

DHUNGALA BAAKA

RETHINKING THE FUTURE OF
WATER MANAGEMENT IN AUSTRALIA



ABORIGINAL KNOWLEDGE OF WATER, SPIRIT AND
LIFE THROUGH THE NATIONAL CULTURAL FLOWS
RESEARCH PROJECT



**NATIONAL
CULTURAL FLOWS**
RESEARCH PROJECT



This report has been prepared for the Cultural Flows Planning and Research Committee as part of the National Cultural Flows Research Project, developed by and for First Nations nations with the aim of helping to embed First Nations' water allocations in Australia's water management framework. Original narrative developed by Peter Botsman. Funding for the Research Project has been generously provided by the Murray-Darling Basin Authority, the Commonwealth Environmental Water Office, the National Water Commission and the Department of Families, Housing, Community Services and Indigenous Affairs.

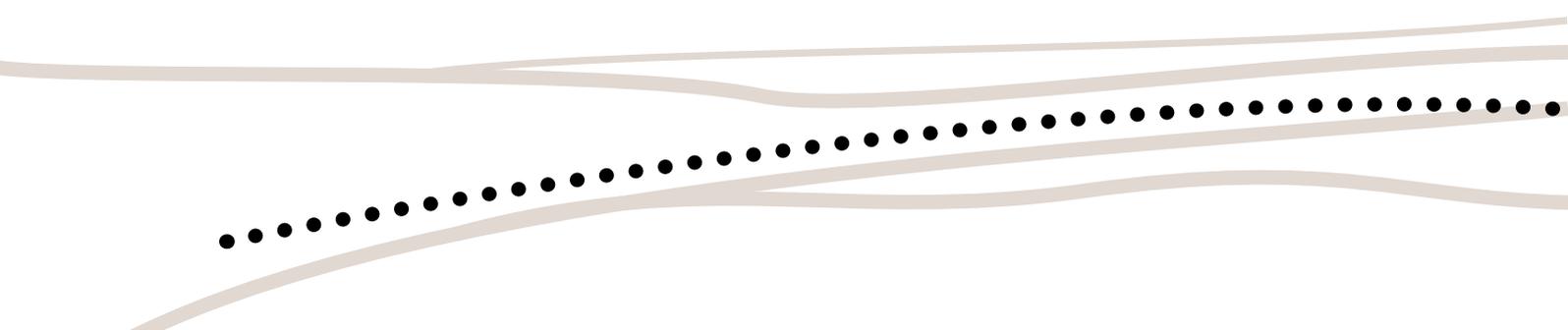
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For First Nations People, water is a sacred source of life. The natural flow of water sustains aquatic ecosystems that are central to our spirituality, our social and cultural economy and wellbeing. The rivers are the veins of Country, carrying water to sustain all parts of our sacred landscape. The wetlands are the kidneys, filtering the water as it passes through the land.

First Nations Peoples have rights and a moral obligation to care for water under their law and customs. These obligations connect across communities and language groups, extending to downstream communities, throughout catchments and over connected aquifer and groundwater systems.

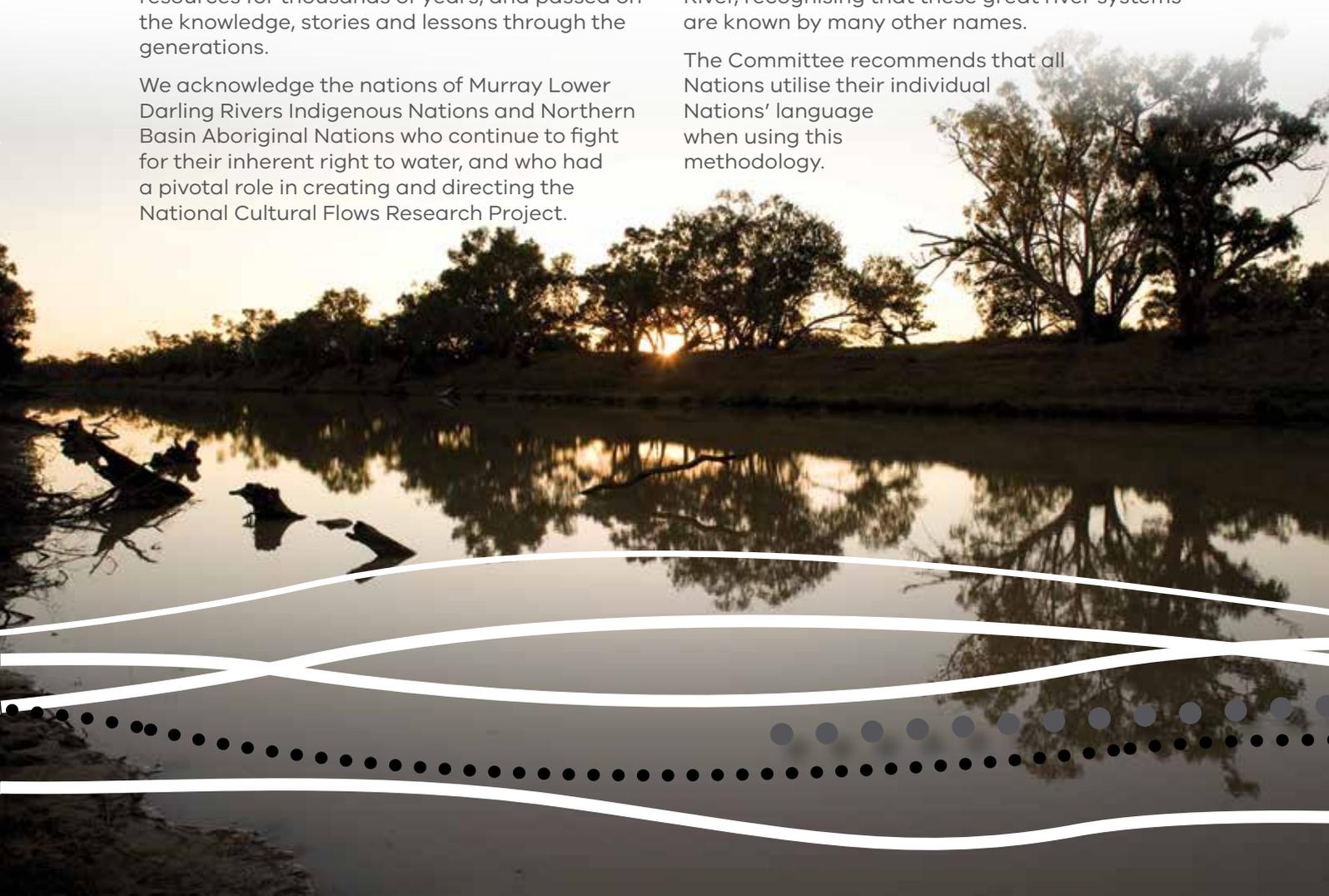
The project partners acknowledge all of the Traditional Owners across Australia who care for the waterways that sustain our Country. We pay deepest respects to their Ancestors and Elders who have protected and maintained water resources for thousands of years, and passed on the knowledge, stories and lessons through the generations.

We acknowledge the nations of Murray Lower Darling Rivers Indigenous Nations and Northern Basin Aboriginal Nations who continue to fight for their inherent right to water, and who had a pivotal role in creating and directing the National Cultural Flows Research Project.

We thank the Murrawarri and Nari Nari nations who worked tirelessly as part of the research team to develop the cultural flows assessment approaches for this project.

The National Cultural Flows Research Project Research and Planning Committee (the Committee) respect the autonomy and right for nations to use their languages and pass them on to future generations. For this report, we have adopted the Yorta Yorta names "Dhungala", to refer to the 'great water' of the Murray River, and the Barkandji name "Baaka" for the Darling River, recognising that these great river systems are known by many other names.

The Committee recommends that all Nations utilise their individual Nations' language when using this methodology.



Executive Summary

The National Cultural Flows Research Project was a seven-year-long study designed to secure a future where First Nations' water allocations are embedded within Australia's water planning and management regimes, to deliver cultural, spiritual and social benefits as well as environmental and economic benefits, to First Nations throughout the Murray-Darling Basin and beyond. With case studies on Murrawarri Country at the north of the Murray-Darling Basin, near the Queensland border, and on the Murrumbidgee River at Hay on Nari Nari Country, the findings of the research are illuminating and useful for all Australians.

Hundreds of pages of research developed by over a dozen academics, hydrologists, legal experts and policy makers working with the Nari Nari and Murrawarri communities, show an extraordinary, evidence-base for how First Nations' ownership and management of water resources can deliver real benefits to First Nations people, ecosystems and the broader community.

The work of the researchers and project partners has produced a suite of research products including

- A user-friendly methodology for quantifying the water needs of First Nations
- A comprehensive analysis of the legal and policy options that can give effect to First Nation's water rights
- Technical reports detailing the research and hydrological modelling that informs this new cultural flows framework

At Gooraman Swamp in the heartland of the most intensive and water hungry agriculture of the Murray-Darling basin, the ancient river red gums tell their story of the drying of Country, and the path of the *Mundaguddah* is thwarted by the changed landscape.

At Toogimbie Wetlands, in an Indigenous Protected Area on the Murrumbidgee river, black swans and dozens of other bird species have returned to nest and to wander amongst the *gweeargal* (lignum) plants and many new plant and animal species. Through these projects, life and spark has returned to the First Nations communities themselves.

From these projects, aspirations arise and lessons emerge for other First Nations community water guardians but also for governments, councils, farmers, environmentalists and individual landholders.

At these strategic places in Australia's most productive water system, the many benefits of First Nations ownership of water are clear. First Nations Australians have a customary responsibility to manage and watch over water on their traditional lands. This transformative research project has explored a range of ways that this responsibility can be translated into practical legal approaches – by strengthening First Nations control over water rights, increasing First Nations influence over water in the landscape and transforming the legal and policy foundations of water governance. Backed by this exhaustive research, the challenge is to now to pursue cultural flows, as a means to address a key area of unfinished business in Australia's water reform.

Realising the concept of "cultural flows" means that First Nations will increasingly lead the management and protection of water in all its dimensions. This represents an opportunity for all First Nations, and it is also something for all Australians to be heartened about. With a deep understanding of the fragility of water and the way water works in the Australian environment, First Nations water custodians will help to preserve fresh water for all.

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Foreword from the Chair of the Research Committee

Water makes up 71 per cent of the earth's surface, but only 3.5 per cent of the world's water is freshwater. On the driest and oldest continent on earth, this precious commodity determines the sustainability of terrestrial life. First Nations Australians, with one of the oldest continuous cultures of all of the world's peoples, are **guardians, philosophers and practical custodians of water.**

Without a change in understanding of water as something to be unceasingly exploited, the environmental catastrophes seen up and down the river systems of the Murray-Darling Basin cannot be reversed.

First Nations community ownership, leadership and knowledge is the essential ingredient for bringing water and land back to life. The rigorous science of the National Cultural Flows Research Project not only demonstrates that outstanding, on-ground outcomes can be gained from First Nations water management, but also highlights the improvements to quality of life and wellbeing that can be felt by seeing, feeling and caring for these spiritual landscapes. The project offers life and hope for Country and communities.

Cultural flows need to be an ongoing and permanent part of the management of the Murray-Darling Basin and all Australian river systems. First Nations people can play an enormous role in improving all dimensions of water ecology and the life and wellbeing of the broader Australian community.

The task now is to empower Aboriginal nations up and down Australia's river systems to revive their traditional role as spiritual, practical and on-going guardians of water in all its dimensions. The National Cultural Flows Research Project establishes a framework for managers and communities to develop their own plans to preserve the life and spirit of water in their regions.

The best course for the future is for governments at the Commonwealth, State and Territory levels to embrace the findings of the National Cultural Flows Research Project wholeheartedly and start to implement them by empowering local First Nations communities to secure and manage cultural flows across their traditional lands. There are a range of state, national and international legal provisions that can allow for First Nations to play a leading role in ensuring that the precious qualities of water are preserved for all.

The National Cultural Flows Research Project has been a true partnership – between First Nations, governments and experts across the full range of social, cultural and biophysical sciences. The project has been guided by the wisdom and steady hand of an Aboriginal-led Research Committee that has been a forum for frank discussion and debate. It has been my pleasure and my privilege to chair these gatherings of passionate and dedicated people, all working towards the recognition of First Nations' water rights and interests.



Damein Bell
Independent Chairperson
National Cultural Flows Research Committee

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Statement from the National Native Title Council

Enjoying the sustainable use of Country and fulfilling our responsibilities set out in First Nations' law is a fundamental right for First Nations people.

This is acknowledged through the Australian Government's support for the United Nations Declaration on the Rights of Indigenous Peoples, which states:

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Water has always been a central part of the traditional use and management of Country. For First Nations people, practicing cultural rights is dependent on the ability to reliably access water sources, ensure the rivers, lakes and wetlands are healthy and productive, and use water sustainably for cultural and economic purposes.

Current settings in Australia's water management and land rights frameworks fail to deliver these rights for First Nations people. While governments have started making moves towards integrating First Nations' values into water management decisions, there remains a long way to go to realise tangible benefits for First Nations people from our traditional resource, and to make First Nations' voices heard at the most important levels of decision-making.

For a long time, governments have refused to make meaningful changes to water rights and rules without documented evidence to justify First Nations peoples' needs, interests and rights to water. The National Cultural Flows Research Project fills this gap.

The rigorous research methodology, with First Nations people firmly in the driver's seat, has delivered a suite of research products that make a critical contribution to the national dialogue at a time when the failings of Australia's management of water resources are in the spotlight.

The outcomes of this research present not only a valuable resource for First Nations to use to clarify and quantify their water needs, but also highlight a range of practical ways that collectively, First Nations, governments and others in the water sector can work towards increasing the involvement of First Nations' people in water management.

I commend the nations of the Murray-Darling Basin who have seen this important research project through to its successful completion.

And I encourage all water stakeholders to look closely at the findings of this research, and work directly with First Nations across the Country to properly recognise Aboriginal people's cultural rights to water and fully include First Nations people in water decision-making.



Jamie Lowe
Chairperson
National Native Title Council

Groundbreaking research into First Nations water rights

THE IMPETUS FOR THE NATIONAL CULTURAL FLOWS RESEARCH PROJECT

Historically, First Nations' rights to water have largely been excluded from Australia's complex water planning and management policies and programs. Since the early 2000s the essential and important role of First Nations as owners, custodians and guardians of all forms of water have begun to be recognised. This created the impetus for the National Cultural Flows Research Project.



40,000 to 60,000 years

First Nations custodianship of the lands and waters now known as the Commonwealth of Australia

1400 to 1770

First Nations Australians establish commercial and trade relations with Indonesian and Macassan visitors. Dutch and Portuguese journey to the Southern continent

1770 James Cook sails to Aotearoa/New Zealand and up the Eastern Coast of the Southern continent recording the language of the Gugu Yimmidhir people at what is now Cooktown

1788 British colonisation of Australia begins, including the imposition of British law and rules of land and water entitlement

1788 to present

Resistance to colonisation including successive petitions and representation of First Nations nations to the Kings and Queens of England regarding First Nations custodianship, stewardship and ownership rights of land and water under British law

1400 – 1788

40,000 – 60,000

TIMELINE: AQUA NULL

40,000–60,000

1000

1200

1400

1500

2001 – 2009

2001 Inaugural meeting of Murray Lower Darling Rivers Indigenous Nations (MLDRIN) comprising representatives of the Latji Latji, Mutthi Mutthi, Ngarrindjeri, Wamba Wamba, Wiradjuri and Yorta Yorta, Nyampa and Barkandji Nations

2004 National Water Initiative was the first instance in which First Nations' rights to water was formally recognised in national water policy

2005 *Gumana v Northern Territory (Blue Mud Bay)* establishes First Nations fishing rights and ownership of coastal and tidal waters in the Northern Territory

2007 Australia votes against the adoption of the United Nations Declaration on the Rights of Indigenous Peoples

Echuca Declaration developed by MLDRIN, including the definition of cultural flows

2009 Australia endorses the United Nations Declaration on the Rights of Indigenous Peoples, which universally acknowledges Indigenous peoples' rights, including:

- the right to maintain their distinctive spiritual connection to water
- the right to access the resources required to maintain cultural heritage and undertake traditional practices
- the right to determine priorities and strategies for the development or use of their resources
- the right to conserve and protect the environment and the productive capacity of their lands, and
- the right to improve their economic and social conditions

- 1900** Federation of Australian colonies, establishment of the Commonwealth of Australia
- 1971** *Milirrpum v Nabalco Pty Ltd* recognises a “subtle and elaborate” system of First Nations’ laws pertaining to land and water that is not commensurate with British Common Law
- 1976** *The Aboriginal Land Rights (Northern Territory) Act* was the first attempt by an Australian government to legally recognise the First Nations’ system of land ownership and put into law the concept of inalienable freehold title

1900 – 1976

STATUS OVERTURNED

- 1992** *Mabo v Queensland No. 2* establishes limited native title rights for First Nations across the Commonwealth of Australia
- 1993** *Native Title Act* includes water rights as a part of native title rights. Only rights to use water for domestic and personal purposes have been recognised by the courts. The *Native Title Act* does not provide for a right to negotiate over water
- 1994** Yorta Yorta native title claim lodged in Federal Court of Australia, more than 400 parties oppose claim including Victorian, NSW, SA Governments, National Farmers Federation, Murray Darling Basin Commission
- 1997** Federal Court dismiss Yorta Yorta native title claim
- 1998** Yorta Yorta people host a meeting of Elders of First Nations along the Murray (Dhungala) River and lower Darling River (Baaka)

1992 – 1998

1600

1700

1800

1900

2000

CURRENT

2010 – 2018

- 2010** Formation of Northern Basin Aboriginal Nations (NBAN) comprising the Barkindji (Baakantyi), Barunggam, Bidjara, Bigambul, Budgjiti, Euahlayi, Githabal, Gomeroi (Kamilaroi), Gunggari, Guwamu (Kooma), Jarowair, Kambuwal, Kunja, Kwiambal, Malangapa, Mandandanji, Mardigan, Murrawarri, Ngemba, Ngiyampaa, Wakka Wakka, and Wailwan First Nations
- 2010** Outline of National Cultural Flows Research Project developed
- 2011** Research Committee made up of MLDRIN, NBAN and NAILSMA representatives formed to oversee the National Cultural Flows Research Project

2012-2018

- National Cultural Flows Research Project components undertaken, with a focus on two case studies within the Murray-Darling Basin – Toogimbie Indigenous Protected Area and Weimoringle Indigenous Protected Area (Gooraman Swamp sacred site)
- 2015** Research Committee expanded to include Commonwealth and State Government representatives
- 2018** National Cultural Flows Research Project completed

THE GENESIS OF THE RESEARCH PROJECT

The rejection of the Yorta Yorta Native Title Claim by the Federal Court in 1997 created renewed impetus for discussions of First Nations rights in the most settled and colonized parts of South Eastern Australia. The Yorta Yorta people hosted a meeting of the lower Murray First Nations to discuss the central issue of First Nations' water values and ownership at a time of cultural and environmental crisis for the Murray-Darling river system. From these meetings emerged the Murray Lower Darling River Indigenous Nations (MLDRIN). Six years after its establishment MLDRIN, frustrated with not gaining water under the Living Murray Initiative organised a meeting of delegates and other water representatives to create the historic Echuca Declaration which asserted that:

"Cultural Flows" are water entitlements that are legally and beneficially owned by the Indigenous Nations of a sufficient and adequate quantity and quality to improve the spiritual, cultural, environmental, social and economic conditions of those Indigenous Nations. This is our inherent right."

The Echuca Declaration was subsequently endorsed by the Northern Basin Aboriginal Nations (NBAN) representing First Nations in the northern NSW and southern Queensland regions.

From 2010-2017 funding for the National Cultural Flows Research Project was provided by the Murray-Darling Basin Authority, the Commonwealth Environmental Water Office, the National Water Commission and the then Department of Families, Communities, Housing and Indigenous Affairs. A panel of technical scientific experts was convened to develop a robust research approach to understand the concept of First Nations ownership of water through cultural flows and to document their spiritual, cultural, environmental, social and economic benefits for the First Nations and wider Australian community. A steering committee comprising MLDRIN, NBAN and North Australian Indigenous Land and Sea Management Alliance (NAILSMA) was established to provide First Nations' leadership to oversee the research. MDBA provided support throughout the project and were later joined by State and other Commonwealth government agencies.

FIRST NATIONS SCIENCE IN ACTION

The National Cultural Flows Research Project was structured in three broad phases, comprising eight components.

The first phase was a desktop review undertaken by Australian Cultural Heritage Management. The review included a comprehensive summary of known First Nations uses and values of water in Australia, an assessment of existing methodologies to describe cultural values of water and recommendations of needs and gaps in cultural flows knowledge.

The second phase, undertaken by Rural Solutions South Australia, used real world examples to develop and test methodologies for quantifying cultural flows and assessing their impacts. Two representative case studies were established: at the Toogimbie Indigenous Protected Area near Hay in Southern NSW and at Gooraman Swamp in the Weilmoringle Indigenous Protected Area just south of the Queensland border. The two sites provided a valuable contrast for the study, exploring the challenges and opportunities in both regulated and un-regulated systems.

The final research phase, developed by the University of Melbourne, built on the concepts and evidence developed in earlier components, to undertake comprehensive review of the policy and legal mechanisms available to First Nations, governments and others to give effect to cultural flows.

Three supporting components were included in the research project design to ensure it was delivered efficiently and with participation of First Nations as a primary focus:

- a capacity building element - in which the results and implications of the research are shared with MLDRIN and NBAN nations.
- communications activities - to make sure that nations were kept informed of the research project along the way, and to build general awareness of cultural flows
- project management - efficiently coordinating the delivery of research activities and supporting project governance.

These research activities have produced a range of reports and products that can be used by First Nations, policy makers, researchers and others interested in water management. They can be found at www.culturalflows.com.au

PHASE 1 – Desktop review	
Component 1	Literature Review
PHASE 2 – Field studies	
Component 2	Indigenous water interests preliminary findings report Ecological characterisation report
Component 3	Hydrological and hydraulic modelling report Gooraman Swamp cultural water monitoring plan Toogimbie Wetlands cultural water monitoring plan Field work results and findings report
Component 4	Field studies outcomes report Cultural flows – a guide for community Cultural flows – a guide for water managers
PHASE 3 – Policy and legal review	
Component 5	Legal and policy design – a multi-layer plan for cultural flows in Australia A pathway to cultural flows in Australia

RESEARCH PRINCIPLES

The National Cultural Flows Research Project was developed and delivered according to the following principles:

RIGHTS, RESPONSIBILITIES AND OWNERSHIP

This research will always be cognisant of the fact that the First Nations organisations consider this research program is about their inherent rights as Traditional Owners and Nations and peoples in accordance with their customs and traditions. This research must always acknowledge that the rights (demanded) are part and parcel of their customary and spiritual responsibilities and obligations. An obligation that is holistic, addressing human, environmental and spiritual elements.

MULTIDISCIPLINARY RESEARCH APPROACH

This research requires the integration of a number of scientific fields (e.g. social sciences, economics, human geography, anthropology, hydrology, ecology, etc); therefore a multidisciplinary approach will be taken. It should also incorporate appropriate quantitative and qualitative methodologies from these disciplines, including oral history interviews and other social science approaches.

APPLIED RESEARCH FOR THE BENEFIT OF FIRST NATIONS

The research shall be designed and developed for the purpose of identifying and implementing cultural flows for the benefit of First Nations people.

INTELLECTUAL PROPERTY

The knowledge of any First Nations person involved with or contributing to this research will remain the intellectual property of that person and will be protected at all costs. This is ensured by a signed Intellectual Property agreement between the knowledge holder and the researcher. If any of this information is sought for promoting discussion around cultural flows to a broader audience, the appropriate permission will be sought. Sensitive information will not be used for publication.

BUILDING CAPACITY

The research will help build the capacity of First Nations groups in water resource management, governance and research methodologies and tools. The research will also seek to provide reciprocal benefits including the transfer of traditional knowledge and skills back to the people and organisations involved in this research.

PARTICIPATORY RESEARCH

Research will follow the approaches of 'participatory research' or 'participatory action research' set in the context of the strategic priorities of the participating First Nations organisations. First Nations representatives will collaborate with non-First Nations participants in the research design and implementation. The aim is to increase the capacity of First Nation organisations to engage in further research as well as incorporate reflexivity (recognising the impact of the researchers on the process). The research process will recognise First Nations' views, spirituality and connection to country. The research will also assist in developing the pool of early-career First Nations researchers focused on cultural flows and natural resource management.

FREE PRIOR AND INFORMED CONSENT

The concept of free prior and informed consent that is recognised in International Law will underpin all elements of this research. First Nations people will have adequate knowledge of the issues, and understand the consequences and outcomes that may result from contributing their cultural knowledge, values and perspectives.

GOVERNANCE

The overall responsibility for directing and designing the research will lie with the National Cultural Flows Planning and Research Committee. Involvement in this committee will help build the capacity of First Nations organisations to reinforce existing First Nations' decision making structures.

ALIGNMENT WITH AUSTRALIAN GOVERNMENT STRATEGIES

The research will align with Australian Government strategies such as 'Closing the Gap', the principles of the MDBA's Indigenous Partnership Program and human rights principles including the Declaration on the Rights of Indigenous Peoples.

GOOD SCIENCE

The emphasis of this research is on good science; that is, the pursuit of knowledge and understanding of the natural and social world following a systematic methodology based on evidence and which respects transparency and accountability.

A new perspective on First Nations' water rights and interests

Water is not just a commodity to be amassed and distributed in a rational way to mouths, crops, grasses and industry. Water is spirit. Its very movement, its eddies and criss-crossing currents and its great over-flowing floods are transformative energy.

In this enlightened, science-based world, a monetary value is placed on water as a homogenous, utilitarian good and commodity that can be bought, sold, traded and consumed. When water is stripped of its "culture", the grand bargain between users, whether industrial or environmental, begins. Water engineers debate the different modes of managing water as supply, as storage and as a spill-over when rains come. The bids for megalitres take place.

First Nations communities have always understood, in our day-to-day understanding of a fragile environment, that water is literally life. Water has been flattened - stored, straightened, rationalised, chlorinated, fluoridated, de-snagged, pumped, piped, tunnelled and harnessed to generate power. Water has been distributed for well-intentioned environmental reasons. In so doing water has lost its soul. This is why the concept of cultural flows is so important. At this critical juncture, First Nations' knowledge and practical skills are coming to the fore. The concept of cultural flows is about channeling this long held intangible sense, un-recorded know-how and practical capability with modern scientific and hydrological expertise.

First Nations have survived through tens of thousands of years of momentous climatic changes, developing unique sensitivity and understanding of water in the landscape. Water has a spirit-life and being beyond the dominant, rational, modern comprehension.

It has a force and power beyond its immediate utility. In certain places it comforts and slowly pulses like the blood of the earth. In others it enlivens and sparkles. In the great ancient rivers of Australia, it slowly moves like giant vortices of meandering energy fields. It connects to the atmosphere as fogs and mists. It rises and falls as rain and it moves through the air as clouds.

Australian governments and non-Indigenous communities need to take a leap forward in consciousness and understanding, to embrace the concept of First Nations managed and inspired cultural flows in rivers, wetlands, swamps and estuaries around this great continent.

The two remarkable studies of the National Cultural Flows Research Project at Toogimbie Wetlands near Hay and Gooram Swamp near Weilmoringle underpin this in practical terms. The case studies defined cultural, ecological, social and economic well-being outcomes of cultural flows that extend beyond other known environmental projects. They demonstrated that water entitlements that are legally and beneficially owned by First Nations and that are of sufficient and adequate quantity and quality can improve the spiritual, cultural, environmental, social and economic conditions of the land and through them First Nations communities and in turn the whole community and environment.

DHUNGALA BAAKA – LESSONS FROM THE MURRAY-DARLING BASIN

The Murray-Darling Basin is one of the great wonders of the world. Since the colonial discovery of the rivers that flowed west into an apparent inland sea, the complex of waterways that is the Murray-Darling basin has inspired awe and inquiry. This great six hundred metre deep bowl with a three hundred and fifty million year old rock bottom twice the size of France is an extraordinary source of water, spirit and life itself. The great Murray River was named after a military officer who was secretary for English Colonies for two years and the Darling was named after a controversial governor of the then colony of New South Wales. As people learn more about the ecology of the great water basin these names seem inappropriate and perhaps indicative of the ignorance that modern society has exhibited towards this whole system of water and life. Two well-known deep First Nations' names are Dhungala for the Murray and Baaka for the Darling, but there are many First Nations' names for the rivers, flows and bodies of water that all merge together like blood veins across the great basin from the headwaters through to the Murray mouth. This extraordinary system of rivers, aquifers, soaks, swamps and wetlands has been the spirit and life centre for First Nations since the dawn of human time.

First Nations people have always known that the basin is more than just two rivers and more than just a great basin for the catchment of water - it is a complexity of interconnected life with subtle inter-relationships through floods and dry periods. Flood and drought have their effects and place in the preservation of the life force of the land. First Nations people have been the guardians and custodians of this great circulatory system of life in ways that others are only just starting to appreciate and understand through science and learning partnerships. The First Nations communities up and down the Baaka/Dhungala know and have always known that the state of this great circulatory system of water/life is a reflection of our own health, and

beyond that the health of the land, our spiritual well-being and a complex of inter-connected life forms and energy. The healthy "flow" of the various waterways over long distances through filters and underground aquifers across plains and along courses that have never changed in thousands of years is the energy of life itself. Dhungala Baaka is not just water it is energy and spirit that is reflective in humans, animals, flora and the land itself.

The National Cultural Flows Research Project is a small part of what must become a larger, ongoing restoration of all of the regions and characteristics of the Dhungala Baaka water/life complex, and other water systems across Australia. This must be based on First Nations' knowledge in learning partnerships and explorations between scientists, hydrologists, public water administrations, commercial and private water users and First Nations communities themselves.

Today over 46 sovereign First Nations retain their unique cultural identities and have the Dhungala Baaka water life system as their heart and soul. At the time of the formation of Australia's British colonies, there were hundreds of active communities around the Murray-Darling Basin. One of the powerful outcomes of the National Cultural Flows Research Project has been to revive the spirit of the First Nations researchers as they see water and land interacting in ways which bring life back to the sentinels of prosperity: trees, animals and flora, reinvigorating their traditional guardianship role. This revival of spirit and consciousness does not just belong to First Nations people, it is a benefit to all from cities and towns, to farmers and ordinary consumers. The health of this great physical basin of waterways and its systems and flows is a means to ensure the health of the whole continent and a guide to what must be done to restore and protect other great waterways and sources of life in other parts of Australia.

From the source of the rivers, to the meeting of the salt and fresh waters at the Murray mouth, First Nations have always been the spiritual think tanks of the waterways, wetlands and flood plains. The songlines and trade routes kept the knowledge of water flows and the health of the river systems alive. The making of the actual basin by the formation of the dividing range along the eastern seaboard to the barrier and grey ranges to the west of NSW were part of traditional lore. The formation of the system of life and the land itself by Mundaguddah (Murrwarri Rainbow Serpent) and other ancestral beings and entities was celebrated in ceremonies, hunting, agricultural and life practices that were in tune with the moods of the seasons, rivers and waterways. Through this, far before colonisation, First Nations people have developed a deep knowledge of the water beneath the land, the geography and hydrological features of water, the different cycles and life formations across the seasons and the inter-dependency of every life form from crustaceans to swans and bird life to ancient trees and forests within the system as a whole. In every sphere of the water complex, First Nations guarded life from dry times to floods and kept water flowing onwards to the next First Nations and to the many life forms that were dependent on it.

First Nations knowledge of the Dhungala Baaka water/life complex is becoming increasingly appreciated and recognised. Voices that were ignored are starting to be understood and recognised as of immense importance. As Bruce Pascoe has written, "To deny First Nations agricultural and spiritual achievement is the single greatest impediment to inter-cultural understanding and, perhaps, Australian moral and economic prosperity."

There has been a tendency to think that the health of the Dhungala Baaka complex can be restored by simply allocating flows of water for environmental purposes. In fact, First Nations' deep knowledge demands a holistic understanding of flows of water that integrates the environmental, social, cultural, spiritual and economic dimensions. This gives society a critical perspective to view bare earth farming practices and the whole gamut of river management practices from de-snagging and straightening of rivers to the role of dams and static water storage areas to the way in which water moves across the land through channels, pipes and irrigation systems.

The National Cultural Flows Research Project reconceptualises the Murray-Darling Basin as a life entity with its own character and sustenance levels. In the spirit of the Echuca Declaration, 'water has a right to be recognised as an ecological entity, a being and a spirit and must be treated accordingly, water is essential to creation and many Dreaming and other ancestral beings are created by and dwell within water'. The Dhungala Baaka complex emerges with material and spiritual personality that must be guarded and managed as it has been by First Nations in their nation and family entities for tens of thousands of years. Through owning, thinking, experiencing, managing and meditating about water and life, a radically different living idea of a water system emerges. For this to truly be activated First Nations' custodianship has to be at the centre of all aspects of water management. The whole way governments and non-Indigenous communities think about river complexes and water has to change.

MAWAMBAL: A MIRACLE OF GWEARGAL (LIGNUM) AT TOOGIMBIE

Mawambal is the Wiradjuri word for ceremony in which water, land and animals are sung, danced and protected. As Ian Woods, one of the Nari Nari research partners suggests, the flows of water from the Murrumbidgee River through the Toogimbie flood plain have revived knowledge and ideas from the past, creating a contemporary form of *mawambal*.

Toogimbie Indigenous Protected Area comprises 22,000 acres, approximately 30 kilometres from Hay, on the flood plains of the Murrumbidgee River in the Western Riverina and in the South West Region of NSW. The present day Toogimbie combines the original Toogimbie Station and a former adjoining property "Glenhope". It is the site of sacred places of great significance to the Nari Nari Nation. It was acquired by the Indigenous Land Council on behalf of the Traditional Owners and custodianship group in 2000. Since that time, under the guiding hand of the Nari Nari, the land has been transformed. Active eyes, thought processes and First Nations' knowledge have come together with the best of western environmental science and environmental management practices.

Toogimbie is neighboured by large irrigation-based corporate agricultural properties that stretch along the Sturt Highway which weaves along the Murrumbidgee River to the south west to Maude and Balranald and the north east to Griffith and Narrandera. Toogimbie's neighbouring properties draw heavily from the Murrumbidgee through very large pumps moving water along channels and pipes. Most have been cleared of trees and each year the earth is ploughed and formed into beds for the production of grains, cotton and a variety of other crops. Sheep, alpacas and cattle are grazed in large numbers along the Murrumbidgee. The Riverina is one of the most intensively farmed areas of Australia and, as its name suggests, it is very heavily reliant on the river systems of the Darling, Lachlan and Murrumbidgee. Toogimbie IPA Wetlands stands in marked contrast to its neighbours – emerging as an oasis of life amidst the dusty plains and farms up and down the Sturt highway.

The Nari Nari Tribal Council offered Toogimbie as a case study for the National Cultural Flows Research Project, providing an opportunity to investigate cultural flows in a highly regulated and actively managed system. An identified goal of water management at Toogimbie was to revive *Gweeargal* (the Wiradjuri word for lignum) shrubland, which even in protected environmental areas and national parks, is under significant threat and is not well understood. The story of the lignum at Toogimbie provides a glimpse into what can be achieved more broadly by putting control of water in the hands of First Nations.

Through more than 15 years of work by the Nari Nari at Toogimbie, the cultural landscape has been transformed, providing lateral connectivity between a flood plain and the parent river. In effect it has unplugged the area and allowed unfiltered water containing a myriad of fine organic particles, micro-scopic organisms, organic compounds and algae to flow over the plain promoting new growth in plants and insects and also in existing plants and trees. This fruitful, dirty unfiltered water triggers a boom in insects, molluscs, arachnids, worms and other food for water birds and frogs. This in turn triggers growth of *Gweeargal* which supports an enormous diversity of birds including ducks, grebes, swans, spoon bills, ibis, rails, crakes, cockatoos, finches, swallows and other native birds.

So how much water is needed, and at what intervals, to see this landscape revitalisation? What are the practical benefits that can be gained from applying cultural water? How can water management contribute to cultural and community strengthening? These were the questions that the National Cultural Flows Research Project sought to answer at Toogimbie.

The main allocation of water to the conservation area was planned for the spring of 2016. In fact, at that time a major flood of the Murrumbidgee meant that a greater amount of water flowed on to the property naturally than had been intended. At the peak of the 2016 flood, the

"What we're doing here is unique. And we want to share that – with non-First Nations people too. To be able to say, this is where we've got to, this is who we are, this is what we do. The Nari has been like a training centre or a training hub.

Have a look at the young people who come through here, they've all been trained on this country... When we teach, we teach what we know about the landscape and about the culture, then it's up to them whether they want to go on to study science or other things.

We've been successful – a lot of boys and girls have come through our system. Some of gone on to National Parks jobs, CMA jobs, water jobs... People have told us that there are opportunities for tourism, and getting people to come by from the road, but for me it's always been about the training. This is a place you can train and learn, and feel good about that".

Jamie Woods – Nari Nari Tribal Council

mean flow of water at Hay Weir was over 50,000 megalitres per day falling back to an average of 10,000 ML/d after a period of two months. The flow exceeded 26,000 ML/d for 43 days. This meant that water flowed through all of the planned areas of the wetland up to a peak of 1500 hectares within the conservation zones.

While not quite the managed watering event that had been planned, the 2016 spring flood nevertheless showed the extraordinary role that cultural flows can play in reviving the land.

One year later, in stark contrast to other properties that have stored water for mono cultural crop production, and on whose land water quickly dried up, Toogimbie wetlands continues to flourish as a major haven of many forms of life. It is now possible to develop a three year planning cycle to sustain the wetlands and to provide a practical working model for other properties and areas.

To date, the success at the Toogimbie site has revolved around the ability to access water accumulating to a 2150 megalitre Cultural Access Licence, provided for under the Murrumbidgee Water Sharing Plan. The licence is temporary and does not have the same flexibility as commercial water rights for farming. One of the lessons of the cultural flows research project is that First Nations require the permanent and ongoing ownership of water for cultural flow purposes that has the same status as commercial water rights, and with the flexibility to ensure the long term development of sustainable enterprises.

Permanent and on-going water allocation is required to continue the rehabilitation of the natural flood plains and for strengthening the community of custodians who have a cultural obligation to manage it.

A next step for Toogimbie is to ensure there is a water returns pathway to the river that can filter bio-organisms through the wetlands and return living water to the river contributing to carbon recycling, movement of bio-organisms in tune with the life cycles of birds, plants, fish, crustaceans and animals and improves water quality generally. In this way, the Nari Nari will be able to fulfil their cultural obligations to downstream users and contribute to the health of the whole river as a living entity.

For the Nari Nari community, Toogimbie represents many good things. It is a circle of prosperity. It is a source of cultural revival that is reflected in the health of the land. It provides jobs and vocations. Toogimbie is a true model of a sustainable enterprise. For smaller water allocations than most mono-culture crop or grazing properties it creates flow on effects for the water and the land. It benefits all of the neighbouring properties through the diversity of plant, bird and animal life it attracts to the region. It creates career paths for knowledgeable environmental managers who can earn a living advising farmers how to create greater efficiency in their environmental management systems. It uplifts the new generations of Nari Nari young people.

GOORA/KURUWA (RIVER RED GUM) – REVIVING ANCIENT SPIRITS AND SUBTARRANEAN PATHWAYS AT GOORAMAN SWAMP

Up and down the Dhungala Baaka, *Goora/Kuruwa* have spiritual and emotional connections to the ancient past and to the people of generations going back before time. Their health and growth is a symbol of the health of the water and the land. Often the faces on ancient trees tell a story and convey a presence. Their deep roots travel far into the earth. Full of bird life in their hollows and creating homes for animals on the ground where great limbs have fallen, they are like mini-universes in their own right. There is also the invertebrate life within the bark and the insect life around the tree. This in turn attracts birds and a whole ecology of inter-related activities. Is it the deep roots of the Old Men, the River Red Gums, that follow the subterranean water or is it the health of the river gums that tell learned men and women that the water courses hundreds of miles away are not full? At Gooraman Swamp all these questions emerge.

For the Murriwarri people the ancient aquifers and subterranean waterways are the province of a spirit being that still reflects the spirit of water and is known across almost every First Nations community in Australia. The rainbow serpent is the very embodiment of the flow of water and its evaporation into the sky and clouds as rainbows. Mundaguddah is the Murrawarri name for this great spirit synonymous with water. Murrawarri spokesperson Fred Hooper explains “..if you get in the Culgoa, down to Weilmoringle, and you fill that waterhole up, and you have enough water flowing down the system, then there are a number of waterholes, which allows the connection to Garrara Springs, the home of the Mundaguddah. The connection then allows him to travel. It’s the same – there are all different names for him all throughout Australia. There’s a common connection. We need the cultural flow to fulfill our spiritual side of it, into Gooraman Swamp.” Water and spirit are connected and they come together flowing under and across the land. This spirit also brings life to the land, the plants, animals and human beings. If the flow stops, life stops.

From a hydrological, and even an agricultural perspective, the strategic importance of Gooraman swamp is well understood. 782 kilometres north of Toogimbie, within the 3,500 hectare Weilmoringle Indigenous Protected Area, Gooraman Swamp is an important wetland that is the source of so much interconnected life and acts as a major filtration system for the lower river system. Just as lignum provided a guide to the health of the land at Toogimbie, it is the River Red Gums that are the messengers of the land here.

Located on the floodplain of the Culgoa River, approximately 20 km southwest of the Culgoa National Park, Gooraman Swamp and its surrounding land is part of the Darling Riverine Plains. This is an area of extensive floodplains of 10 major rivers: the Barwon-Darling, Culgoa, Birrie, Bokhara, Narran, Gwydir, Namoi, Castlereagh, Macquarie and Bogan. All of these rivers flow into the mighty Darling (Baaka). The area surrounding Gooraman Swamp is comprised of Northern Riverine Woodlands, which is a habitat type that includes river red gum woodlands along river frontages and extensive coolibah – black box woodlands on the floodplains of the Culgoa River. The riverine woodlands on the Culgoa River floodplain (particularly in the nearby Culgoa National Park) are the largest and least disturbed area of contiguous coolibah woodland left in NSW. Like Toogimbie, Gooraman Swamp is surrounded by intensive water using agriculture. Of the 1,250 cotton farms in Australia the great majority of them are to the north and south-east of the Gooraman Swamp, stretching from Dalby and St George in Queensland to Gunnedah in the south.

For the Murrawarri people, whose lands stretch between Queensland and New South Wales, sacred work includes ensuring that the water and the land is healthy. The water from Murrawarri country flows through the Baaka system, connecting up to the mighty Dhungala and then down to the ocean at Ngarrindjeri country, making the Murrawarri caretakers for many thousands of people.

As Eric Rolls notes, "Australia delineates its waterways with trees". For First Nations communities trees are more than simply fauna, they are living members of their family.

Trees symbolise wisdom, knowledge and the health and spirit of the land. One of the sacred river trees is the river red gum (*eucalyptus camaldulensis*). The way in which floods and dry periods affect these great giants is part of the findings of the Gooraman Swamp case study, overseen by the Murrawarri people. The research documented what the Murrawarri have known for generations.

Flows of water at particular times of the year excite these giants. A flood in summer, muddy water swirling about their trunks invite seed capsules to open and millions of the yellow seeds shower into the water to germinate on the edges of the flood. Over the course of a hundred years a River Red Gum produces two tonnes of seeds - a total of twelve hundred million seeds. But the flows that once revived Gooraman Swamp's river red gums nearly every year now comes fewer than 25 percent of years.

The landscape has continued to change since the advent of European farming and further development of water intensive agriculture. With that, the frequency, rate and flow patterns of floods have changed, in turn impacting the kind of tree species, plant and flora that can live. It is in this context that the cultural flows are needed to return water to the Gooraman Swamp and in so doing help to revive animals and plants that were under threat, restoring the rhythms and cycles that allow life to flourish.





CONCLUSION

We must deeply change how ordinary Australians and key decision makers think and act in relation to the Murray-Darling Basin. Through the National Cultural Flows Research Project, Dhungala Baaka emerges as a life spirit complex. It comes to life through the modern interaction of First Nations knowledge and practices with scientists, hydrologists, historians and lawyers. This project is just the start.

Beyond this research project much more deep level interaction and practical research must now occur. All of the nodes and sections of the basin known by First Nations must be activated and studied, similar to the Toogimbie Wetlands and Gooraman Swamp projects. Practical interactions with actors in the Dhungala Baaka complex must occur from large-scale irrigators and farmers to the smallest water consumers. The way in which water managers allocate flows must move beyond simple industrial or environmental considerations.

All Australians must come to appreciate the life spirit of the Dhungala Baaka, the value of its good health on the nation and the lessons that it can provide for First Nations' water management across the Country.

MORE INFORMATION CAN BE FOUND AT:

www.culturalflows.com.au

www.mldrin.org.au

www.nban.org.au

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Echuca Declaration

PREAMBLE

RECOGNISING and REAFFIRMING that each of the Indigenous Nations represented within Murray and Lower Darling Rivers Indigenous Nations is and has been since time immemorial sovereign over its own lands and waters and that the people of each Indigenous Nation obtain and maintain their spiritual and cultural identity, life and livelihood from their lands and waters; and

We, the Indigenous Nations of the Murray and Lower Darling River have never given up our sovereignty over our Country and it is our Country that has always given us everything.

Further RECOGNISING and AFFIRMING that water has a right to be recognised as ecological entity, a being and a spirit and must be treated accordingly. For the Indigenous Nations water is essential to creation and many of Dreaming and other ancestral beings are created by and dwell within water.

Water is living being and should be treated accordingly. Many of our ancestral beings are created by and live in water.

WHEREAS the Commonwealth of Australia and the States of Queensland, New South Wales, Victoria and South Australia assert competing sovereignty over the lands and waters; and

We understand that the Federal and State Governments of Australia say that they have lawfully acquired sovereignty over our lands but we deny and reject that statement.

WHEREAS the Commonwealth and States of Australia have introduced and enforced unlawful and unjust mechanisms affecting an alienation of the legal entitlements of the Indigenous Nations to the ownership, use and benefit of the lands and the waters, without compensation; and

The Federal and State Government of Australia have used their laws to take away our lands and without our permission and without compensation.

WHEREAS in little over 200 years the Crown, Colonies, Commonwealth and States of Australia have been negligent in the management of the lands and waters of the Indigenous Nations causing ecosystem collapse, severe water quality degradation, extreme stress upon river ecologies and species extinction at a scale and rate which is unprecedented; and

WHEREAS the affect of 200 years of negligent and improper management of the lands and waters and denial of access of to country has brought gross and widespread detriment to the cultural economy of the Indigenous Nations and degradation of significant landscapes and sites of spiritual and cultural importance; and

Because the Federal and State Governments have failed to properly care for the Country and not allowed us onto our lands and waters we have been denied our basic human rights and our sacred places have been damaged and destroyed.

WHEREAS the Indigenous Nations each have responsibilities and obligations under their Indigenous Law/Lore and Custom to protect, conserve and maintain the environment and the ecosystems in their natural state to ensure the sustainability of the whole environment;

We have obligations under our Law/Lore and Custom to care for Country and to respect our neighbours both down and up stream.

The Murray and Lower Darling Rivers Indigenous Nations DECLARE that it adopts the following definition of "Cultural Flows" and processes for engagement and inclusion of the Indigenous Nations in the management of their rivers and waterways

We DECLARE that this document says CULTURAL FLOWS means

PART I - DEFINING CULTURAL FLOWS AND CULTURAL FLOW OUTCOMES

ARTICLE 1 – DEFINING CULTURAL FLOWS

"Cultural Flows" are water entitlements that are legally and beneficially owned by the Indigenous Nations of a sufficient and adequate quantity and quality to improve the spiritual, cultural, environmental, social and economic conditions of those Indigenous Nations. This is our inherent right.

Cultural Flows are water rights that we hold in our own name and are not held in trust by Government AND provide us with enough clean water to improve all parts of our lives.

ARTICLE 2 – DEFINING CULTURAL FLOW OUTCOMES

The environmental, social and economic conditions of the Indigenous nations will be improved by the achievement of the cultural flow outcomes namely

Our lives will be improved by cultural flows if

- i. Survival and sustainable health of the rivers and waterways through the restoration of natural flow regimes;

The rivers and creeks get a proper amount of water at the right times.

- ii. Improved and strengthened spiritual, physical and mental health of the Indigenous people whose beliefs, cultures, identities, prosperity and physical wellbeing are inseparable from the environment and whose lifeblood is the waterways;

The health of our spirit, body and mind is improved and strengthened. The land, water and people are one.

- iii. To protect and restore ecosystems such that native plants and animals and their habitats are able to be used and managed in accordance with the cultural practices of the Indigenous Nations including but not limited to:

If our Country is healthy enough that we can look after and use our Country according to our culture, including

- a. Propagation and harvesting of plant species for medicine, timber, food sources, and material for manufacture of tools, clothing and housing;
Growing and gathering plants for all our cultural uses.
- b. Protecting, hunting and killing animal species for food, medicine, clothing and all other cultural uses;
Protecting, hunting and killing our animals for all of our cultural uses.
- c. Spiritual, ceremonial, cultural and social activities;
Song, dance, story, art, ceremony and all our other spiritual, cultural and social activities.

- d. Use of earth and minerals for spiritual, cultural and social purposes including economic purposes,

Using our earth and minerals to make our spirit, culture and community stronger and to relieve us from poverty.

- e. tool making and medicinal purposes;
To make tools and medicines.

- f. Use of the water for drinking, hygiene, recreation, spiritual and ceremonial purposes;

Use of our water to drink, wash, for sewerage, to swim, for ceremonies and to make our spirit stronger.

- g. Use of the whole of the environment for educational purposes including the recording and transmission of Indigenous science and knowledge;

To teach our people about our Country including collecting, protecting, respecting and passing on knowledge.

- h. Improved economic opportunities and prosperity;

Better chances for a healthy and wealthy life

- iv. Recognition by the Commonwealth and States of Australia and non-Indigenous Australians of the inherent rights of the Indigenous Nations and the need to give full weight and value to Indigenous Science, Knowledge and Practices.

Recognition by all Australians that this is our Country and that we need to be listened to when we talk about our Country.

- v. The cultural flow outcomes are outcomes that the Indigenous Nations have been able to record or measure and determine whether the outcomes have been achieved.

We are the only ones who can decide if our Country and our lives have improved.

PART II – MECHANISMS FOR DELIVERING CULTURAL FLOW OUTCOMES

ARTICLE 3

The Commonwealth and the States must identify funding and non-monetary mechanisms for the allocation of the water entitlements to the Indigenous Nations.

The Federal and State Government must give us the money to buy water rights and give us water rights.

ARTICLE 4

In the acquisition and allocation of water entitlements to Indigenous Nations as cultural flows the Commonwealth and State Governments must:

When the Federal and State Governments are buying water rights to give to us they must

- i. Adhere to the principle that the free and fully informed prior consent (“consent”) of the Indigenous Nations is necessary, desirable and best practice;

Tell us exactly what they want to do and let us make our own decisions, without being pressured, before they do it.

- ii. Seek the consent of the Indigenous Nations in respect of the water acquisition for cultural flows;

Ask our permission

- iii. Seek the consent of the Indigenous Nations in respect of any proposed restriction on cultural flow outcomes;

Ask our permission if they want to stop us from using the our water for anything we choose.

- iv. Transfer water entitlements to such incorporated body as the Indigenous Nations may nominate.

Transfer our water rights to the company we choose.

ARTICLE 5

With respect to the management and decision making in respect of releases of cultural flows the Commonwealth and States of Australia, the Murray Darling Basin Commission, the National Water Commission and their successors should ensure that the Indigenous Nations have access to technical and scientific support as and when required and that proposed cultural flow releases are able to be co-ordinated with other releases and events so as to achieve maximum efficiency and effectiveness and implementation of cultural flow outcomes.

All Federal and State Governments and water authorities must make sure we get proper advice so we understand what they want to do and why and that they work with us so that we get the best results from our uses of our cultural flows.

ARTICLE 6

Specific mechanisms must be developed for the urgent and immediate acquisition of water entitlements identified for economic outcomes.

The Federal and State Governments must act straight away to get us water rights we can use to make money.

PART III – DETERMINING THE QUANTITY OF CULTURAL FLOWS

ARTICLE 7

The overriding objective in determining the type and location of water entitlements acquired and transferred to the Indigenous Nations for cultural flows must be sufficient to ensure that the Indigenous Nations, through their legal and beneficial ownership of the water entitlements, can achieve substantial and measurable cultural flow outcomes.

When buying or giving us cultural flows everyone, including Federal and State Governments, should remember that the amount of water we need must be enough to get lasting results that we can see.

ARTICLE 8

In the first instance water entitlements transferred to Indigenous Nations as cultural flows must be at least the equivalent of water entitlements acquired by the Commonwealth and States of Australia or their agencies in respect of "environmental flows".

Until we tell Governments how much water we need to get lasting results that we can see, we should be given at least as much water for cultural flows as the government gives for environmental flows.

ARTICLE 9

Water entitlements allocated as cultural flows for direct economic outcomes must at least match water entitlements for cultural flows for non-economic outcomes.

The amount of water we get for cultural flows that is not allowed to be used to make money should be the same amount as we can use to make money.

Developed by MLDRIN on 14 November 2007

Adopted by NBAN and MLDRIN (with minor edits) at a joint meeting on 19 May 2010



Cultural flows are water entitlements that are legally and beneficially owned by the Indigenous Nations of a sufficient and adequate quantity and quality to improve the spiritual, cultural, environmental, social and economic conditions of those Nations. This is our inherent right.

Echuca Declaration, 2010

