address cultural flows, including:</p> <ul style="list-style-type: none"> <li>• a listed objective and outcome in the accredited text in relation to 10.52; and,</li> <li>• a commitment in the explanatory text of 10.52, that “The ACT government and the Ngunnawal People will be working collaboratively in the 6–12 months following the accreditation of this WRP to formalise a plan for Cultural flows.”</li> </ul> <p>Ngunnawal representatives reported that the ACT Government seems to be opening up to the concept of cultural flows. Previously, they felt that the ACT Government was taking a narrow interpretation of cultural flows that was too aligned with environmental flows and that did not account for Ngunnawal’s needs. More recently, though, the ACT Government has been more responsive to Ngunnawal’s needs and preferences, and the Dhawura Ngunnawal Caring for Country Committee will be holding the ACT Government to its cultural flow commitments.</p> <p>The major additions to the WRP text here include replacing Indigenous and Aboriginal terminology with Ngunnawal people specifically, and a new paragraph in the explanatory text referring to the <i>ACT Water Strategy Implementation Plan</i>. Ngunnawal representatives notes that these changes are more acceptable. However, it is asserted that such outcomes pursued through the <i>ACT Water Strategy Implementation Plan</i> should be determined by Ngunnawal and not the ACT Government. Additionally, the expression of this new paragraph could be clearer.</p> <p>Several points of concerns also remain regarding the WRP</p>
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	<p>goal of securing water entitlements for First Nations to date.</p> <p>Finally, the linkage to the <i>ACT Water Strategy Implementation Plan</i> is misleading and adds further confusion. That Plan’s reference to cultural flows is in the context of “ensuring appropriate management... of <i>environmental flows</i>” (Action 6, p. 17, emphasis added). Workshop participants believe it is not appropriate to use this existing commitment and its particular narrow focus (i.e. environmental) as a proxy for addressing cultural flows unless the difference is noted. The WRPs currently do not offer this clarity and can be construed as misleading. Workshop participants see, therefore, that the WRP text must acknowledge this only partial alignment, <i>and</i> clarify what else the ACT is doing to work on the other aspects of cultural flows as per the Echuca Declaration (i.e. social, spiritual, cultural and economic elements). Ngunnawal representatives also recalled ACT commitments to assist with WAE application processes, including potential fee waiving. This level of commitment is not reflected in the WRP text.</p> <p>As a note specific to the GW WRP table, accreditation text on p. 113 refers to that WRP incorrectly as the “ACT (Surface Water) WRP”. Correction is required.</p>	<p>accredited text. For example, vague language and commitments are still observed. i.e. the ACT Government still “acknowledges” rather than “adopts” the cultural flows definition. Commentary regarding the provision of WAEs is still limited and non-committal.</p> <p>A further point of concern not previously raised but that is nonetheless important, is in regard to the sentence “<i>The ACT is also seeking access to Commonwealth funding that was established in 2018 to support cultural flows for the Indigenous Nations of the Basin.</i>” This funding commitment is for First Nations. Therefore, the ACT Government should not be seeking access to this funding itself but instead, support Ngunnawal to access it.</p>
<p><b>10.55</b> A water resource plan must provide at least the same level of protection of Indigenous values and Indigenous uses as provided in:</p> <p>(a) a transitional water resource plan for the water resource plan area; or</p> <p>(b) an interim water resource</p>	<p>Absent    <b>Partial</b>    Satisfactory    Good    Excellent  1            2                    3                4                5</p> <p>The Ngunnawal representatives reviewed the accredited and explanatory text within the WRP tables (pp. 122-123, SW WRP; pp. 114-115, GW WRP). The representatives agreed that prior to the WRP, laws did not protect Indigenous values and uses. However, they see that more rigour is needed in the ACT’s response to this requirement. For example, Ngunnawal representatives believe the ACT should specifically identify which plan/s was in place prior to the WRP and how it did not protect Indigenous values and uses.</p>	<p>Absent    Partial    <b>Satisfactory</b>    Good    Excellent  1            2                    3                4                5</p> <p>The representatives recognised the additions to the WRP text (pp. 106-107, SW WRP matrix; pp. 179-180, GW WRP matrix).</p> <p>Ngunnawal and MLDRIN representatives note from these alterations that the ACT Government did not actually respond to the June 2019 assessment request to elaborate on what existed (or did not exist) before this WRP and specifically how this plan provides more protection than previously was</p>

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<p>plan for the water resource plan area.</p>	<p>As a note specific to the GW WRP table, accreditation and explanatory text on p. 114 refers to that WRP incorrectly as the “This ACT (Surface Water) WRP”. Correction is required.</p>	<p>offered. Such a response is still preferred and should be included in future amendments to the WRP. However, on the basis of observing the ACT Government’s strong forward focused commitment to improving the protection of Ngunnawal’s water values and uses into the future, this is now assessed as ‘Satisfactory’.</p>
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<sup>i</sup> ‘Generally’ because other aspects of the WRP text provide conflicting information. For example, the accredited text on p. 110 of SW WRP states “ The following objectives and outcomes were developed from the knowledge collected from the Aboriginal Water Assessments to ensure the cultural values are both tangible and intangible.” Then, the explanatory text on the same page states “The objectives of the Indigenous people set out in the plan were captured from consultation with the Traditional Owners,

<sup>ii</sup> See AIATSIS (2016). *Native Title Information Handbook: Australian Capital Territory (including the Jervis Bay Territory)*. Australian Institute of Aboriginal and Torres Strait Islander Studies: Canberra, Australia, p. 6. Available online:

[https://aiatsis.gov.au/sites/default/files/products/native\\_title\\_information\\_handbook/native\\_title\\_information\\_handbook\\_2016\\_act.pdf](https://aiatsis.gov.au/sites/default/files/products/native_title_information_handbook/native_title_information_handbook_2016_act.pdf).

<sup>iii</sup> *Agreement Between the Australian Capital Territory and ACT Native Title Claim Groups* (2001). Part 3. Archived online:

<https://web.archive.org/web/20020920235550/http://www.act.gov.au/government/department/cmd/comliasion/Indigenous/ATSlagreement.html/>

<sup>iv</sup> See AIATSIS (2016) above. p. 6

<sup>v</sup> This risk assessment is labelled as both “Appendix L – Proposal for Adjustments of the ACT Groundwater SDL” and “Appendix F – Information for Part 9 – Approaches to addressing risks to water resources”. Page 102 of this document also contains a ‘Cultural water knowledge’ risk, which is structure differently and not number, differentiating from all other risks. Whether this risk and associated material should be included in the WRP needs to be verified and no comment on it is included here.