

9th October 2018



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Mr Philip Glyde
Chief Executive Officer
GPO Box 1801, Canberra City,
ACT 2601

Re. Assessment of SA Murray Region Water Resource Plan

Dear Mr Glyde,

I am writing to advise you of MLDRIN's revised advice after amendments to the South Australian Murray Region Water Resource Plan (WRP).

In our draft advice, provided to the Authority and dated 23rd February 2018, MLDRIN highlighted the absence of information to demonstrate how regard had been had for risks to Aboriginal Values and Uses, as required under section 10.53(1)(f) of the Basin Plan.

Since that advice was submitted, MLDRIN has been provided with an amended WRP which demonstrates how South Australia has had regard to risks to Aboriginal Values and Uses. We understand that South Australian Government representatives have engaged with the relevant MLDRIN Delegates to inform them of the amendments and seek their views. In the absence of a dedicated workshop for this second phase of assessment, MLDRIN has sought the views of the relevant South Australian delegates on this amended text. Based on that consultation we present the following amended advice:

South Australia has demonstrated some regard for risks to Aboriginal Values and Uses in the amended text of the plan

MLDRIN notes that the WRP states that it 'does not explicitly evaluate risks to Aboriginal values and uses. However, where Aboriginal values and uses overlap with environmental values and uses, they have inherently been considered in that part of the risk assessment.' MLDRIN does not consider the conflation of environmental and cultural values to be best practice in risk assessment.

However, we note the commitment to ongoing research and engagement with South Australians through the development of the Yana Rumi Assessment methodology, Cultural Flows Research and the principles of engagement committed to in the WRP.

Relevant South Australian delegates have indicated their support for this proposed approach to consider and address risks to Aboriginal values and uses through

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implementation of appropriate assessment and engagement.

On that basis, MLDRIN recommends the SA Murray Region WRP for accreditation.

This advice should be read in conjunction with the draft advice provided to the MDBA in February 2018. The attached assessment framework has been updated to reflect the text of the amended WRP.

We request that this updated advice, the updated assessment framework as well as the original draft executive summary (SAMR_WRP_Exec.Summary.pdf), should be submitted to the Minister as part of the assessment package.

Please contact MLDRIN's Executive Officer Will Mooney, if you have any questions about this advice.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rene Woods', with a stylized flourish at the end.

Rene Woods
Chairperson, MLDRIN

Criteria	Assessment of performance					Comments demonstrated (Notes)
1. MDBA Assessment Criteria (Criteria supplied by MDBA for assessment based on MDBA Position Statement)						
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)	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>Largely addressed in section 5.14.2 and 5.14.2.1 of the WRP.</p> <p>Workshop participants noted that a planned approach was demonstrated. With improvement around resourcing and timeframes it would be very good.</p> <p>There was a strategic approach to engagement based on multiple levels of consultation (SA MLDRIN meetings, Multi-Nations meetings, Nations etc).</p> <p>While there was no specific Engagement Strategy provided, there was strategic engagement guided by agreements in some case: eg Ngarrindjeri SOC. Ngarrindjeri delegates pointed out that they had instigated the SOC process.</p> <p>Appropriate venues were used for</p>

		<p>the engagement activities.</p> <p>There were resources provided to support engagement. Participants noted that MLDRIN was shown details of an internal South Australian Government (SAG) funding bid for resourcing for WRP development in early 2016. This provided line of site to resourcing for a strategic approach.</p> <p>SAG funded Water Coordinator positions with the First Peoples and Ngarrindjeri helped to support good engagement. However, Ngarrindjeri wanted a much higher level of funding. Ngarrindjeri Regional Authority (NRA) requested to be funded to undertake components of WRP preparation for themselves</p> <p>One participant noted that, when participation started, it was a bit ad hoc, but it became more structured and had better outcomes over time.</p> <p>Delegates noted time frames were too short to allow input at the level</p>
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						they would have liked. .
Appropriate Nations were identified and involved throughout <u>all</u> stages of the water planning process.	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>Participants felt that SAG had done a good job identifying and involving appropriate Nations throughout the water planning process.</p> <p>Three main Nations were involved in all stages of the development of the WRP: NRA, River Murray and Mallee Aboriginal Corporation (RRMAC) and Mannum Aboriginal Community Association Incorporated (MACAI).</p> <p>Some other Nations were not involved in the process till somewhat later. SAG sought input from the three main Aboriginal orgs on what other groups to engage with.</p> <p>In terms of involvement through <i>all</i> stages of the planning process, there was a reflection that timeframes were too short to allow some groups to contribute conclusively what they wanted to put into the plan. It was also noted that there was inadequate involvement on the risk</p>

MLDRIN: Water Resource Plan assessment framework – South Australian Murray Region WRP (Final: October 2018)

	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	assessment components.
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>Workshop participants felt that the approach to notifying Nations and Nation representatives used by SAG was good. All Natio representatives felt that their Nations had been properly informed through proper channels.</p> <p>There was a recognition that SAG staff would go out of their way to ensure individuals had opportunities to be involved in the process. Examples included going out of their way to pick elders up so that they could attend meetings. Strong relationships were critical to underpin this approach</p> <p>SA MLDRIN Delegates were always notified well in advance and supported to attend SA MLDRIN/DEWNR Meetings.</p> <p>One participant noted that there was a lack of clarity around some opportunities for engagement. For example, there was an expecatiomn</p>

						<p>from the First People's Working Group that the group would have a final opportunity to review the draft WRP before it was submitted to MDBA for assessment. SAG staff clarified that this had been the intention, but due to time constraints it could not be achieved.</p> <p>Participants also noted that they had to undertake advocacy to higher levels with SAG to ensure that direction for good communication could filter down to on-ground staff.</p>
Information about water resource planning processes and content provided was clear to Nations	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>Participants felt that, despite initial challenges, SAG presented clear information about water resource planning to SA Murray Nations.</p> <p>Participants noted that they had had to encourage a change in language and content, delivered by SAG staff, to be able to meet Nation's requirements.</p> <p>However all felt that SAG did clearly articulate what a WRP was and how Chapter 10/Part 14 requirements</p>

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						related to Nation interests. In some cases, communications tools developed by other jurisdictions and requested by Aboriginal representatives, were seen to assist in conveying WRP processes. For example the 'Grandma Cod' animation was identified as a valuable tool.
Appropriate tools and mechanisms for recording, understanding and incorporating Aboriginal objectives and outcomes were used.	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>A number of tools and mechanisms were used to record, understand and incorporate Aboriginal objectives and outcomes into the plan. These include: various forms of workshops (at MLDRIN, Multi-Nation and Nation scales) and targeted consultation as well as Aboriginal Waterway Assessments (AWAs)</p> <p>SAG noted that AWAs have been utilised in the context of capacity building rather than to necessarily identify priorities or objectives.</p> <p>The AWA was applied and was adapted by the First People group. SAG staff had a key role in</p>

		<p>implementing the AWA. There were some questions and concerns about the way the AWA tool had been implemented and used to include</p> <p>The WRP doesn't describe how the State used the material and information from the AWA projects and incorporated these into the WRP. Dates for AWA projects are provided (Extract p. 37) however the outcomes of the AWA are not described. This is something that needed to be done to build into the WRP. Ideally SAG needed to demonstrate that there was a pathway for information identified during the AWAs to flow into the WRP. In some cases it wasn't clear how the tools (eg AWAs) were used to incorporate Aboriginal objectives and outcomes. It's also not clear how the Intellectual Property and Cultural Knowledge relating to the AWA reports and data were managed. Did ownership of the data and reports remain with the Nations? One delegate wasn't aware where the</p>
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		<p>reports belonging to his Nation group were stored.</p> <p>NRA representative noted that the Authority had proposed and sought SAG support for use of culturally appropriate tools (Yanarumi methodology). However, SAG did not make resources available to apply the tool in time to contribute to the WRP.</p> <p>Nation meetings and general consultation were also used to incorporate TO objectives.</p> <p>The supporting text of the WRP does describe how workshops, water coordinator positions and direct engagement, contributed to inform objectives.</p> <p>The engagement tools or mechanisms could have been more adequately described in the text of the WRP. The WRP could have explicitly identified that they weren't able to fund the Yanarumi</p>
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						methodology.
3. Akwe:Kon Guidelines (Relevant sections of the Akwe:Kon guidelines. The Water Resource Plan itself replaces 'development' in the text, for the purposes of assessment).						
Notification and public consultation of the proposed development by the proponent	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
Identification of indigenous and local communities and relevant stakeholders likely to be affected	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
Establishment of effective mechanisms for indigenous and local community participation, including for the participation of women, the youth, the elderly and other vulnerable groups	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
Establishment of an agreed process for recording the views and concerns of the members of the indigenous or local community whose interests are likely to be impacted	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
Establishment of a process whereby local and indigenous communities may have the	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	NA

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option to accept or oppose a proposed development that may impact on their community						
Identification and provision of sufficient human, financial, technical and legal resources for effective indigenous and local community participation in all phases of the process	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
Establishment of an environmental management or monitoring plan (EMP), including contingency plans regarding possible adverse cultural, environmental and social impacts resulting from a proposed development;	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
Identification of actors responsible for liability, redress, insurance and compensation	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
Conclusion, as appropriate, of agreements, or action plans, on mutually agreed terms, between the proponent of the proposed development and the affected indigenous and local communities, for the implementation of measures to prevent or	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	

mitigate any negative impacts of the proposed development;						
Establishment of a review and appeals process.	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	
4. Basin Plan Chapter 10, Part 14 (Specific requirements of Basin Plan, Chapter 10, Part 14)						
<p>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>	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>The SA MR WRP identifies a list of objectives in the accredited text (s5.14.1).</p> <p>Participants felt that these objectives, as described in the WRP, were an accurate reflection of inputs from meetings and workshops (Individual nation meetings, joint meetings, SA – MLDRIN). The Objectives have been informed by good engagement at the Nation level.</p> <p>The objectives are detailed and meaningful enough to be addressed. Participants agreed that SAG had responded appropriately to inputs and advice from meetings with Nations.</p>

						<p>The objectives still need to be worked on with the nations themselves. DEWNR need to work through the detail of these objectives with the individual nations.</p> <p>Inclusion of detailed objectives for each Nation would have met the standard for excellence.</p>
<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>	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>The participants noted that a number of specific outcomes are included in the accredited text (s5.14.1). Participants felt that the outcomes, as described, reflected inputs and advice provided by Nations during engagement activities.</p> <p>Some participants felt that the outcomes provided good stepping-stones to meeting the Objectives. They set out an ambitious program of work (that would be needed to meet the objectives). It was noted that the outcomes provide a strong</p>

		<p>basis to establish commitments that hold the state to progressing the Objectives.</p> <p>There was some concern regarding the appropriateness of some outcomes give that, in the opinion of participants, SAG have had considerable prior opportunities to progress some of the outcomes, and this hasn't been done. NRA have put SAG on notice on a number of these outcomes some time ago and they haven't been addressed. The fact that SAG have had an opportunity to implement some of these outcomes yet, but they haven't, downgrades the veracity of these outcomes.</p> <p>Current AG activities and commitments are not in line with the outcomes, when they could be. Current NRM strategic planning & water planning don't meet all the commitments set out in the outcomes, despite opportunities.</p> <p>It was noted that Nations could use</p>
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		<p>the Outcomes as measures to assess the effectiveness of the Plan in 10 years time.</p> <p>Participants noted that it would be optimal if the Outcomes were framed with specific parameters and measurements. SAG could have worked with the nations to frame SMART outcomes that could then be used to evaluate implementation of the WRP.</p> <p>Outcomes in the WRP are specific, tangible, but not measurable enough.</p>
<p>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 (Indigenous values)</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</i></p>	<p>Absent Partial Satisfactory Good Excellent</p> <p>1 2 3 4 5</p> <p>p. 26 states that SA 'has regard to Aboriginal values and uses for water resources throughout all levels of water resource planning processes and instruments'. We are not confident that this is true across the board.</p> <p>Strategies for supporting are included, but these could be strengthened (measurable etc)</p>	<p>The SAMR WRP accredited text (Extract p.26) states that SA 'has regard to Aboriginal values and uses for water resources throughout all levels of water resource planning processes and instruments'</p> <p>The accredited text and supporting text do demonstrate regard in the form of recognition of the legacy of exclusion from water planning, narrative description of approaches</p>

<p><i>Owner views informed the Plan? ✓</i></p> <p><i>Is the matter addressed as part of the accredited text?</i></p> <p><i>Is the matter addressed as part of the supporting text?</i></p> <p><i>Are there strategies in place to address the matter?</i></p> <p><i>Are the strategies binding and measurable?]</i></p>	<p>There are some cases where the Plan sets out activities or engagement processes which are not necessarily part of WRP consistent engagement. We are not confident that these should be taken as evidence of 'having regard'. Eg Ngarrindjeri KNYA.</p>	<p>undertaken to 'have regard' and a commitment to further principles of engagement that will ensure 'proper, genuine and realistic consideration'.</p> <p>The WRP steers away from identifying specific 'values and uses' and instead focussed on describing the process through which the values and uses have been 'had regard to' in identifying the objectives and outcome. Participants supported the lack of inclusion of specific values and uses. NRA do not give away their values. Participants approved of that approach to managing cultural heritage.</p> <p>Workshop participants noted that proper, genuine and realistic consideration of Aboriginal values and uses was reflected in the processes of engagement undertaken to date. The supporting text describes how SAG has had regard to values of uses of Aboriginal Nations. The principles embedded in the accredited text to underpin further</p>
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		<p>engagement demonstrate further regard.</p> <p>Previously they use to come in and tell us how they were going to do it, now they are listening to us.</p> <p>MLDRIN and Nation representatives were not confident that SA ‘has regard to Aboriginal values and uses for water resources throughout <i>all</i> levels of water resource planning processes and instruments’. A specific example was limited or absent consultation by NRM Boards to inform Wetland Management Plans (WMPs), that are an important supporting document for WRPs.</p> <p>There was some concern that engagement activities conducted prior to the preparation of the WRP, or that were instigated by Nations, have been used as evidence of ‘having regard to’.</p> <p>For example, some of the activities</p>
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						<p>outlined in section 5.14.1.1 were processes that NRA campaigned and lobbied for over a decade, before the Basin Plan was in place. Can the State's participation in the KNYA agreement (est 2009) be taken as evidence of 'having regard to' Ngarrindjeri values and uses?</p> <p>It was considered that 'having regard' relates to the consultation undertaken for the purposes of the WRP itself (not other, related activities).</p>
<p>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 (Indigenous uses);</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?</i></p>	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	See descriptions above

<p><i>Is the matter addressed as part of the accredited text?</i></p> <p><i>Is the matter addressed as part of the supporting text?</i></p> <p><i>Are there strategies in place to address the matter?</i></p> <p><i>Are the strategies binding and measurable?]</i></p>												
<p>A person or body preparing a water resource plan may identify opportunities to strengthen the protection of Indigenous values and Indigenous 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>	<table><tr><td>Absent</td><td>Partial</td><td>Satisfactory</td><td>Good</td><td>Excellent</td></tr><tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table>	Absent	Partial	Satisfactory	Good	Excellent	1	2	3	4	5	<p>The WRP does specify opportunities to strengthen the protection of Indigenous values and Indigenous uses in accordance with the objectives and outcomes. The accredited text at s.5.14.1 establishes a series of principles that will guide ongoing engagement in the development and review of all SA water instruments, plans and documents. This commitment, in the accredited text, provides a solid bases for improving recognition and protection of Aboriginal water interests.</p> <p>Participants recognised these principles as a starting point before</p>
Absent	Partial	Satisfactory	Good	Excellent								
1	2	3	4	5								

		<p>moving to a more refined policy or set of agreements between Nations and SAG.</p> <p>It was noted that the principles could be improved by including more specific or binding commitments. Implementation of some aspects of the principles would rely on good faith.</p> <p>Further suggestions for improving these opportunities included:</p> <p>Ideally: a plan should provide the resources for Nations to be able to undertake their own research and input their perspectives into planning over the long.</p> <p>Grant: Nations should have a partnership role in identifying opportunities to strengthen protection.</p> <p>The WRP could point to reforms needed under other legislation and areas of responsibility (eg education,</p>
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							cultural heritage).
A water resource plan must be prepared having regard to the views of relevant Indigenous organisations with respect to:	Native title rights, native title claims and Indigenous Land Use Agreements provided for by the <i>Native Title Act 1993</i> in relation to the water resources of the water resource plan area	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>There is reference to Native Title matters in the supporting text at page 38 of the extract. The supporting text indicates that regard will be had through application of principles in future ensuring native title holders will be 'engaged meaningfully in the management of water resources on their Country'.</p> <p>Participants noted some ways that greater regard could be demonstrated. Participants pointed out that SAG should have engaged with specific sub-committees or sections within Aboriginal organisations with responsibility for NT to seek their views on WRP development.</p> <p>The WRP also does not specifically address the existing or potential future water rights and interests of native title holder. For example, Section 4.2.2 of the Mallee WAP points specifically to the existing NT</p>
<p><i>[Notes for Assessment:</i> <i>Is the matter specifically addressed in the text of the WRP?</i> <i>Does the WRP set out how proper, genuine and realistic consideration of Traditional Owner views informed the Plan?</i></p>							

<i>Is the matter addressed as part of the accredited text?</i> <i>Is the matter addressed as part of the supporting text?</i> <i>Are there strategies in place to address the matter?</i> <i>Are the strategies binding and measurable?]</i>							water rights of NT holders in the area. The WRP could point to, or reinforce these rights, as well as defining an approach to deal with evolving native title precedents around water.
	Registered Aboriginal heritage relating to the water resources of the water resource plan area	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>Protection of cultural heritage sites is discussed in the supporting text at page 38 of the WRP. Regard is demonstrated through a commitment to principles underpinning future consultation.</p> <p>There was concern that the specific watering needs of registered cultural heritage sites within the WRP were not specifically addressed in the plan.</p> <p>The Ngarrindjeri representative noted that that, while the ‘meeting of the waters’ heritage site is specifically references in the text of the WRP, there is no water management arrangement approach to provide adequate flows through</p>

			<p>the Murray Mouth to sustain that site. Having regard should encompass sustaining the site though appropriate water planning and allocations. The WRP lacks provisions for meeting the watering needs of cultural sites, that are embodied by water.</p> <p>Participants also felt that State should be negotiating with and seeking the views of expert groups within Nation groups, to consider specific cultural heritage matters that may relate to the water resource. NRA representatives recorded that the NRA have been advising SAG to engage with the NRA cultural heritage committee. In order to have regard to cultural heritage matters, SAG should engage with those sections of Nation organisations that have responsibility for Cultural Heritage.</p> <p>There were further questions about the accuracy of the statement p. 38,</p>
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							stating that the <i>Aboriginal Heritage Act 1988</i> protects all Aboriginal heritage whether registered sites or not.
	Inclusion of Indigenous representation in the preparation and implementation of the plan	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>Participants noted that there was generally good inclusion of Indigenous representation in the preparation and implementation of the plan.</p> <p>An approach to inclusion was developed and enacted through various levels of meetings and workshops. These provided for variable formats, content and accessibility for Traditional Owners. The SA MLDRIN/DEWNR working group was recognized a good mechanisms for ensuring inclusion. On-Country visits and tours with Traditional Owners were noted as a valuable approach to allow for inclusive participation.</p> <p>The Plan also provides for inclusion of Nation representatives in implementation, given the principles</p>

			<p>enumerated at s.5.14.1. For some Nations, water coordinators, funded to support development of the plan, will stay on till June 2019, supporting ongoing implementation.</p> <p>One limitation to appropriate inclusion was the lack of appropriate time to review, share and comment on draft WRP documents and supporting material. There was concern in particular, from the First People's delegate, that he didn't get the opportunity to present a final draft of the plan to the wider First Peoples group to gain endorsement.</p>				
	Indigenous social, cultural, spiritual and customary objectives, and strategies for achieving these objectives	<p>Absent 1</p> <p>Partial 2</p> <p>Satisfactory 3</p> <p>Good 4</p> <p>Excellent 5</p>	<p>Participants noted that regard for Indigenous social, cultural, spiritual and customary objectives had been demonstrated through a range of consultation activities and further commitment to principles that will inform future water planning.</p> <p>However, Ngarrindjeri representatives in particular felt that they had not had the opportunity</p>				

			<p>(time/resources) to provide necessary detail of objectives and strategies based on the application of nation-specific tools and methodologies. NRA have sought support from SAG to apply detailed, culturally appropriate, methodologies to document objectives and formulate strategy. It was recognised that funding constraints had meant that the Ngarrindjeri's Yanarumi Index could not be applied to inform the risk assessment or other aspects of the plan.</p> <p>On reviewing the NRA engagement as outlined on p. 35, the participants noted that groups have limited resources to participate in reviews and amendments of water instruments and plans (eg WAPs).</p> <p>More support for Nation-led planning would have ensured that detailed objectives could be articulated and that the plan could have regard to these matters</p>
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	Encouragement of active and informed participation of Indigenous people	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>Participants felt that SAG had worked hard to ensure active and informed participation.</p> <p>Participants felt that SAG staff had done everything they could within the timeframe. They dedicated time and resources to make arrangements for people, including Elders, to attend workshops and were culturally appropriate.</p> <p>Having water coordinators was valuable.</p>
	Risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>This section should be met by addressing Part 9, and the requirements under Section 4.02 of the Basin Plan.</p> <p>The plan should be prepared having regard to risks to Indigenous values and uses.</p> <p>In the absence of a dedicated workshop, MLDRIN has sought the views of the relevant South Australian delegates on these</p>

			<p>amendments. Based on that consultation we present the following amended advice:</p> <p>South Australia has demonstrated some regard for risks to Aboriginal Values and Uses in the amended text of the plan.</p> <p>MLDRIN notes that the WRP states that it 'does not explicitly evaluate risks to Aboriginal values and uses. However, where Aboriginal values and uses overlap with environmental values and uses, they have inherently been considered in that part of the risk assessment.' MLDRIN does not consider the conflation of environmental and cultural values to be best practice in risk assessment.</p> <p>However, we note the commitment to ongoing research and engagement with South Australians through the development of the Yana Rumi Assessment methodology, Cultural Flows Research and the principles of engagement committed to in the</p>
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							WRP. Relevant South Australian delegates have indicated their support for this proposed, approach to consider and address risks to Aboriginal values and uses through implementation of appropriate assessment and engagement.
A water resource plan must be prepared having regard to the views of Indigenous people with respect to cultural flows <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</i>	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5		The accredited text at s.5.14.3 commits SAG to being responsive to the outcomes of the National Cultural Flows Research Project. Participants supported this inclusion on the accredited text. WRP has regard by indicating movement towards formal inclusion of commitments and strategies around implementing Cultural Flows. Participants noted that the policy relating to recognition of Aboriginal water rights being currently developed by SAG could be included in the WRP. SAG should define its commitments (arising from any new policy) in the accredited text.

measurable?]						<p>Conversations and engagement related to the WRP have helped to clarify understandings of cultural flows within the community.</p> <p>With stronger wording around the commitment to implementing Cultural Flows, the Plan's performance against this requirement would be good.</p>
<p>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 plan for the water resource plan area.</p>	Absent 1	Partial 2	Satisfactory 3	Good 4	Excellent 5	<p>Participants noted the limited recognition of Aboriginal Nations' rights and interests in the Water Allocation Plans and other instruments that constitute the 'transitional WRP' for the SA MR (as defined in MDBA's Fact Sheet 6: <i>Transitional and Interim Water Resource Plans</i>).</p> <p>Pre Basin-Plan planning framework (instruments including WAPs, NRM plans etc) provided very limited to nil recognition of and protection for values and uses.</p>

		<p>The SAMR WRP establishes new and improved commitments. Commits to review of water allocation instruments. There has been some amendments of instruments (eg minor amendments to WAPs under a Ministerial amendment review process) made as part of the preparation of the SAMR WRP.</p>
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23 February 2018



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The Hon David Littleproud MP
Minister for Agriculture and Water Resources
Parliament House
Canberra ACT 2600

Re. Assessment of SA Murray Region Water Resource Plan

Dear Minister,

We are pleased to submit our **DRAFT** recommendations following an assessment of the Water Resource Plan for the South Australian Murray Region (SAMR WRP).

Following an assessment process outlined below, MLDRIN has formed the view that the SAMR WRP fulfils the requirements of Basin Plan Chapter 10, Part 14 *in most cases*.

The WRP does *not* demonstrate how regard has been had for the views of Aboriginal Nations regarding risks to Indigenous values and uses. MLDRIN recommends that immediate measures be taken to address this gap. We understand that, according to the South Australian Government (SAG), risks to Aboriginal values and uses in the WRP area are negligible. However, this does not negate the requirement for proper, realistic and genuine consideration to be given to this matter in the preparation of the plan.

Pending revisions that demonstrate how regard has been had for risks to Indigenous Values and Uses, we recommend that the SAMR WRP be accredited as a Water Resource Plan under the Basin Plan.

Assessment approach

This is the first formal assessment of a WRP undertaken by MLDRIN in accordance with the note included under Part 14 of Chapter 10 of the Basin Plan.

MLDRIN's assessment was informed by reviewing a number of 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 of Nations, reviewing the plan in line with their objectives, outcomes, values and uses.

MLDRIN formulated an assessment framework. The framework used a Leichardt Scale to guide and focus assessment of performance against key requirements, criteria and guidelines. It also included qualitative input based on discussions

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between Nation Delegates, MLDRIN staff and others. This resulted in a user-friendly but comprehensive assessment.

The assessment included

- A two-day workshop attended by MLDRIN staff and Chairperson, SAG DEWNR staff, MDBA staff and SA MLDRIN Delegates of the following Nations: Ngarrindjeri, Maraura and Ngintait
- Regular engagement with SA DEWNR staff on preparation and drafting of the plan
- Targeted engagement with SA MDB Nations who are not currently member-Nations on MLDRIN

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

Findings

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

- 10.52: Identification of Objectives and
- 10.53: Encouragement of active and informed participation of Indigenous people

The following requirements were found to have been only partially fulfilled, or were not addressed.

10.53 - Having regard to:

- Registered Aboriginal heritage relating to the water resources of the water resource (partial)
- Indigenous social, cultural, spiritual and customary objectives, and strategies for achieving these objectives (partial-satisfactory)
- Risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area (absent).

Compliance with other aspects of the Chapter 10, Part 14 requirements were deemed to be satisfactory.

When assessing the SAMR WRP against the 'Assessment Template' criteria provided by the MDBA, MLDRIN found the plan demonstrated good compliance with the following criteria:

- Appropriate Nations were identified and involved throughout all stages of the water planning process
- Nations were properly notified of the opportunities to be involved in the water resource planning process
- Information about water resource planning processes and content provided was clear to Nations

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Performance against the other assessment criteria were recognised as satisfactory.

MLDRIN also conducted an assessment of the SAMR WRP against the Akwe:Kon guidelines. This assessment found that there was strong performance related to provisions for inclusion and consultation, however the preparation of the plan did not, in all cases, include provision of sufficient human, financial, technical and legal resources for effective indigenous and local community participation. It should be noted that some of the guidelines are not immediately applicable to the WRP assessment task.

General Feedback

There were some general issues and opportunities identified during the workshop. These may be instructive to SAG and other Basin jurisdictions.

There was concern that timelines for engagement and input of Nations into the preparation of the plan were too short. This is of particular concern given the likelihood of compressed timelines for preparation, review and submission of WRPs for accreditation.

MLDRIN's assessment highlighted the critical importance of strong relationships, partnerships and trust between Nations and Basin states. Relationships and trust are the 'capital' on which appropriate engagement and plan preparation is built.

MLDRIN understands that it is imperative to be able to review the entirety of a WRP (and related documents and instruments) in order to determine whether regard had been had to matters relevant to Indigenous nations. However, timelines and resource restrictions make this very difficult.

Clarification is required regarding the relationship between WRPs and the various state and regional level plans, instruments and documents that are required to implement the WRP. To what extent is the preparation of these sub-plans required to meet the consultation requirements of the Basin Plan?

Resourcing is required to ensure that Nations who do not currently sit on MLDRIN are able to participate in the formal assessment of WRPs

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,



Rene Woods
Chairperson, MLDRIN

