

SUBMISSION

TO: MURRAY DARLING BASIN – ROYAL COMMISSION

FROM: NGARRINDJERI REGIONAL AUTHORITY INC

RE: SUBMISSION BY NGARRINDJERI REGIONAL AUTHORITY INC FOR AND ON
BEHALF OF THE NGARRINDJERI

DATE: 9TH MAY 2018

Ngarrindjeri

The Ngarrindjeri are the Traditional Owners and Native Title Claimants of the land and waters of the River, Coorong and Lakes Alexandrina and Albert and adjacent areas and assert control under traditional laws over our land and waters, and have cultural authority and responsibility for areas extending up the River to Morgan through our member organisation, Mannum Aboriginal Community Association Inc.

The Ngarrindjeri have an inherited right and duty to speak for, control and care for our country, knowledge, objects, articles and remains (including human remains) in accordance with our laws, customs, beliefs and traditions.

The Ngarrindjeri act through our representative bodies being Ngarrindjeri Tendi Incorporated, Ngarrindjeri Heritage Committee Incorporated and Ngarrindjeri Native Title Management Committee. These bodies, with other representative bodies within the Ngarrindjeri community have formed a peak body called the Ngarrindjeri Regional Authority Inc. ('NRA') for the purpose of coordinating activities and resources of the Ngarrindjeri community and high level interactions with Governments. The purpose and goals of the NRA are as follows:

Ngarrindjeri Regional Authority:

Building our Nation

Securing our future

Caring for our people, lands, waters and all living things

Goals:

Strong Culture; Sovereign First Nation; Secure Future; Healthy Country; Confident People;

Creative Economy; Respected History; Regional Leader

Message:

Working together for a strong, healthy and sovereign Ngarrindjeri nation

Cultural Principles

Ngarrindjeri consider that all things are connected, including the land, water and sky. It is Ngarrindjeri cultural principle that nothing can separate or should separate these things from each other. These are the laws that creation ancestor Ngurunderi used to create order and unity for the Ngarrindjeri. This includes the creation of the flow of water from up river and into Ngarrindjeri country. Ngarrindjeri use the term Ruwe/Ruwar to describe the interconnectivity between land, waters, spirit and all living things. The Ngarrindjeri 'Vision for Country' encapsulates the Ngarrindjeri philosophy of being (Ruwe/Ruwar) and is outlined below:

Our Lands, Our Waters, Our People, All Living Things are connected. We implore people to respect our Ruwe (Country) as it was created in the Kaldowinyeri (the creation). We long for sparkling, clean waters, healthy land and people and all living things. We long for the Yarluwar-Ruwe (Sea Country) of our ancestors. Our vision is all people Caring, Sharing, Knowing and Respecting the lands, the waters and all living things.

(Ngarrindjeri Nation Yarluwar-Ruwe Plan 2006: 5)

Ngarrindjeri are part of the water. It is life, gives life and is living. The cultural and spiritual relevance for Ngarrindjeri of water as a source of life and as part of the living body is that it flows, within, around and, through Ngarrindjeri country. The exercise of Ngarrindjeri cultural rights and the fulfillment of Ngarrindjeri responsibilities include being interconnected with and being part of the living water. The flow of water forms part of the interconnectedness of Ngarrindjeri to our country and the failure of water to flow into our country impacts upon our exercise of rights and our fulfillment of responsibilities as custodians of the land, water and sky.

Ngarrindjeri state:

The Meeting of the Waters is a fundamental aspect of the Ngarrindjeri world where all things are connected, whether they are living, from the past and/or for future generations. The Meeting of the Waters makes manifest core concepts of Ngarrindjeri culture that bind land, body, spirit, and story in an integrated, interfunctional world. The principles that flow from this cultural system are based upon respect for story, country, the old people, elders and family. The pursuit of these principles is contingent upon maintaining a relationship with country. The violation of these respect principles are manifest through the destruction of Ngarrindjeri Yarluwar-Ruwe (a concept that embodies the connectedness and interfunctionality of our culture) and their effect upon the behaviours and survival of ngatji (the animals, birds and fish). According to these principles and contingent beliefs the "environment" cannot be compartmentalised: the land is Ngarrindjeri and Ngarrindjeri are the land. All things are connected and interconnected. Ngarrindjeri philosophy is based on maintaining the integrity of the relationship between place and person. It is the responsibility of the living to maintain this continuity. The past is not and cannot be separated from the here and now or the future. To break connections between person and place is to violate Ngarrindjeri culture. The objective in undertaking activities upon Ngarrindjeri country should be to not cause violence to Ngarrindjeri culture.

Flowing water – prior right

The Ngarrindjeri have occupied, enjoyed, managed and used our inherited lands and waters of the River Murray, Lakes and Coorong since time immemorial. Ngarrindjeri consider that Ngarrindjeri have first right, a right attached to the exercise of our cultural rights, interests and responsibilities, that precede all other rights including but not limited to the legislative function of the MDBA to allocate water for particular uses. The rights and interests of the Ngarrindjeri require that water flows into, through and from, our country from up river. This is a right *a priori* to all others and the MDBA should commence their consideration of allocations without interferences of these rights.

Ngarrindjeri ‘Speaking as Country’

The Ngarrindjeri assert we have an inherited customary right and duty under our traditional laws and customs to speak for, control and care for our country, knowledge, objects, articles and remains. This concept is termed Ngarrindjeri Yannarumi or ‘Ngarrindjeri speaking as country’. Ngarrindjeri Yannarumi is being reconceptualised by Ngarrindjeri leaders in a contemporary form to take into account the impacts and changes that have occurred to Ngarrindjeri Yarluwar-Ruwe as a result of colonisation. The NRA takes responsibility for assessing whether something is healthy, lawful and creates wellbeing – based on the concept of Ngarrindjeri Ruwe/Ruwar.

Aboriginal heritage site – Meeting of the Waters

Ngarrindjeri are the traditional owners of Registered Site No. 6626-4727 ‘Meeting of the Waters’. This Aboriginal Site is registered under the *Aboriginal Heritage Act 1988* (SA). It includes the Goolwa Channel, the Murray Mouth and the Currency and Finnis Rivers. The cultural health of this area requires adequate fresh water flows from up river to flush out the Murray Mouth and ensure that the Ngarrindjeri are able to continue to exercise our cultural rights in this area, including the flushing of the Murray Mouth.

International agreements

The Australian Government has obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In accordance with Articles 8, 19, 25 & 32 Indigenous people must have a central role in the development, implementation and evaluation of policy and legislative or administrative measures that concern water. As a Contracting Party to the Ramsar Convention, the Australian Government also has obligations as per Ramsar Resolutions IX.21 and III.19 pertaining to cultural values water and wetlands.

Basin Plan implementation

The Millennium drought had serious implications for the health of Ngarrindjeri Ruwe/Ruwar. Ngarrindjeri recognise that the Basin Plan is the current best available option in securing a healthy and resilient future for the Murray Darling Basin system.

Ngarrindjeri, however assert that the Ngarrindjeri established Kungun Ngarrindjeri Yunnan (“Listen to Ngarrindjeri Speaking”) Agreement (KNYA) engagement strategy as the preferred mechanism to guide the implementation of Chapter 10, Part 14 of the Murray-Darling Basin Plan.

Ngarrindjeri support higher water recovery targets for restoring the freshwater flows required to sustain Ngarrindjeri cultural life in the River, Coorong, Lower lakes and Murray Mouth.

Notwithstanding, Ngarrindjeri have concerns with the manner in which the Australian Government and its agencies have failed to observe projected timeframes in implementing the deliverables of the Basin Plan. Ngarrindjeri expect adherence to the timetable for implementation of the Basin plan without deferral or delays.

Ngarrindjeri also consider that the 1500GL cap on water buybacks recently passed in the Australian Government will undermine the progress of water recovery.

Ngarrindjeri consider that the Basin Plan’s Sustainable Diversion limits for each catchment and the overall limit for the Murray Darling Basin should commence on schedule in 2019 without deferral or delays.

Ngarrindjeri also have concerns around the water trade market, focusing particularly on the lack of engagement with Indigenous First Nation groups within the water trade area.

Ngarrindjeri strategies of engagement and formal agreements

Ngarrindjeri through the NRA entered into a legally binding contractual whole of government Kungun Ngarrindjeri Yunnan (listen to Ngarrindjeri speaking) agreement with the State of South Australia in 2009. The KNYA establishes a formal resourced framework for negotiation and participation between Ngarrindjeri and Government and guides and facilitates equitable Ngarrindjeri engagement in water resource research, policy development and management processes within the SA Murray Darling Basin region.

NRA has engaged in the development of business cases under the federally funded Murray Futures program including the Coorong Lower Lakes and Murray Mouth Recovery project and the Riverine Recovery Project to ensure Ngarrindjeri engagement and participation in health giving programs and projects along the River and Coorong, Lakes and Murray Mouth region. These funded programs prioritise the development of Ngarrindjeri capacity building through employment, training and economic opportunities associated with Caring for Country and bring Ngarrindjeri interests and cultural principles into water management and natural resource management. The key program driving this engagement is the Ngarrindjeri Yarluwar-Ruwe (Sea Country – all Ngarrindjeri lands and waters) program which treats ‘Caring for Country’ as a holistic, nation-building project designed to create a healthy future. These programs have supported the implementation of key deliverables under the basin plan. The Ngarrindjeri Yarluwar-Ruwe Program is the 2015 winner of the prestigious International RiverFoundation Australian Riverprize.

The KNYA was central to the instigation of two water workshops that brought River Murray Aboriginal Nations together with State and Federal representatives. These workshops facilitated in the drafting of a Water Resource Planning Statement of Commitment between DEWNR, SAMDB NRM Board, SE NRM Board and the NRA to recognise Ngarrindjeri interests in water and involve Ngarrindjeri directly in water planning in order to guide the implementation of Chapter 10, Part 14 of the Murray-Darling Basin Plan.

Ngarrindjeri have received formal Commonwealth recognition through incorporation of the preferred Ngarrindjeri engagement process, acknowledgement of the Sea Country plan through the Murray Darling Basin Authority’s lower lakes, Coorong and Murray Mouth Icon Site Environmental Watering Plan 2014.

The recently signed Water Resource Planning Statement of Commitment (SOC) between the State government of SA and the NRA will guide water resource planning engagement into the future. Implementing the SOC will deliver Basin Plan accreditation in Indigenous engagement, as well as progress a number of Ngarrindjeri water related interests. It is accompanied by a Cultural Knowledge Agreement that protects Ngarrindjeri cultural information but supports its sharing for the development of Water Resources Plans in SA. This is an innovation at a Basin-level, and is leading MDB State engagement approaches to implementing the Basin Plan.

Ngarrindjeri have recently entered into a formal Speaking as Country Deed 2014 with the South Australian Government. The deed affirms the importance of freshwater flows down the River Murray and an open Murray Mouth, and for the parties to work together to ensure end of system flow objectives support the maintenance of the cultural health of the registered ‘Meeting of the Waters’ heritage site. The deed acknowledges that Ngarrindjeri speak for, control and care for their country, knowledge, objects, articles and remains. The Basin Plan states an outcome will be pursued of

ensuring the mouth of the River Murray is open without the need for dredging in at least 95% of years, with flows every year through the Murray Mouth Barrage.

Ngarrindjeri have also entered into a Statement of Commitment with the SA Government pertaining to the review of the Coorong and Lakes Alexandrina and Albert Ramsar wetland site Ecological Character Description (ECD). Ngarrindjeri's input into the ECD will further assist the Australian government in fulfilling their obligations under the Declaration on the Rights of Indigenous Peoples adopted by the United Nations UNDRIP and as a Contracting Party under the Ramsar convention.

Ngarrindjeri consider the engagement process they have developed with the SA Government provides well-developed structures and practices to support equitable and effective Ngarrindjeri engagement and participation in the implementation of the Murray-Darling Basin Plan and is the preferred approach to engagement with Ngarrindjeri. This equitable engagement requires a properly resourced Ngarrindjeri Yarluwar-Ruwe Program so the award-winning achievements of this program can continue to enable Ngarrindjeri to exercise cultural responsibility to maintain the health of Ngarrindjeri lands, waters and all living things.

Ngarrindjeri urge the Select Committee to:

- Ensure sufficient flows down the River Murray to keep the Murray Mouth open and the Kurangk (Coorong), Lakes and Meeting of the Waters healthy;
- Support the full and timely implementation the MDB Plan;
- Support— in principle — a Constraints Management Strategy that ensures the health of the river system
- Support – in principle – the current timetable for Sustainable Diversion Limits implementation;
- Ensure better processes of Aboriginal engagement by the Australian Government and the MDBA;
- Respect Ngarrindjeri cultural values and connection to Yarluwar-Ruwe;
- Consider Indigenous equity in water allocation;
- Give a hearing to Ngarrindjeri before the Select Committee to enable us to express and explain our views directly.

References:

Birckhead, J, Greiner, R, Hemming, S, Rigney, D, Rigney, M, Trevorrow, G, and Trevorrow, T, 2011 *Economic and Cultural Values of Water to the Ngarrindjeri People of the Lower Lakes, Coorong and Murray Mouth*, CSIRO Water-For-A-Healthy-Country Flagship Report, River Consulting, Townsville.

Hemming, S. and Rigney, D. 2012 'Ngarrindjeri futures: negotiating a future through Caring for Ruwe/Ruwar (lands, waters and all living things)' in Figgis, P., Fitzsimons, J. & Irving, J. (Eds.) *Innovation for 21st Century Conservation*, Sydney: Australian Committee for IUCN, pp. 186-191.

Hemming, S, Trevorrow, T, and Rigney, M, 2002 'Ngarrindjeri culture' in M Goodwin and S Bennett (eds), *The Murray Mouth: Exploring the implications of closure or restricted flow*, Department of Water, Land and Biodiversity Conservation, Adelaide, pp.13–19.

KNYA (Kungun Ngarrindjeri Yunnan Agreement) 2009 Ngarrindjeri Tendi Incorporated, Ngarrindjeri Heritage Committee Incorporated and Ngarrindjeri Native Title Management Committee for and

on behalf of the Ngarrindjeri people and The Crown in right of the State of South Australia represented by the Minister for Environment and Conservation, the Minister for Aboriginal Affairs and Reconciliation, the Minister for the River Murray, and the Minister for Agriculture, Food and Fisheries (5 June 2009).

Ngarrindjeri Nation 2006 *Ngarrindjeri Nation Yarlumar-Ruwe Plan: Caring for Ngarrindjeri sea country and culture*, prepared by the Ngarrindjeri Tendi, Ngarrindjeri Heritage Committee and Ngarrindjeri Native Title Management Committee, Ngarrindjeri Land and Progress Association, Camp Coorong, Meningie, SA, <www.environment.gov.au/indigenous/publications/pubs/ngarrindjeri-scp-2006-1.pdf> accessed 5 June 2014.

Ngarrindjeri Regional Authority (NRA) 2012 NRA Submission to Murray-Darling Basin Authority for and on behalf of the Ngarrindjeri People in relation to the Proposed Basin Plan, 16th April 2012, Berg Lawyers, Adelaide, 4 pgs.

Some relevant films:

NUKKAN KUNGAN YUNNAN – Ngarrindjeri Being Heard
(<https://www.youtube.com/watch?v=rGIsv-dSs4>)

FLOW: Life Giving Lands and Waters (<https://vimeo.com/58614566>)

We are Ngarrindjeri (<https://vimeo.com/98509879>)