

# Murray Lower Darling Rivers Indigenous Nations



## Senate Inquiry into Water Policy Initiatives 15 September 2006

### Background

*Introduction – Steven Ross, MLDRIN Coordinator*

*Indigenous peoples in the Murray Darling Basin*

- There are some 75,000 Indigenous peoples in the MDB.
- The Majority are traditional owners from about 40 Indigenous Nations or tribal groups.
- Growing at a rate six times faster than the non-Indigenous population and account for 3.6% of the National Indigenous population.
- This has planning implications for Government including in NRM.

### *MLDRIN*

The Murray Lower Darling Rivers Indigenous Nations is a confederacy of Indigenous Nations or traditional owners in the Lower Murray Darling Basin who come together to make collective decisions on our rivers in a respectful and holistic manner. The Confederate Indigenous Nations are

- |                 |                |
|-----------------|----------------|
| • Wiradjuri     | • Wadi Wadi    |
| • Yorta Yorta   | • Mutti Mutti  |
| • Taungurung    | • Latji Latji  |
| • Wamba Wamba   | • Wergaia      |
| • Barapa Barapa | • Ngarrindjeri |

Each of these Indigenous Nations have responsibilities unique to their territory in the Murray and Darling River valleys and are recognised under traditional laws and customs as having a spiritual, cultural and physical connection and responsibility for caring for homelands within their traditional boundaries.

The information in this paper is specifically about MLDRIN but the issues are nationally applicable.

### Indigenous Aspirations for the Rivers

Management of the River Murray needs to incorporate a range of outcomes including those listed below:

- Healthy Alive Restocked Revegetated
- Free flowing
- Natural cycles
- Access rights for Indigenous people so they can move freely to continue cultural practice
- Traditional fishing/hunting

## **Protection of Rivers - 3 Main Principles**

### ***1. The Land/Water and People are interconnected***

In the *Indigenous Responses to The Living Murray Initiative*, Indigenous peoples clearly identified concerns about the lack of respect not only for themselves, but also for the natural resources of the country.

The river system must be treated with respect, as it is the lifeblood of the country. If the river is in poor health, it can not provide spiritual, cultural, economic and social benefits to all those who depend on it.

There is a connection between Indigenous people, land and water that is inseparable. If the River and land is unhealthy then so are the people.

### ***2. Recognition of Indigenous Inherent Rights and Participation in NRM***

- Indigenous peoples inherent rights as traditional owners:  
Indigenous peoples in Australia have distinctive rights and a status based on prior and continuing occupation of land and waters, and authority and autonomy as distinct polities. Indigenous peoples' contemporary identity is a window into and reflection of their past which shows strong threads of continuity and the survival of their distinct political, social, cultural and economic identity.
- The Right to be engaged in decision-making:  
Environmental and resource management decisions should be made in active consultation with the Indigenous Nations, and the consultation is not just informing people of decisions and impacts. Measures should give consideration to whether the Indigenous Nations themselves are able and willing to implement appropriate measures themselves.
- Recognition as owners and custodians:  
The right to use and to take water is an essential part of the historical and contemporary lives of Indigenous Nations. Today, water continues to be central to the survival of Indigenous people in Australia. Indigenous peoples have the right of the use and enjoyment of natural resources and the right to pursue and economic life. This also extends to the allocation of water for cultural purposes which I will talk about later.
- The Right to protect cultural heritage and identity:  
The right to control access to and use of knowledge, including language, practices and innovations is an important right of the Indigenous Nations. The right to protect cultural knowledge extends beyond knowledge about specific places, and protecting those places. The Indigenous Nations are entitled to seek to maintain the ownership of intellectual and cultural property, even in words, or in their use of or relationship with particular species, and in any commercial advantage that may be derived from their use. This rights suite also includes the protection of flora and fauna, of sites of significance and preserving cultural economy.

### ***3. Holistic Approaches to NRM***

The basis of management of the river system must be a whole landscape approach, including all tributaries of the River Murray. The objective for management of the river's resources must be sustainable use with the core values of the river system preserved as a legacy for future generations.

Therefore policies for land and water management must include a human dimension including our knowledge systems and forms of governance. They should also:

- Not separate land and water management and compartmentalise the Rivers. Western science acknowledges the connection between water quality and land management – water is cleaner at the other end of the Barmah Choke and through Werai Forest.
- Inclusion of Indigenous traditional knowledge and sciences with Western modes of NRM.

### **Government Response**

#### *Recognition of TO Inherent Rights, through*

- Consistent approaches to policy and legislation; [this broad level and there are specific things TOs want to achieve on the ground for the protection of Rivers but the broader policy level has to be effective for that to occur].
- Agreement based negotiations and full informed consent eg. MoU between MLDRIN and MDBC; and
- Appropriate resourcing for Indigenous programs to protect the eco-cultural landscape including monitoring and evaluation of the environment by traditional owners.

#### *Indigenous Land and Water Management Plans*

- The development and implementation of Indigenous Land and Water Management Plans developed by traditional owners can be included into existing Watering Planning processes, with the Cultural Intellectual property remaining with Traditional Owners.

#### *Indigenous Water Allocations*

Traditional owners have particular relationships connected to the health of the river ecosystems, government water law, policy and management which relates to river health has to be cognisant of these relationships. Government policies to return water to the river country, and restore river health, have the potential to address this contemporary dispossession today and into the future.

The allocation of water directly to Indigenous Nations and/or local communities serves a number of purposes:

- Preservation of current domestic, cultural, and economic use;
- Redressing lost utility and dispossession;
- Purchasing 'eco-cultural services';
- Reinforcing self-management;
- Protecting future cultural development;
- Facilitating economic development; and
- providing for community growth.

### **Recommendations:**

- Proper recognition of Traditional owner inherent rights to Country;
- Full participation and inclusion of TOs in NRM processes;

- Consistent legislative and policy approaches;
- Appropriate resourcing for this process;
- Development and implementation of Indigenous Land and Water Management Plans that includes Indigenous traditional knowledge and land and water management systems;
- Joint management of public lands along riverways;
- Indigenous Water Allocations for cultural social and economic purposes.

***MEMORANDUM OF UNDERSTANDING***

**Between**

**MURRAY LOWER DARLING RIVERS INDIGENOUS NATIONS**

**and**

**MURRAY-DARLING BASIN COMMISSION**

**In respect of**

**a framework for the participation of the MURRAY LOWER DARLING RIVERS INDIGENOUS  
NATIONS in the management of the natural resources of the Murray and Darling River valleys  
below the Menindee Lakes Storage**

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## MEMORANDUM OF UNDERSTANDING

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**MEMORANDUM OF UNDERSTANDING** made the twenty third day of March 2006,  
between:

**MURRAY LOWER DARLING RIVERS INDIGENOUS NATIONS ("MLDRIN")**  
for the Indigenous nations, represented by those whose names and signatures appear in the  
signature block at the end of this Memorandum;

and

**MURRAY-DARLING BASIN COMMISSION ("the Commission")**  
of 15 Moore Street, Canberra in the Australian Capital Territory,

and to be known as the Parties.

### 1 RECITALS

#### MLDRIN

- 1.1 MLDRIN is a confederation of traditional owner groups, each with responsibilities unique to their territory in the Murray and Darling River valleys and that are recognised under traditional laws and customs as having a spiritual, cultural and physical connection and responsibility for caring for homelands within their traditional boundaries.
- 1.2 MLDRIN is formed for the purposes of, amongst other things:
  - 1.2.1 expressing to the Commission, State agencies and other bodies the views and the perspectives of the Indigenous nations; and
  - 1.2.2 providing for the involvement of the Indigenous nations,in respect of the management of natural resources in the Murray and Darling River valleys.
- 1.3 MLDRIN carries out the purposes referred to in clause 1.2 by:
  - 1.3.1 creating a forum for the Indigenous nations to express views in respect of natural resource management;
  - 1.3.2 providing a united base, which strives to ensure equity, access to, and participation in the processes of natural resources management; and
  - 1.3.3 coordinating the expression of views referred to in this clause.

#### The Commission

- 1.4 The Commission is an inter-governmental body set up under the Murray-Darling Basin Agreement dated 24th June 1992. The purpose of the Murray-Darling Basin

Agreement is to promote and coordinate effective planning and management for the equitable, efficient and sustainable use of the water, land and other environmental resources of the Murray-Darling Basin.

- 1.5 The Murray-Darling Basin Ministerial Council through the Commission:
- 1.5.1 manages the waters of the River Murray and Darling River below the Menindee Lakes Storage;
  - 1.5.2 advises on policies and programs for the management of the Murray-Darling Basin's environmental resources; and
  - 1.5.3 oversees the implementation of policies and programs aimed to help achieve sustainable environmental resource use.

## **2 DEFINITIONS**

- 2.1 For the purposes of this Memorandum:
- 2.1.1 'Indigenous nations' means the traditional owner groups who are Parties to this Memorandum of Understanding referred to in Clause 1.1; and
  - 2.1.2 'natural resources' means the water, land and other environmental resources managed by the Commission as referred to in clauses 1.4 and 1.5, consistent with the Murray-Darling Basin Ministerial Council's Integrated Catchment Management Policy as in force from time to time; and
  - 2.1.3 'confederation' means an alliance of traditional owner groups for a common purpose; and
  - 2.1.4 'cultural heritage' means a place or object that is of significance to Indigenous persons in accordance with their practices, observances, customs, traditions, beliefs, folklore or history.

## **3 OTHER ARRANGEMENTS OR AGREEMENTS**

- 3.1 This Memorandum:
- 3.1.1 does not supersede or preclude other arrangements or agreements; and
  - 3.1.2 recognises the existence of the Murray Lower Darling Rivers Indigenous Nations Memorandum of Understanding with the New South Wales Department of Land and Water Conservation dated 14<sup>th</sup> October 2001.

## **4 PURPOSE OF THIS MEMORANDUM**

- 4.1 The Parties wish to:
- 4.1.1 recognise in a positive, respectful and cooperative fashion that their activities comprise many shared interests and that their aspirations for natural resource management in the Murray and Darling River valleys have many shared goals;
  - 4.1.2 establish a realistic framework for collaboration in the natural resource management of the Murray and Darling River valleys;

- 4.1.3 develop a transparent process of dialogue with, and further promote the meaningful involvement and engagement of, the Indigenous nations in the natural resource management of the Murray and Darling River valleys;
- 4.1.4 ensure that the traditions of the Indigenous nations are incorporated into natural resource management policy development and implementation; and
- 4.1.5 create mechanisms and processes by which the purposes of this Memorandum might be achieved.

## **5 ESTABLISHMENT OF RELATIONSHIP**

### **Nature of Relationship**

- 5.1 The Parties agree that by this Memorandum of Understanding they establish a cooperative relationship, to help ensure that the natural resources of the Murray and Darling River valleys are managed in a manner which recognises and assures that the 'efficient and sustainable' use of those resources carries benefits to the Indigenous nations in relation to their cultural heritage, including without limitation, their spiritual, social, customary and economic values for the use of land and water.

### **Acknowledgement of status of MLDRIN**

- 5.2 The Parties acknowledge and agree that:
  - 5.2.1 communication on the Indigenous nations' views and perspectives on natural resource management issues is best coordinated through MLDRIN, without the exclusion of other interested Indigenous groups; and
  - 5.2.2 traditional methods and processes are the most effective means of communications with the Indigenous nations and should be respected by all Parties.

## **6 MECHANISMS TO PROMOTE OBJECTIVES**

### **Representatives to work together**

- 6.1 The Parties agree that their representatives will work together in such manner as they may agree, in order to exchange experience and information for the purpose of advancing the cooperative arrangements referred to in clause 0.

### **The Commission's responsibilities**

- 6.2 The Commission shall use the process established in this Memorandum as a model for consultation about issues relevant to it in relation to its responsibilities under the Murray-Darling Basin Agreement 1992 by providing:
  - 6.2.1 a forum to enable the Indigenous nations to present and discuss issues in relation to natural resource management in the Murray and Darling River valleys below the Menindee Lakes storage, with respect to the Commission's activities;



- 6.2.2 to MLDRIN and the Indigenous nations appropriate resources agreed by both Parties to undertake the roles referred to in this Memorandum;
- 6.2.3 access to relevant information, expertise and data, as agreed by both Parties, that MLDRIN and the Indigenous nations may reasonably require with respect to natural resource management in the Murray and Darling River valleys below the Menindee Lakes storage which, in content and format, is useable by MLDRIN and the Indigenous nations for the purposes of this Memorandum.

### **MLDRIN's responsibilities**

- 6.3 MLDRIN shall:
  - 6.3.1 promote the participation of the Indigenous nations along the Murray and Darling River valleys below the Menindee Lakes storage in the model processes referred to in this Memorandum;
  - 6.3.2 facilitate cooperation and coordination between the Indigenous nations and Government in achieving the obligations of the Commission and policy and legal commitments of Governments and their agents in respect of the protection of natural resources and cultural heritage;
  - 6.3.3 promote issues of common concern to the Indigenous nations;
  - 6.3.4 establish processes for interaction between the Commission and the Indigenous nations, which respect traditional methods/processes of communication.

### **Development of General Frameworks and Processes**

- 6.4 The Parties will develop agreed general frameworks and processes to enable each of the Indigenous nations to reach understandings and agreements with the Commission on all issues of common concern in order to facilitate the resourcing of activities consistent with this Memorandum, including, but not limited to:
  - 6.4.1 representation, participation and engagement in the process of natural resource management;
  - 6.4.2 cultural heritage;
  - 6.4.3 social and economic outcomes; and
  - 6.4.4 identifying and agreeing activities of mutual interest, incorporating:
    - a) what action is required;
    - b) what resourcing is required;
    - c) what is to be delivered; and
    - d) how progress will be monitored, reviewed and evaluated.

## **7 DISPUTE RESOLUTION**

### **Notification**

- 7.1 If a dispute arises between the Parties relating to this Memorandum, the party claiming the dispute agrees to notify the other party to the dispute in a timely manner giving details of the dispute.

### **Consultation**

- 7.2 The parties to a dispute agree to use their best endeavours to resolve the dispute through direct consultation and negotiation between each parties nominated representatives.

### **Good faith**

- 7.3 Each party to a dispute agrees that all consultation and negotiations are to be conducted in good faith and in a respectful, cooperative and timely manner in accordance with the principles and framework specified in this Memorandum.

## **8 LIABILITY FOR LOSS OR DAMAGE**

- 8.1 No Party has an obligation or liability to the others under this Memorandum for loss or damage suffered as a result of participating in the processes and activities described in this Memorandum.

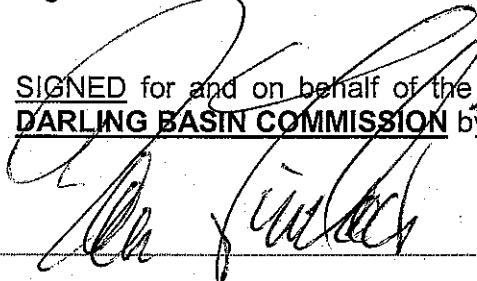
## **9 TERM OF MEMORANDUM AND EFFECT**

- 9.1 This Memorandum:

- 9.1.1 may be amended at the request in writing of any Party, with the agreement in writing of the other Parties;
- 9.1.2 will be reviewed after a period of three years from the date of signing, and be renewed subject to agreement by both Parties;
- 9.1.3 is non-exclusive of any other association relationship or agreement which any of the Parties may at any time wish to enter and is not intended to and does not create any legally binding obligations or enforceable rights;
- 9.1.4 is not intended to and does not affect any legal or political rights and interests of any Party to this Memorandum of Understanding; and
- 9.1.5 is not a treaty.

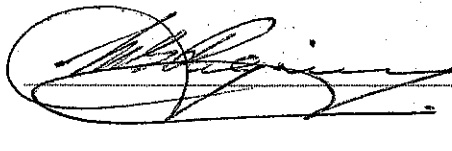
Signed as a Memorandum of Understanding

SIGNED for and on behalf of the MURRAY-DARLING BASIN COMMISSION by:

  
\_\_\_\_\_

Signature

The Right Honourable Ian Sinclair AC,  
President, Murray-Darling Basin  
Commission


  
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Witness

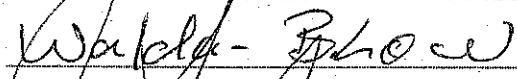
Name of Witness (Print)

SIGNED for and on behalf of  
MURRAY LOWER DARLING RIVERS INDIGENOUS NATIONS  
by the authorised representatives of the Indigenous nations, as follows:

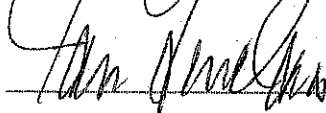
SIGNED for and on behalf of the YORTA  
YORTA PEOPLES:

  
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Signature

  
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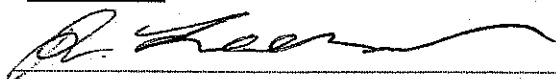
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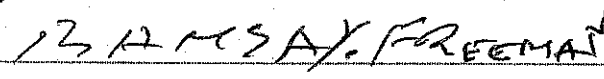
Witness

Name of Witness (Print)

SIGNED for and on behalf of the WIRADJURI  
PEOPLES:

  
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Signature

  
\_\_\_\_\_

Name(Print)

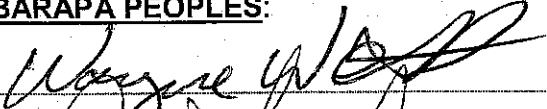
  
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Witness

  
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Name of Witness (Print)

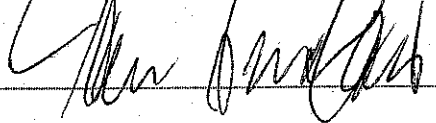
SIGNED for and on behalf of the BARAPA  
BARAPA PEOPLES:



Signature

WAYNE WEBSTER

Name(Print)



Witness

Name of Witness (Print)

SIGNED for and on behalf of the WAMBA  
WAMBA PEOPLES:

T. Hamilton

Signature

Tracy Hamilton

Name(Print)

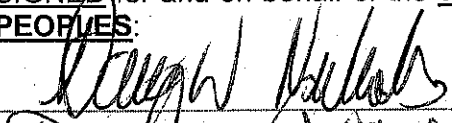


Witness

Kenneth STENART

Name of Witness (Print)

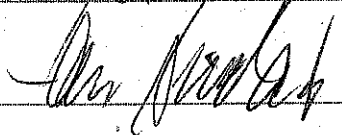
SIGNED for and on behalf of the WADI WADI  
PEOPLES:



Signature

DOUG NICHOLS

Name(Print)



Witness

Name of Witness (Print)

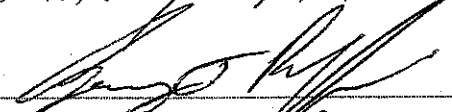
SIGNED for and on behalf of the MUTHI  
MUTHI PEOPLES:

Mary Pappin

Signature

MARY PAPPIN

Name(Print)



Witness

Cosby J Pappin

Name of Witness (Print)

**SIGNED** for and on behalf of the **LATJI LATJI PEOPLES:**

Ralph Harradine

Signature

RALPH HARRADINE

Name(Print)

Stanley Harradine

Witness

STANLEY HARRADINE

Name of Witness (Print)

**SIGNED** for and on behalf of the **WERAGAIA PEOPLES:**

Peter J. Mertikos Jr.

Signature

PETER J. MERTIKOS JR

Name(Print)

Stanley Harradine

Witness

\_\_\_\_\_

Name of Witness (Print)

**SIGNED** for and on behalf of the **TAUNGURUNG PEOPLES**

Crest S. Jones

Signature

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Name(Print)

Stanley Harradine

Witness

\_\_\_\_\_

Name of Witness (Print)

**SIGNED** for and on behalf of the **NGARRINDJERI PEOPLES:**

Stanley Harradine

Signature

\_\_\_\_\_

Name(Print)

Stanley Harradine

Witness

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Name of Witness (Print)