



A yarn on the river

Getting Aboriginal voices into the Basin Plan



Our people say that the water is the blood flow of Mother Earth. Like loss of blood causing problems for the human body, our culture suffers in the same way without water.

Euahlayi man Michael Anderson is sitting by his beloved Bokhara River in north-west NSW. Cultural flows will nurture the growth of native mud crabs and Water-rats whose health has always been important to Aboriginal people.



This type of rush here — this is what our old people used to go out and collect. We're now finding them very hard to get.

Ngarrindjeri woman Ellen Trevorow makes baskets out of rushes near Camp Coorong on the River Murray in South Australia. Cultural flows will allow the rushes to grow.



To bring it into the 21st century and to put it as two words: cultural flows. I guess all we're saying is that what's needed is for there to be enough water coming through all of our story places — through waterways and wetlands — to enable us to continue our ceremonial business. It is very important to us.

Kooma (Gwamu) woman Cheryl Buchanan is from Nebine River country in south-west Queensland. The grinding grooves along the Nebine are important to the Aboriginal people who have lived along the river for centuries.





Acknowledgement of the Traditional Owners of the Murray–Darling Basin

The Murray–Darling Basin Authority acknowledges and pays respect to the Traditional Owners and their Nations of the Murray–Darling Basin. The contributions of earlier generations, including the Elders, who have fought for their rights in natural resource management are also valued and respected.

The Authority recognises and acknowledges that the Traditional Owners and their Nations in the Murray–Darling Basin have a deep cultural, social, environmental, spiritual and economic connection to their lands and waters. The Authority understands the need for recognition of Traditional Owner knowledge and cultural values in natural resource management associated with the Basin. Further research is required to assist in understanding and providing for cultural flows. The Authority supports the belief of the Northern Murray–Darling Basin Aboriginal Nations and the Murray Lower Darling Rivers Indigenous Nations that cultural flows will provide beneficial outcomes for Traditional Owners.

The approach of Traditional Owners to caring for the natural landscape, including water, can be expressed in the words of Ngarrindjeri Elder Tom Trevorrow: ‘our traditional management plan was: don’t be greedy, don’t take any more than you need and respect everything around you. That’s the management plan — it’s such a simple management plan, but so hard for people to carry out.’*



This traditional philosophy is widely held by Traditional Owners and respected and supported by the Murray–Darling Basin Authority.

**Tom Trevorrow (2010) Murrundi Ruwe Pangari Ringbalin ‘River Country Spirit Ceremony: Aboriginal Perspectives on River Country’*

About the Murray–Darling Basin Authority

The Murray–Darling Basin Authority (MDBA) is an independent Authority that has been set up under the *Water Act (2007)* to write the Basin Plan. The MDBA also oversees the running of the River Murray, and coordinates native fish management and salinity management in the Basin.

The Basin state governments will put the Basin Plan into action. They will write water resource plans that follow the rules in the Basin Plan.

The partnerships between the MDBA, the Basin states and the people and communities throughout the Basin is very important.

References

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Forward NRM and Arrilla Aboriginal Training & Development (2003) *Scoping Study on Indigenous Involvement in NRM Decision Making & the Integration of Indigenous Cultural Heritage Considerations into Relevant MDBC Programs*

Intergovernmental Agreement on a National Water Initiative (2004) [signed at the Council of Australian Governments meeting on 25 June 2004]

Ramsar (Iran) (1971) *Convention on Wetlands of International Importance especially as Waterfowl Habitat* (amended: Paris Protocol on 3 December 1982 and Regina Amendments on 28 May 1987)

UN General Assembly (2007) *United Nations Declaration on the Rights of Indigenous Peoples* (adopted by the General Assembly on 2 October 2007)

Outcomes of:

- Indigenous Basin–wide Gathering
Canberra, ACT — May 2004
- NBAN Full Delegation Gathering
Roma, Queensland — April 2010
- MLDRIN Full Delegation Gathering
Canberra, ACT — May 2010
- NBAN Executive Committee meeting
Tamworth, NSW — February 2011
- MLDRIN Executive Committee meeting
Albury, NSW — March 2011
- Joint NBAN–MLDRIN Gathering
Canberra, ACT — June 2011

Acronyms/abbreviations used in this document

Organisations

MDBA	Murray–Darling Basin Authority
MLDRIN	Murray Lower Darling Rivers Indigenous Nations
NBAN	Northern Murray–Darling Basin Aboriginal Nations
NCFPRC	National Cultural Flows Planning and Research Committee
NSWALC	New South Wales Aboriginal Land Council
QMDC	Queensland Murray–Darling Committee
SWNRM	South West Natural Resource Management

Other

CHWN	Critical Human Water Needs
EWP	Environmental Watering Plan
GL	Gigalitre (1 billion litres)
NWI	National Water Initiative
SDL	Sustainable Diversion Limit
WRP	Water Resource Plans

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*This booklet may contain images or
quotes from Indigenous people who
have passed away. Appropriate
permissions have been provided by
the families of deceased people.*



Welcome to A yarn on the river

A Yarn on the River has been created to help you understand the draft Basin Plan and to assist you to have your say about what's in the final Basin Plan. **This booklet highlights the parts of the draft Basin Plan most relevant to Aboriginal people.**

The draft Basin Plan is a plan for the sustainable management of the water resources of the Murray–Darling Basin. It has been prepared by the Murray–Darling Basin Authority (MDBA) — a Commonwealth government agency responsible for the high level planning for the Murray–Darling Basin — together with Queensland, New South Wales, Victoria, South Australia and the Australian Capital Territory.

From January to mid–April 2012 we would like you to tell us your views on the draft Basin Plan and how it can be improved to better address your concerns. Once this public consultation period has finished — in April 2012 — your views will be considered for inclusion in the final Basin Plan.

The Murray–Darling Basin Authority is talking with Indigenous communities

The Murray–Darling Basin Authority will be travelling to towns throughout the Basin to talk with Aboriginal people on their country. We want to meet wherever you feel comfortable — in halls, in homes, or by the river with a cup of tea. This is part of the MDBA 20-week consultation period on the draft Basin Plan.

While visiting your country, we hope to help you learn more about the draft Basin Plan, and have your say about what's in the final Basin Plan.

Submissions will close on 16 April 2012.

We're visiting regional areas

The Murray–Darling Basin Authority is aiming to visit 22 towns during the 20-week consultation period to talk with Indigenous communities. Towns and dates can be found on the MDBA website or by calling 1800 230 067.

Part

1



MDBA Chair, Craig Knowles

The Authority recognises the deep, intimate, ancient and living relationship Indigenous people have with their lands and waters. We're keen to continue working with Indigenous groups and people to ensure their interests in the Basin are recognised and protected. I encourage everyone to share their knowledge, experiences and views with us as we develop the Basin Plan.



MLDRIN Chair and Ngarrindjeri man, Grant Rigney

The Murray Lower Darling Rivers Indigenous Nations (MLDRIN) represents 21 Indigenous Nations in the south of the Basin. MLDRIN — in partnership with NBAN — has been providing Indigenous perspectives on natural resource management and cultural issues in the Basin for many years. Now with the release of the draft Basin Plan it is a crucial time for Indigenous Nations and Traditional Owner groups all over the Basin to have your say on how you want our rivers to be managed.



NBAN Chair and Murrawarri man, Fred Hooper

The Northern Murray-Darling Basin Aboriginal Nations (NBAN) represents 22 Aboriginal Nations in the north of the Basin. Cultural flows is a significant issue for Aboriginal people in the Basin. As the Murray-Darling Basin Authority — together with NBAN and MLDRIN — visit towns all over the Basin, it is an important time for you to have your say on the draft Basin Plan and make a difference. I encourage the *Yarn on the River* to be distributed to Aboriginal Nations within and beyond NBAN and MLDRIN.

What is the draft Basin Plan?

The draft Basin Plan (legally called the *proposed Basin Plan*) is the first version of the Basin Plan that the MDBA is putting out for your comments and feedback.

We are asking you to have a say on the draft Basin Plan over the next few months. The MDBA is accepting comments and submissions until 16 April 2012.

The parts of the draft Basin Plan most relevant to Aboriginal people are detailed on page 16 of this document.

To find out more about the draft Basin Plan, visit our website: www.mdba.gov.au

What is the Basin Plan?

After considering comments from the communities of the Basin, the current draft will be refined and become the Basin Plan.

The Basin Plan is a high-level plan for how water in the Basin will be managed into the future. It will help to ensure that water resources in the Murray–Darling Basin are managed in an integrated and sustainable way.

It is important to note that the Basin Plan will adopt two key principles — the need for adaptive management and the need for localism — to allow for changes over time (see page 14)

The Basin states will put the Basin Plan into action. They will write water resource plans that follow the rules in the Basin Plan (see page 19)

The Basin Plan is expected to be passed into law in 2012. The water resource plans will be adopted in 2019.

The Basin Plan will be reviewed (and changed if necessary) in 2015, 2022 and every 10 years after that.

Why should Aboriginal people have a say on the draft Basin Plan?

The Basin Plan will have an impact on how river country is managed in the Murray–Darling Basin.

Aboriginal people should have a say about this, because, as Paakantyi woman Trish Johnson says, ‘Water is our life.’ The rivers sustain the life and identity of Aboriginal people in the Basin.

It is important that Aboriginal people have a strong voice in how government makes decisions about the rivers and wetlands.

You can have your say in person at the meetings we will hold around the Basin. Otherwise, you can send your comments via mail or online.

Details on how to make a submission are on page 29 of this booklet.



*The draft Basin Plan
will be refined and
finalised as the Basin
Plan, and passed into
law in 2012.*

Part 2

Aboriginal voices in the Basin



MLDRIN and NBAN joint gathering, Canberra, 13-14 December 2011.



The MDBA works closely with two self-determining independent Traditional Owner organisations: the Murray Lower Darling Rivers Indigenous Nations (MLDRIN) and the Northern Murray-Darling Basin Aboriginal Nations (NBAN).

MLDRIN and NBAN have helped provide an Aboriginal perspective on natural resource management and cultural issues for the Basin Plan.

NBAN and MLDRIN share a common aim to seek greater recognition and respect for Aboriginal knowledge and values regarding land and water management.

Over the past year, both MLDRIN and NBAN have met regularly with the MDBA to discuss the Basin Plan.

Murray Lower Darling Rivers Indigenous Nations (MLDRIN)

MLDRIN was formed in 1998 and is a confederation of 21 Indigenous Nations from the southern part of the Murray-Darling Basin.

MLDRIN comprises Traditional Owner representatives from the following Nations:

Barapa Barapa, Dhudhuroa, Dja Dja Wurrung, Latji Latji, Maraura, Mutti Mutti, Nari Nari, Ngarrindjeri, Ngintait, Nyeri Nyeri, Tati Tati, Taungurung, Wadi Wadi, Wamba Wamba, Waywurru, Wergaia, Wiradjuri, Wotjobaluk, Yaitmathang, Yita Yita, Yorta Yorta.

MLDRIN continues to have a significant role in The Living Murray program.

www.mldrin.org.au

Northern Murray-Darling Basin Aboriginal Nations (NBAN)

NBAN was formed in April 2010 and comprises 22 Aboriginal Nation representatives from the northern part of the Basin and representatives from the NSW Aboriginal Land Council (NSWALC), South West Natural Resource Management in Queensland, the Queensland Murray-Darling Committee (QMDC) and The Condamine Alliance.

NBAN comprises Traditional Owner representatives from the following Nations:

Barkindji (Paakantyi), Barunggam, Bidjara, Bigambul, Budjiti, Euahlayi, Gamillaroi, Githabul, Gunggari, Gwamu (Kooma), Jarowair, Kambuwal, Kwiambul, Kunja, Maljangapa, Mandandanji, Mardigan, Murrawarri, Ngemba, Ngiyampaa, Wailwan, Wakka Wakka.

www.nban.org.au



What Aboriginal people have said about water so far

Over the past decade, Aboriginal people have expressed their values and interests in the lands and waters of the Murray–Darling Basin (see references on page v). The following is a summary of views expressed in a number of reports as well as NBAN and MLDRIN workshops and gatherings:

Aboriginal people seek recognition of their **cultural, social, environmental, spiritual and economic connection** to the lands and waters of the Murray–Darling Basin. They want **recognition** and **respect** for their traditional knowledge, ongoing cultural practices and **customary sovereign rights** as Aboriginal Nations of the Basin.

Aboriginal people from across the Basin say **cultural flows** should be provided to ensure there is enough water for people to conduct their **ceremonial business** when it is seasonally appropriate.

Aboriginal people have said they want **meaningful active involvement** in natural resource management and the operation of the rivers. There should be **proper resourcing** to allow men, women, Elders and young people to have access to their **important places** and be actively involved in **caring for their country**.

Aboriginal people are **concerned** about the decline in water quality, introduced species and the impact of chemicals and fertilisers on the health of the river. As Maljangapa Elder William Riley says,

‘You can’t catch fish in a pipeline.’

Aboriginal people seek **further recognition** and resourcing for the two Aboriginal representative organisations in the Murray–Darling Basin, the Murray Lower Darling Rivers Indigenous Nations (**MLDRIN**) and the Northern Murray–Darling Basin Aboriginal Nations (**NBAN**). Together these two organisations comprise nearly all of the Aboriginal Nations in the Basin.

As a result of historical circumstances, less than 1% of the land in the Murray–Darling Basin is owned by Aboriginal people. Because of this, we’re often not seen as stakeholders. Our approach to rectifying this is seeking to have our own inherent sovereign rights to the land and waters recognised.

Michael Anderson, Euahlayi Nation and NBAN executive committee member



What we've heard in the past year

- “ The river system should be free-flowing. As Aboriginal people, we are free-flowing. Non-Aboriginal people like to put things in boxes. The system is becoming dysfunctional and sick. We are feeling the impact of this and we are becoming dysfunctional and sick – socially, economically and culturally. ”

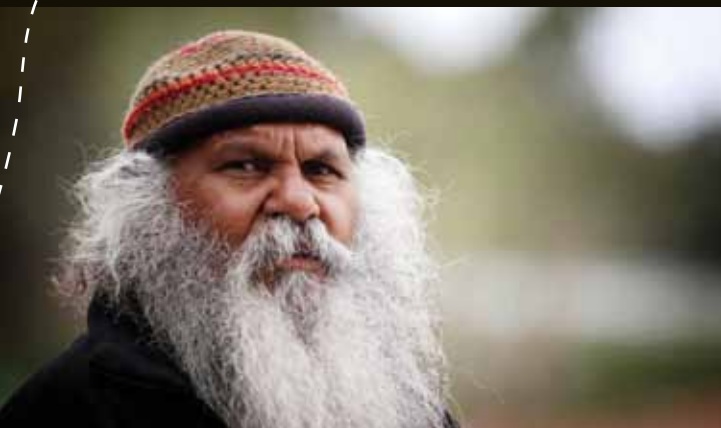
*Matt Rigney, Ngarrindjeri Elder
(deceased)*

- “ Sending an environmental flow down the river doesn't fulfil our cultural requirements. We need to look outside the square – this is our economy and social structure. They're trying to bundle us in with 'rural groups', 'school groups' etc. What I would like to say is that there is another community out there. ”

Robert Lacey, Mandandanji Nation

- “ I'm going to put this bluntly: Water is our life. ”

*Trish Johnson, Paakantyi Nation and
NBAN executive committee member*



“ This land is part of us and we are part of it. We will always be here. We will always be part of this land.

Aboriginal people will always be in this country, in this part of the world.

We are the oldest living culture in the world. We should lead the way.”

Major Sumner, Ngarrindjeri Nation

“ The rivers give us such a sense of peace and contentment that we are drawn back time and time again.”

Margaret Seckold, Budjiti Nation and NBAN executive committee member

“ The river is our bloodline. It’s been culturally used by my people forever.”

Uncle Ramsay Freeman, Wiradjuri Elder and MLDRIN executive committee member



“ *This river is part of who we are.*

It is about respecting that traditional knowledge.

To bring it into the twenty-first century, and to put it as two words: ‘cultural flows’

It is very important to us. ”

Cheryl Buchanan

Kooma (Gwamu) Nation

NBAN Deputy Chair

What Aboriginal people are saying about cultural flows

Aboriginal people within the Murray–Darling Basin talk of how the rivers sustain their life and identity. Aboriginal people not only view water as connected to the land and rivers, but also view themselves as an integral part of the river system.

The term cultural flows is new to natural resource managers. It translates the complex relationship described by Cheryl Buchanan and other Traditional Owners into the language of water planning and management.

MLDRIN and NBAN have developed and agreed on a definition of cultural flows as:

Water entitlements that are legally and beneficially owned by the Indigenous Nations and are 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.

This definition has also been adopted by the North Australian Indigenous Land and Sea Management Alliance.

How cultural flows are included in the draft Basin Plan is addressed in Part 3 of this document.

We want to know:
why is water important to you?

What changes would you like to see in the final Basin Plan?

Part 3

The draft Basin Plan

What the Plan means

The Murray–Darling Basin has been under a lot of stress as a result of past over-allocation and regulation of water — made worse by the recent millennium drought (1997–2009).

Commonwealth and state governments — as well as people and communities in the Basin — have recognised that the water-dependent places in the Murray–Darling Basin are suffering.

The Murray–Darling Basin Authority has reviewed the environmental water requirements for the rivers, associated wetlands, floodplains and billabongs.

The draft Basin Plan has determined that more water is required for the environment.

The numbers in the Plan


The MDBA is proposing a Basin-wide long-term average sustainable diversion limit (SDL) of 10,873 gigalitres per year (GL/y) for surface water. This encompasses 3,468 GL/y in the northern Basin and 7,405 GL/y in the southern Basin.

The baseline already takes account of around 823 GL/y on a long-term average basis that was returned to the Basin's environment before 2009.

To meet the Basin-wide SDL, a further 2,750 GL/y of water needs to be recovered (as compared to the 2009 baseline). This, plus the water recovered pre-2009, will mean that around 3,573 GL/y in total will be returned to the Basin's environment by 2019.

The Authority is also proposing a Basin-wide long-term average limit of 4,340 GL/y on groundwater use.

1 Gigalitre (1 GL) = 1 billion litres
= two times the amount of water in Sydney Harbour



Long-term sustainable diversion limits (SDLs) are limits on the volumes of water that can be taken for human uses (including domestic, urban and agricultural use) and are set at both a catchment and a Basin-wide scale. For some catchments, as well as at a Basin-wide scale, water must be recovered for the environment to meet the proposed SDLs.

The key principles

Two key principles for the development, implementation and revision of the Basin Plan are the need for adaptive management and the need for localism.

Adaptive management means the Basin Plan will change and evolve over time to incorporate new knowledge and changing priorities.

Localism is about involving communities in developing and implementing water reforms so that they have ownership of decisions and actions and are integral to adaptive management.

To find out more about the draft Basin Plan, visit www.mdba.gov.au

Influences on the Basin Plan

The big picture

These laws and policies influence the Basin Plan and include references to Indigenous people.

- › The *Water Act* says that the Basin Plan must be developed having regard to 'social, cultural, Indigenous and other public benefit issues' (see page 31)
- › The *National Water Initiative* (not a law but a policy the Basin Plan must follow), requires water entitlements and planning to recognise Indigenous needs in relation to water access and management, and requires that water plans incorporate Indigenous social, spiritual and customary objectives and strategies for achieving these objectives (see page 32)
- › The *Ramsar Convention* provides guidelines for establishing and strengthening Indigenous participation in the management of wetlands. (see page 33)



Figure 1: Influences on the Basin Plan

References to Indigenous interests in the draft Basin Plan

The following pages highlight the parts of the draft Basin Plan that are most relevant to Indigenous people.

These sections are called:

- › Environmental Watering Plan (Chapter 7)
- › Water Resource Plans (Chapter 9)
- › Basin water resources and the context for their use (Schedule 1)

The following pages will explain what these sections are, what they do, and what they might mean for Aboriginal people in the Basin.

Draft Basin Plan documents

- › Delivering a healthy working Basin — *about the draft Basin Plan*
- › The Draft Basin Plan: Catchment by Catchment
- › Proposed Basin Plan — a draft for consultation
- › Plain English summary of the proposed Basin Plan — including explanatory notes

These documents can be viewed on the MDBA website (www.mdba.gov.au) or ordered by calling 1800 230 067



Environmental Watering Plan

Chapter 7 of the draft Basin Plan

What is the Environmental Watering Plan?

This chapter of the draft Basin Plan provides a set of guidelines that will direct how environmental water will be managed to protect and restore rivers and wetlands.

It will consider the volume of flows, timing of flows, seasonal factors and availability of water.

The rules consider the environment at both the whole-of-Basin and local water resource plan area scales. They also consider the environment on both an annual and long-term basis.

The Environmental Watering Plan will enable many wetlands and floodplains to be inundated more frequently in the most efficient and effective way.

When will the Environmental Watering Plan take effect?

The Environmental Watering Plan will take effect when the Basin Plan is adopted and will be reviewed again in 2015.

How will it work?

The MDBA and the Basin states are responsible for different parts of the Environmental Watering Plan framework set out in the Basin Plan.

The MDBA must prepare annual watering priorities for the whole of the Basin.

The Basin states will develop long-term environmental watering plans for each water resource plan area in consultation with communities.

The MDBA will consult with MLDRIN and NBAN when setting Basin-wide annual environmental watering priorities. Basin states will also consult with Indigenous communities, MLDRIN and NBAN on long-term environmental watering plans.

The *Commonwealth Environmental Water Holder* gets its water through water-saving infrastructure (e.g: lining of irrigation channels to stop seepage) and water buy-backs from people who voluntarily sell their water.

What are environmental watering priorities?

The draft Basin Plan includes rules on how to decide which parts of the environment need water and what are the most important areas to water on a year by year basis. These are environmental watering priorities.

These rules include the need to be consistent with relevant international agreements like the *Ramsar Convention*, and to think about how the rivers, groundwater and wetlands are connected.

Where will water for the environment come from?

Water for the environment will come from increased efficiencies in water use (water conservation measures) and from the Commonwealth Environmental Water Holder.

How are Indigenous people involved in the Environmental Watering Plans?

The following page is an excerpt from the Environmental Watering Plan chapter of the draft Basin Plan. It shows how the MDBA and Basin states will engage with Traditional Owners to determine environmental watering priorities.

Excerpt from the draft Basin Plan
Environmental Watering Plan — Chapter 7

PART 4 — Environmental Management Framework

Division 4 Basin annual environmental watering priorities

7.25 Authority must prepare Basin annual environmental watering priorities

(3) When preparing the Basin annual environmental watering priorities, the Authority must have regard to the following:

- (g) social, spiritual and cultural values of Indigenous people, as determined through consultation with traditional Indigenous owner organisations, where these align with or enhance environmental outcomes;

PART 7 — Principles to be applied in environmental watering

Division 1 Principles to be applied in environmental watering

7.44 Principle 3 – Maximising environmental benefits

Subject to the principles in sections 7.42 and 7.43, environmental watering is to be undertaken in a way that:

- (b) maximises its benefits and effectiveness by:
 - (iv) giving effect to social, spiritual and cultural values of Indigenous people, as determined through consultation with traditional Indigenous owner organisations, where these align with or enhance environmental outcomes;



Water Resource Plans

Chapter 9 of the draft Basin Plan

What are water resource plans?

This chapter of the draft Basin Plan sets a framework (or set of rules) for Basin states to follow when they write up their water resource plans (WRPs) for each water resource plan area.

The Basin states will keep 'on-the-ground' control and responsibility in managing these water resources.

Water resource plans set out how water will be managed and allocated over a ten-year period in each water resource plan area.

What is a water resource plan area?

A water resource plan area is a geographical area, of which there are 19 for surface water and 23 for groundwater. Maps of the water resource plan areas can be seen on pages 23–24 of this document.

As far as possible, boundaries of these water resource plan areas have been drawn to match those of existing water management areas.

What is in each water resource plan?

Each water resource plan includes rules for things such as:

- › objectives and outcomes based on Indigenous values and uses including having regard to cultural flows (see page 21)
- › long-term average sustainable diversion limits (SDLs) (see page 14)
- › how water can be taken (e.g. by dams)
- › planning for environmental watering (see page 17)
- › water quality and salinity objectives
- › monitoring and reporting requirements.



How does it work?

The Basin Plan will ensure that water resource plans use relevant local and on-ground knowledge.

Opportunities for local input have been built into the draft Basin Plan to ensure that communities are given the chance to have their say. Localism is critical.

State and Territory Governments will consult with Indigenous people and local communities when developing their water resource plans.

When will the water resource plans be legally enforceable?

Water resource plans will be presented to the Commonwealth Water Minister for accreditation and will come into effect in 2019.

The MDBA has committed to seeking the advice of MLDRIN and NBAN as part of this approval process.

Accreditation of water resource plans will commence from 2012, giving the Basin states time (7 years) to adapt current plans and programs to the new framework.

How do the water resource plan rules recognise Indigenous water values and uses?

The following pages show an excerpt from the Water Resource Plan chapter of the draft Basin Plan.

Excerpt from the draft Basin Plan Water Resource Plan Requirements — Chapter 9

PART 14 — Indigenous values and uses

Note: If a water resource plan is prepared by a Basin State, it is expected that the Authority will consult with relevant Indigenous organisations in relation to whether the requirements of this PART have been met, for the purposes of paragraph 63(3)(b) of the Act.

9.56 Objectives and outcomes based on Indigenous values and uses

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

- (2) In identifying the matters set out in subsection (1), regard must be had to:

- (a) the social, spiritual and cultural values of Indigenous people that relate to the water resources of the water resource plan area (*Indigenous values*); and

- (b) the social, spiritual and cultural uses of the water resources of the water resource plan area by Indigenous people (*Indigenous uses*);

as determined through consultation with relevant Indigenous organisations, including the Murray Lower Darling Rivers Indigenous Nations and the Northern Murray–Darling Basin Aboriginal Nations, where appropriate.

- (3) The water resource plan must be prepared having regard to the desirability of minimising any risks to Indigenous values and Indigenous uses arising from the use and management of the water resources of the water resource plan area.

- (4) The 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).

9.57 Consultation and preparation of water resource plan

(1) A water resource plan must be prepared having regard to consultation undertaken cooperatively and in good faith with relevant Indigenous organisations with respect to the matters identified under section 9.56 and the following matters:

- (a) native title rights, native title claims and Indigenous Land Use Agreements provided for by the *Native Title Act 1993* in relation to the water resources of the water resource plan area;
- (b) inclusion of Indigenous representation in the preparation and implementation of the plan, where possible;

(c) Indigenous social, cultural, spiritual and customary objectives, and strategies for achieving these objectives where possible;

(d) encouragement of active and informed participation of Indigenous people.

Note: For examples of the principles that may be applied in relation to the participation of Indigenous people, see the document titled 'MLDRIN and NBAN Principles of Indigenous Engagement in the Murray–Darling Basin'.

9.58 Cultural flows

A water resource plan must be prepared having regard to the views of Indigenous people with respect to cultural flows.

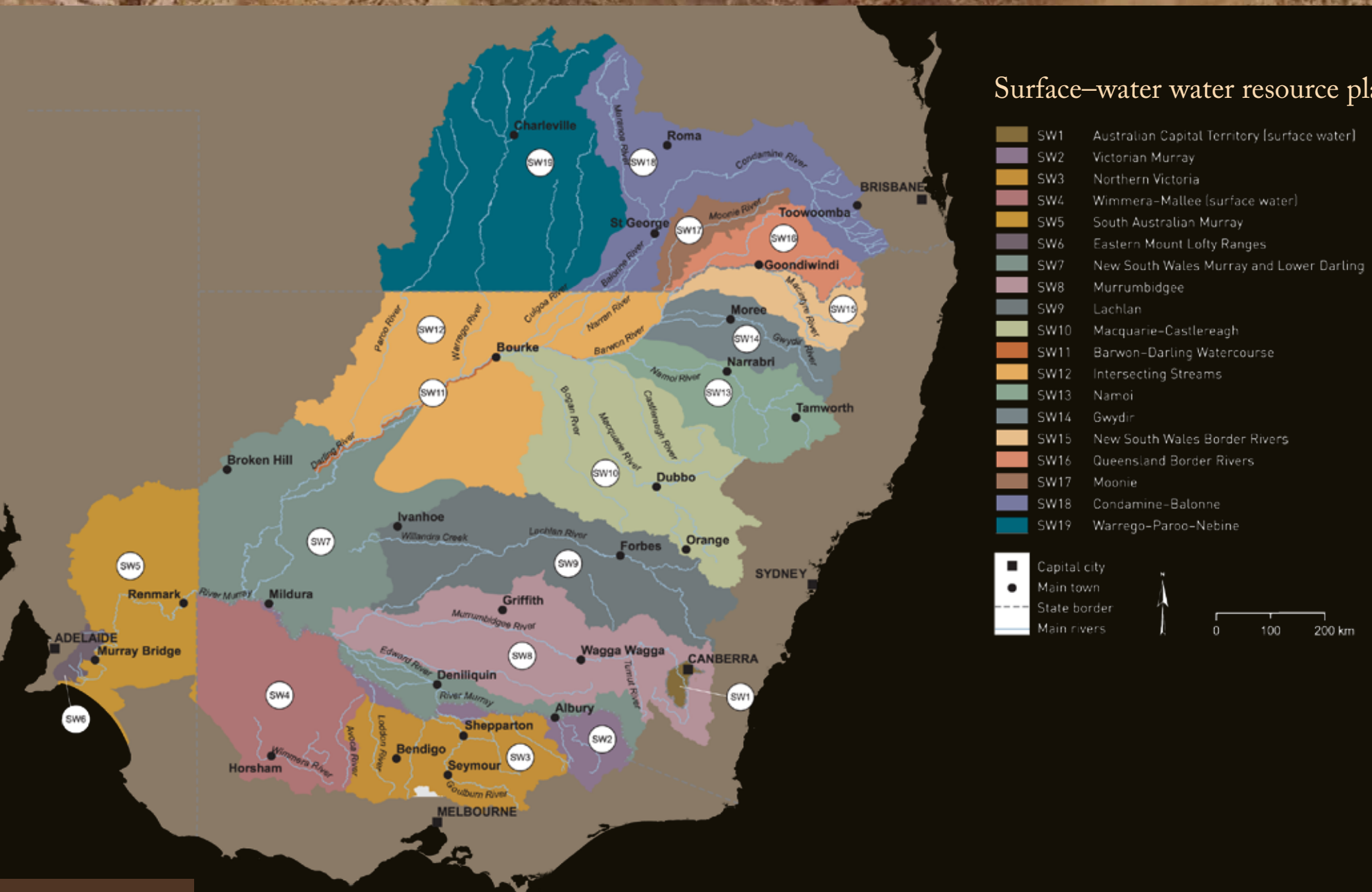
9.59 Retention of current protection

A water resource plan must provide at least the same level of protection of Indigenous values and Indigenous uses as provided in:

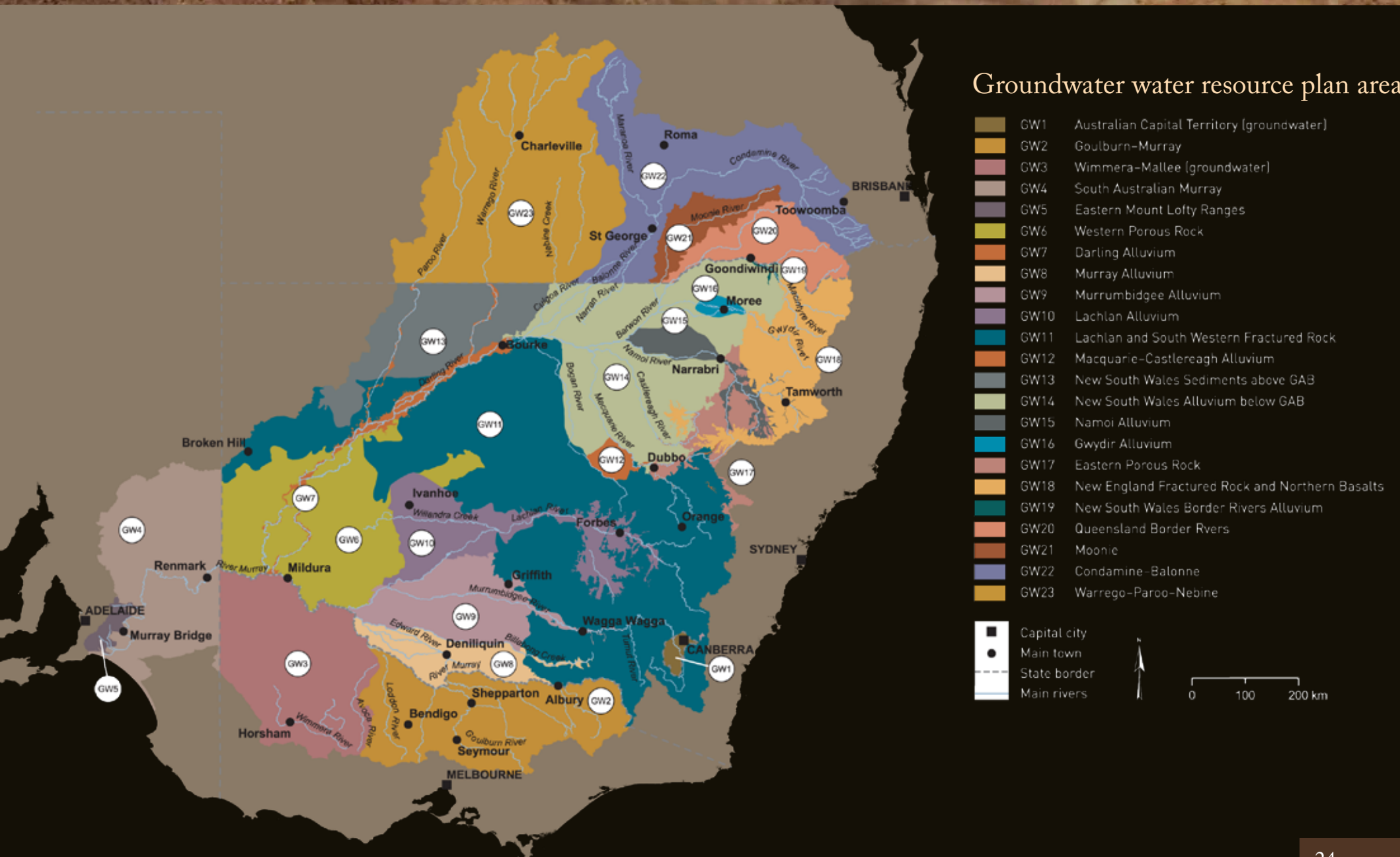
- (a) a transitional water resource plan for the water resource plan area; or
- (b) an interim water resource plan for the water resource plan area.



Surface-water water resource plan areas



Groundwater water resource plan areas



How water resource plans and environmental watering plans work together

Environmental watering plans will provide strategic priorities to be followed in the water resource plans.

The water resource plans will also take into account many other priorities and considerations (other than environmental watering) such as Indigenous water values and uses and water access rights.

In the development of these plans, Basin states must consult with MLDRIN, NBAN and other Indigenous organisations as appropriate.

Until the water resource plans come into action, the Basin states will work with the Commonwealth Environmental Water Holder and other environmental water holders to plan and carry out environmental watering.

Basin water resources and the context for their use

Schedule 1 of the draft Basin Plan

What is Schedule 1: Basin water resources and the context for their use?

The Water Act states that Schedule 1 should provide information about the uses to which the Basin water resources are put (including by Indigenous people).

This section must describe Aboriginal values and uses.

What is the purpose of Schedule 1?

The purpose of Schedule 1 is to describe the current aspects of the Basin. Schedule 1 is an overview, and sets the context for the Basin Plan.

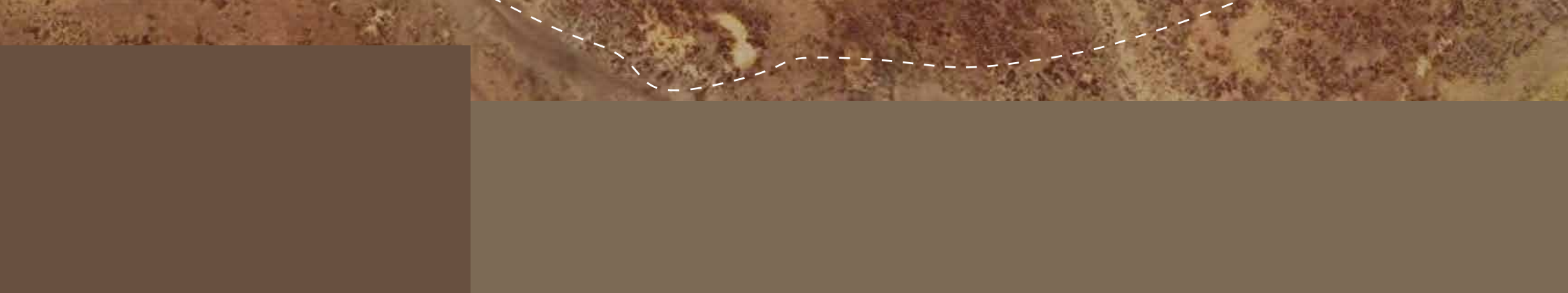
What does Schedule 1 say about Aboriginal people?

The following text includes extracts from Schedule 1 of the draft Basin Plan.

Excerpt from the draft Basin Plan Schedule 1 of the draft Basin Plan

Indigenous use

65. Australia has been home to Indigenous people for tens of thousands of years, sustaining cultural, social, economic and spiritual life. Indigenous people along the Murray and Darling rivers and throughout the Murray–Darling Basin talk of their deep relationship with the rivers. Trade routes, major gathering places and sacred sites exist across the Basin and continue to hold great significance for over 40 Indigenous nations. Twenty-two nations in the north of the Basin are represented by the Northern Murray–Darling Basin Aboriginal Nations, and 21 in the south of the Basin are represented by the Murray Lower Darling Rivers Indigenous Nations.
66. Indigenous people have multiple interests in the water resources of the Murray–Darling Basin, including cultural, social, environmental, spiritual and economic interests. These interests include hunting or gathering food and other items for use that alleviate the need to purchase similar items and



the use of water to support businesses in industries such as pastoralism and horticulture. The environmental health of the Murray–Darling Basin is of paramount importance in serving these interests. Indigenous people view water as inextricably connected to the land and rivers, and view themselves as an integral part of the river system. Because of this holistic understanding and connection, Indigenous people feel a deep responsibility for the health of rivers.

67. The concept of cultural flows helps to translate the complex relationship described above into the language of water planning and management. The provision of cultural flows has potential benefits for Indigenous people, such as improved health, wellbeing and empowerment from being able to care for their country and undertake cultural activities. It also provides an important and respectful acknowledgement of their culture, traditional knowledge, and spiritual attachment to place.

68. Indigenous bodies hold an estimated 81 water licences in the Basin. Under four state licensing regimes not all licences include a designated water allocation. Water that is allocated in the 81 licences totals some 8,237 ML. Of this, 2,601 ML is classified as ‘High Security’ or ‘Reliable’. Most licences are in the regions of Macquarie–Castlereagh, Lower Darling, Lachlan, Murrumbidgee, Murray and Goulburn–Broken. Two water licences are held in the Victorian portion of the Basin associated with properties held by the Indigenous Land Corporation (Arthur, 2010).

69. Aboriginal groups hold an estimated 75 parcels of land in the Basin totalling 3,445 km², representing less than 1% of the whole Basin. The majority of this land has been obtained through the Indigenous Land Corporation on behalf of Indigenous groups and is inalienable freehold title (Arthur, 2010). The extent to which Indigenous groups may obtain control or influence over land that is subject to native title determination or

to Indigenous Land Use Agreements is variable ranging from agreements for access, hunting and fishing to particular commercial arrangements. They rarely provide for exclusive control of land. Approximately 339,236 km², around 33% of the Basin, is subject to native title application. Native title has been found to exist over some 8,307 km² of the Basin, principally in the regions of Murray and Wimmera–Avoca. Some 101,457 km², around 10% of the Basin, is subject to Indigenous Land Use Agreements under native title. Agreements have been established mostly in parts of the regions of Paroo, Condamine–Balonne, Murrumbidgee, Murray, Wimmera–Avoca and Loddon (Arthur, 2010).

Putting the Basin Plan into action

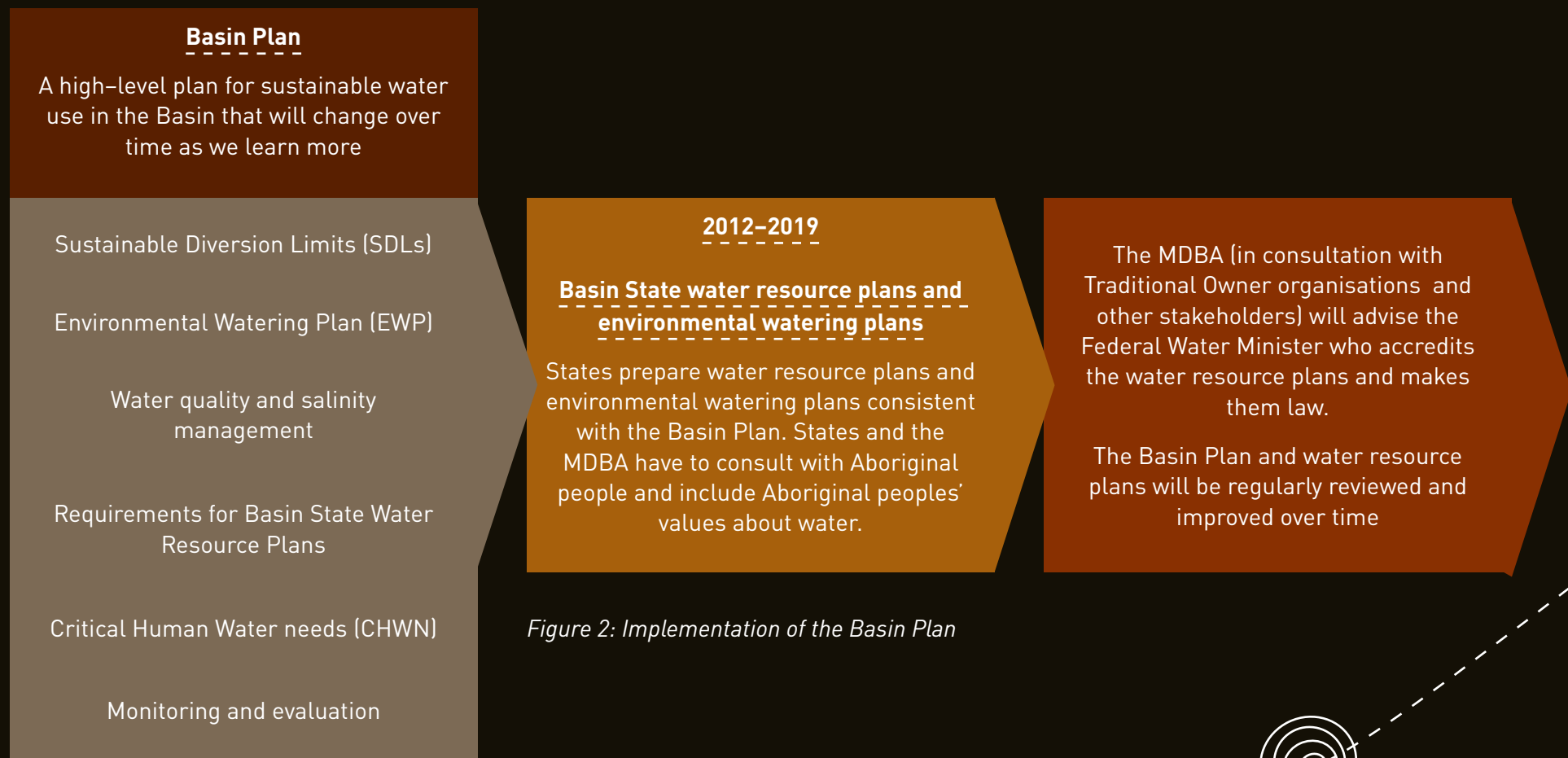


Figure 2: Implementation of the Basin Plan



Part

4

The next steps

Have your say on the draft Basin Plan

Make a submission in person

The Murray–Darling Basin Authority will visit 22 towns to talk with Indigenous communities during the 20-week consultation period on the draft Basin Plan.

There will be independent people available to help you write your submission if you wish. There will also be MDBA staff available to help explain the draft Basin Plan.

To see a list of the towns that will be visited, please refer to the MDBA website.

Lodging a submission

Mail a submission:

Draft Basin Plan
Murray–Darling Basin Authority
GPO Box 3001
Canberra City ACT 2601

Email a submission:

submissions@mdba.gov.au

Fax a submission: (02) 6279 0558

For assistance with lodging a submission please call **1800 230 067**

To find out more about the draft Basin Plan, visit our website: www.mdba.gov.au

What will happen to your submission?

When the Murray–Darling Basin Authority receives your submission on the draft Basin Plan, we will let you know it has been received.

What is said in your submissions will be considered in the process of writing the final Basin Plan.

All submissions will be published on the MDBA website for other people to read. If you do not wish for your submission to be published, either notify the person assisting you to write the submission, or if you are using the website simply choose the appropriate box.

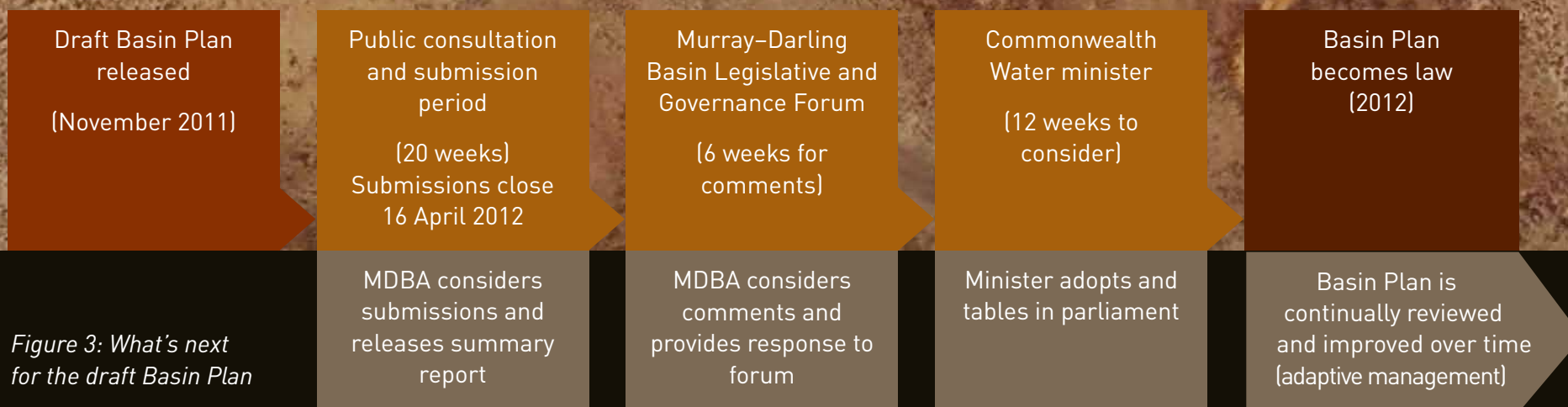


Figure 3: What's next for the draft Basin Plan

Reviewing submissions

The MDBA will consider all submissions on the draft Basin Plan before finalising the Basin Plan.

There may be legal or other reasons why some comments do not result in changes to the Basin Plan.

The Basin Plan will be passed into law in 2012.

The Basin Plan will be reviewed (and changed if necessary) in 2015, 2022 and every 10 years after that.

Cultural flows research

The National Cultural Flows Planning and Research Committee (NCFPRC) has commenced work on research that will better explain cultural flows and help satisfy the need for more detailed information on cultural flows.

The NCFPRC was established in March 2011. Its members represent the First Peoples Water Engagement Council, MLDRIN, NBAN, the North Australian Indigenous Land and Sea Management Alliance and the Noongar South West Aboriginal Land and Sea Council.

The outcomes of this research will assist Indigenous leaders to argue for greater recognition in water management. It will also help Indigenous people to obtain cultural water and influence future versions of the Basin Plan.

In particular, the cultural flows research will use case studies to identify Indigenous water values and uses, volumes of water that provide for those values and uses, and propose management options for cultural flows. It will also help to build capacity around research and water management for Indigenous leaders and communities directly involved.

Part 5 More detailed information

This section contains extracts from the *Water Act*, the *National Water Initiative*, the *Ramsar Convention* and the *United Nations Declaration on the Rights of Indigenous Peoples*. The extracts we have included are relevant for Aboriginal people.

These documents are important when it comes to including Indigenous water values and uses (cultural flows) in water planning and management.

- › *The Water Act* determines what must be in the Basin Plan.
- › *The National Water Initiative* determines the things the Basin Plan must have regard to.
- › *The Ramsar Convention* has Guidelines to inform the Basin Plan.
- › *The United Nations Declaration on the Rights of Indigenous Peoples* is not law but the Australian Government has signed it and, where possible, will take it into consideration.

The Water Act

The *Water Act 2007*, which governs the requirements for the Basin Plan, does not refer to cultural flows directly.

However, the *Water Act* does not prevent the MDBA from considering cultural flows.

In the *Water Act*:

- › *Section 3(c)* in the *Objects* provision and *20(d)* concerning the purpose of the Plan refer to 'economic, social and environmental outcomes'.
- › *Section 21(4)(a)* refers to the *principles of ecologically sustainable development*.
- › *Section 21(4)(c)(i)* requires the Basin Plan to have regard to the *National Water Initiative* (NWI). The NWI requires that State water plans incorporate Indigenous 'social, spiritual and customary objectives and strategies for achieving these objectives wherever they can be developed'.

- › *Section 21 (4)(c)(v)* requires the Basin Plan be developed having regard to the 'social, cultural, Indigenous and other public benefit issues'.
- › *Section 86A* requires the Basin Plan to have regard to critical human water needs.

Note: The term 'critical human water needs' is referring to basic human requirements **in drought or other exceptional circumstances** that affect water quality or quantity. It is the water required for core human needs (e.g. drinking, food preparation and hygiene), for essential community services (including emergency services, hospitals and schools) and for limited commercial and industrial purposes. As such, it is only a fraction of normal town water use.

Critical human water needs only becomes an issue when water in the River Murray system is down to its last drop – that is, when both storage levels and inflows are extremely low. In these circumstances, water is generally no longer available for irrigation and there is only very limited or no water available for the water market to function. Such circumstances are expected to be rare, though when they do occur, critical human water needs are the highest priority water use for communities dependent on the River Murray system.

The National Water Initiative

Section 21(4) (c)(i) of the *Water Act* states that in preparing the Basin Plan and where the Authority and the Minister exercise their powers they must have regard to the *National Water Initiative*.

The following outlines *National Water Initiative* requirements for Indigenous involvement in water planning:

- › *25 (ix)*
Water access entitlements and planning frameworks will recognise Indigenous needs in relation to water access and management.
- › *52 (i)*
Planning processes must ensure inclusion of Indigenous representatives in water planning wherever possible. Water plans will incorporate Indigenous social, spiritual and customary objectives and strategies for achieving these objectives wherever they can be developed.

- › *53*
Water planning processes will take account of the possible existence of native title rights to water. States note that Plans may need to allocate water to native title holders following recognition of native title rights.
- › *Schedule E 1 (vi)*
Water Plans to include description of users and uses of water including 'consideration of Indigenous water use'.



'Emu weave'
by Debbie Flower,
Wamba Wamba Nation

The Ramsar Convention on Wetlands

Section 21 of the Water Act states that the Basin Plan must be prepared so as to give effect to relevant international agreements including The Ramsar Convention on Wetlands. The Ramsar Convention refers to Handbook 7: Participatory skills establishing and strengthening local communities and Indigenous people's participation in the management of wetlands. This handbook is a useful reference for engaging with Aboriginal communities.

These guidelines identify a number of important considerations for the involvement of Indigenous people in the management of wetlands. These include:

- › developing participatory management arrangements
- › developing trust among stakeholders
- › providing flexibility
- › ensuring knowledge exchange and Indigenous capacity building
- › establishing continuity of resources and effort
- › engaging local and Indigenous people

Please refer to the Guidelines on the Ramsar website: <http://www.ramsar.org.au>

The UN Declaration on the Rights of Indigenous Peoples

This Declaration is not Australian law but the Australian Government has signed it.

Below are the relevant extracts from the *UN Declaration on the Rights of Indigenous Peoples* which relate to Indigenous peoples and natural resource management.

Participation in decision making

Article 18

- › Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Development priorities

Article 23

- › Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them

and, as far as possible, to administer such programmes through their own institutions.

Spiritual relationship with lands and waters

Article 25

- › 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.

Rights to land

Article 26

- › Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
- › Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

- › States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Environmental conservation and protection

Article 29

- › Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.
- › States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

Cultural heritage

Article 31

- › Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including

human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

Planning for land use

Article 32

- › Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
- › States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

- › States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Institutional structures

Article 34

- › Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.



Credits

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Jess Weir	pg 32
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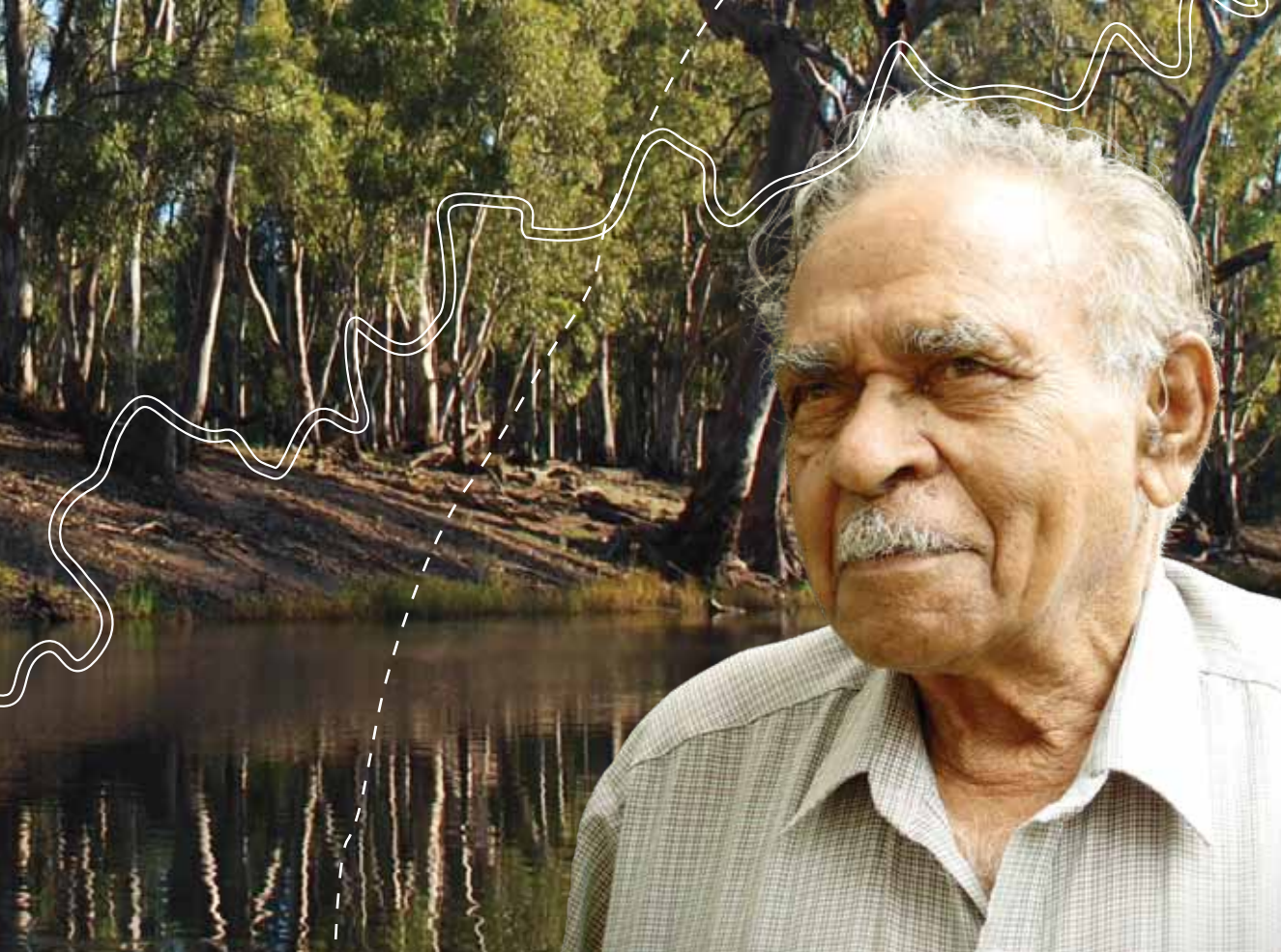
Thank you to those who contributed their cultural knowledge and enthusiasm to this document and the ongoing process of including Aboriginal voices in water reform.

The River

The river is life, it flows like our blood
From its humble beginnings to its raging flood
With a small start it grows like a child
Sometimes restless sometimes wild
On its endless journey the river runs
Watching silently by majestic red gums.

The river has a spirit, it has a soul
Its ancient people's history is still being told
Where the plants, animals, birds and the fish belong
The dreaming stories are told in dance and song
The spirit of the people who know no end
Flow like the river from beginning to end.

Written by Ernie Innes, Taungurung Elder



Let's do it as a Nation

As I sit here tonight thinking
How our country's drying out
I fully know the reason being
This ten year man-made drought.
They've dammed our upper tributaries
To saturate their cotton
While smaller farmers further down
Are totally forgotten.
Inland rivers have stopped flowing
With our livestock being bogged
We curse the upstate irrigators
Where our water's being hogged.
But just look at what it's doing
To our fauna and our flora
We're heading down the poor road
And getting even poorer.
They've killed our lakes and wetlands
That used to feed the Murray
So if we're going to fix this problem
SAY let's do it in a hurry.
But to overcome our problems
We must bypass our politicians
And take it to the World Heritage
And force a Royal Commission.
But to get things really moving
And stop further degradation
We must all rise, get off our butts
And do it as a Nation.
LET'S DO IT AS NATION
MEANING BLACK AND WHITE COMMUNITIES

Written by William Riley, Maljangapa Elder

Indigenous Engagement Principles for the Murray–Darling Basin Authority

The Murray–Darling Basin Authority will take a principle-based approach that ensures consistent and grounded involvement of Indigenous/Aboriginal people in natural resource management decision making.

This approach will be in accordance with both the spirit and intent of the *United Nations Declaration on the Rights of Indigenous Peoples*.

These principles focus on achieving inclusive, meaningful and effective outcomes for Indigenous/Aboriginal people within the Basin.

Principles

In carrying out its day-to-day activities, the Murray–Darling Basin Authority will:

1. Recognise that the authority and responsibility with respect to Indigenous/Aboriginal culture rests with Traditional Owners.
2. Involve Indigenous/Aboriginal people effectively, through a process of free prior and informed consent, which means that Indigenous/Aboriginal people have adequate knowledge and understanding of relevant government programs to ensure they are aware of the consequences and outcomes which may result from their contribution and any consent with regards to cultural knowledge, values and perspectives.
3. Work towards improving the capacity of Indigenous/Aboriginal people in relation to effective involvement in natural resource management.
4. Recognise that natural resource management programs have a role in delivering cultural, social, economic and environmental outcomes that are equitable and appropriate to all Indigenous/Aboriginal people; and
5. Ensure that partnerships between Indigenous/Aboriginal people and the Murray–Darling Basin Authority are based on respect, honesty, and capacity to participate equally, with shared responsibility and clearly defined accountability and authority.

These principles were endorsed by the joint gathering of Murray Lower Darling Rivers Indigenous Nations and the Northern Murray–Darling Basin Aboriginal Nations in Canberra on 16 June 2011.



Australian Government

