



First Nations review of NSW Long Term Water Plans

FINAL REPORT

ACKNOWLEDGEMENTS

MLDRIN acknowledge the First Nations of the Murray Darling Basin and their elders past and present. First Nations hold the stories, obligations and cultural knowledge that have always ensured the health of waterways and river Country. Sovereignty over Country, land and waters has never been ceded. Each Nation holds the cultural authority to speak for water, rivers and river Country. MLDRIN thanks all participating First Nations people for their contributions to this project and for their ongoing work to care for Country and realise their rights and sustain their cultural values relating to water.

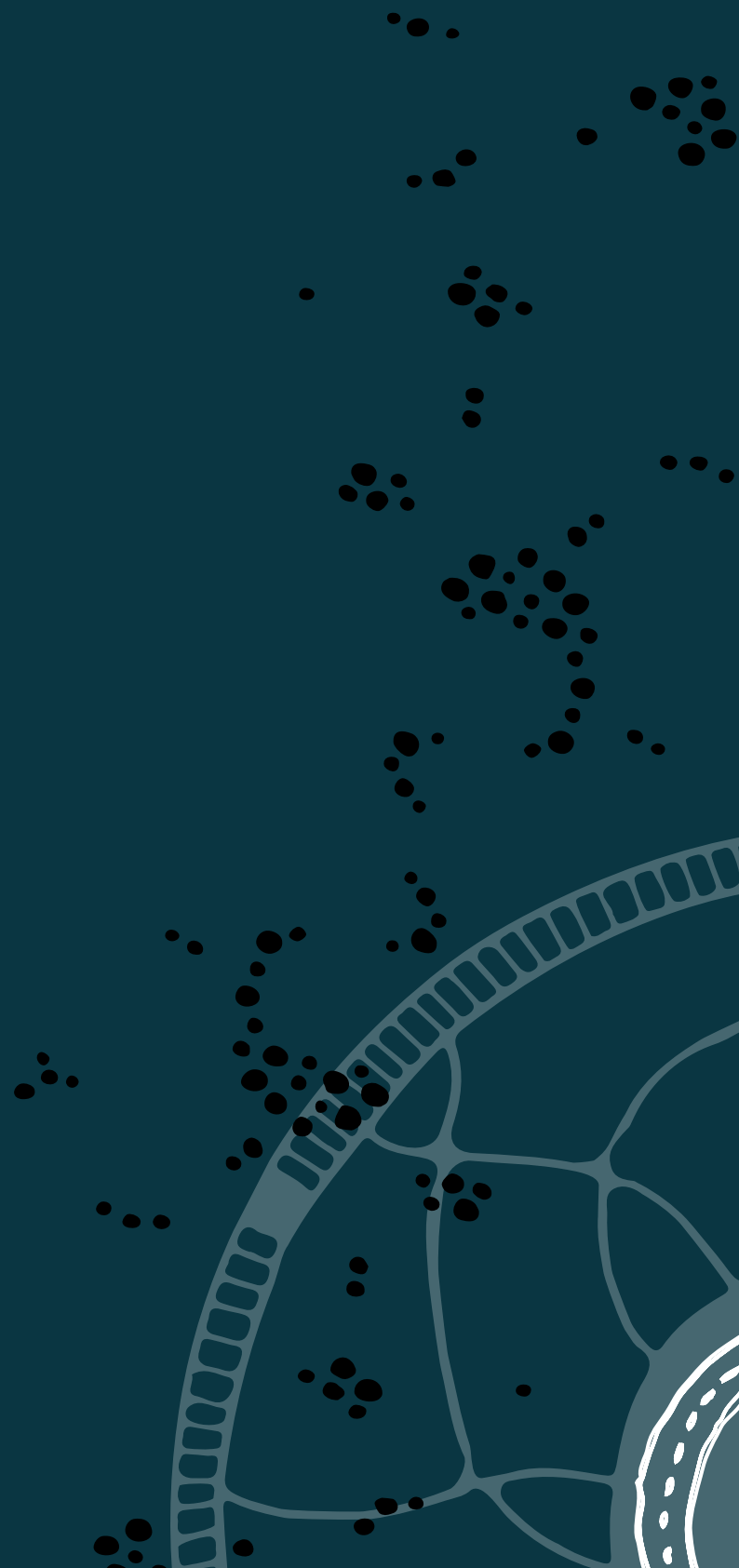
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1. Executive SUMMARY

The Department of Planning and Environment, Environment and Heritage Group (DPE EHG) engaged the Murray Lower Darling Rivers Indigenous Nations (MLDRIN) to undertake a First Nations' review to inform future updates of NSW Long term watering plans (LTWPs).

This Final Report consolidates findings and key messages from a rigorous desktop assessment of current LTWPs, workshops with First Nations from the southern and northern parts of the NSW Murray Darling Basin, targeted interviews with Traditional Owners and engagement with NSW long term water planners.

Traditional Owners participants in this review provided clear and compelling guidance about the outcomes they want to see from involvement in NSW LTWPs. These outcomes were foundational inputs for a proposed methodology to guide the update of LTWPs that is presented in this report (see section 3).

First Nations people who attended workshops and participated in interviews also presented their views about the nine current NSW LTWPs (published in 2019-20), including their strengths, gaps and areas for improvement (see section 6). This direct feedback from First Nations was complemented with a detailed desktop assessment that considered how the current NSW LTPWs align with settler-state Basin Plan requirements and best practice water planning guidelines (see section 6.3).

Two case-studies highlight First Nations-led water planning activities which demonstrate tangible opportunities for strengthening influence and self-determination through the update of LTWPs (see section 7).

MLDRIN's review has highlighted the significant, positive opportunities for strengthening NSW LTWPs through First Nations-led planning and participation. The assessment of current, published LTWPs has identified strengths and gaps, which offer further insights for improving future plans and building stronger relationships. Critically, the review found that First Nations view involvement in LTWPs as part of a complex of related engagements with the NSW Government. Positive and/or negative experiences with other NSW water-related programs and agencies had a significant impact on the way First Nations viewed opportunities relating to LTWPs.

The benefits of investing in stronger First Nations involvement and First Nations-led water planning are significant. Positive relationships and active participation take time, resources and committed action to develop. First Nations who have positive experience of collaboration with water managers and water planning processes report having greater confidence that government can deliver outcomes that are important to them.

Investing in best practice now will align DPE EHG with evolving NSW and Commonwealth policy and First Nations expectations (see section 6.3.1). Upcoming reviews of the Basin-wide Environmental Watering Strategy and Basin Plan, along with a planned 're-refresh' of the National Water Initiative will likely introduce stronger requirements for First Nations involvement. First Nations have also provided clear guidance on options for policy reform and best practice water planning that DPE EHG can act on now.

Section 3 identifies the outcomes First Nations are seeking from involvement in LTWPs and how LTWP preparation and content can help to deliver. These messages from First Nations are submitted to DPE EHG as a complete record of views raised through workshops and interviews.



Wambuil-Macquarie River near Dubbo.
Photo: Will Mooney

2. Recommendations

MLDRIN submits the following recommendations to DPE EHG to inform the update on NSW LTWPs. These recommendations reflect guidance provided by First Nations that is detailed in section 3 of this report. These recommendations must be read in the context of the full report, particularly sections 3 and 6.

1. TAKE STOCK OF LEARNINGS IN THIS REPORT

- 1.1. Conduct a stocktake of DPE EHG engagement systems and approaches against the guidance provided in Section 3 of this report, as well as the NWI module and relevant requirements in Basin Plan, Chapter 8.
- 1.2. Report back directly to First Nations and their representative organizations to communicate how DPE EHG will adapt to key learnings, including identified strengths and weaknesses of current LTWPs (section 6).

2. DEVELOP A PLAN FOR FIRST NATIONS INVOLVEMENT (SECTION 3.4)

- 2.1. Develop a detailed strategy, budget and implementation plan for involvement of First Nations in the planned update of LTWPs.
- 2.2. Formalize a protocol for engaging with First Nations, building on existing relationships (see also section 3.2). Collaborate closely, and early, with individual Nations to seek confirmation on their preferred engagement processes.
- 2.3. Establish mechanisms to facilitate LTWP engagement through regional environmental water managers and delivery staff where appropriate.
- 2.4. Establish protocols with other NSW Government agencies and programs that are working with First Nations on water to reduce duplication and avoid uncertainty about scope and roles.

3. EMPOWER FIRST NATIONS TO INFLUENCE LTWPs AND WATER MANAGEMENT (SECTION 3.2)

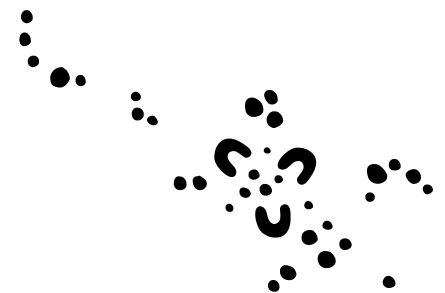
- 3.1. Provide targeted resources and technical assistance to support First Nations in developing stand-alone chapters within the LTWP, based on data from Nation-led water planning (see also section 3.4).
- 3.2. Develop an integration framework to embed outcomes from First Nations chapters into all relevant sections of the LTWP, including the determination of water dependent assets, objectives and targets, watering requirements, cooperative arrangements and risks and strategies.
- 3.3. Identify opportunities to influence water management settings at valley, state and Basin scales, to support outcomes desired by First Nations.
- 3.4. Develop formal guidelines and procedures to respect and consolidate First Nations knowledge and cultural science as a legitimate and valued source of evidence for the LTWPs.

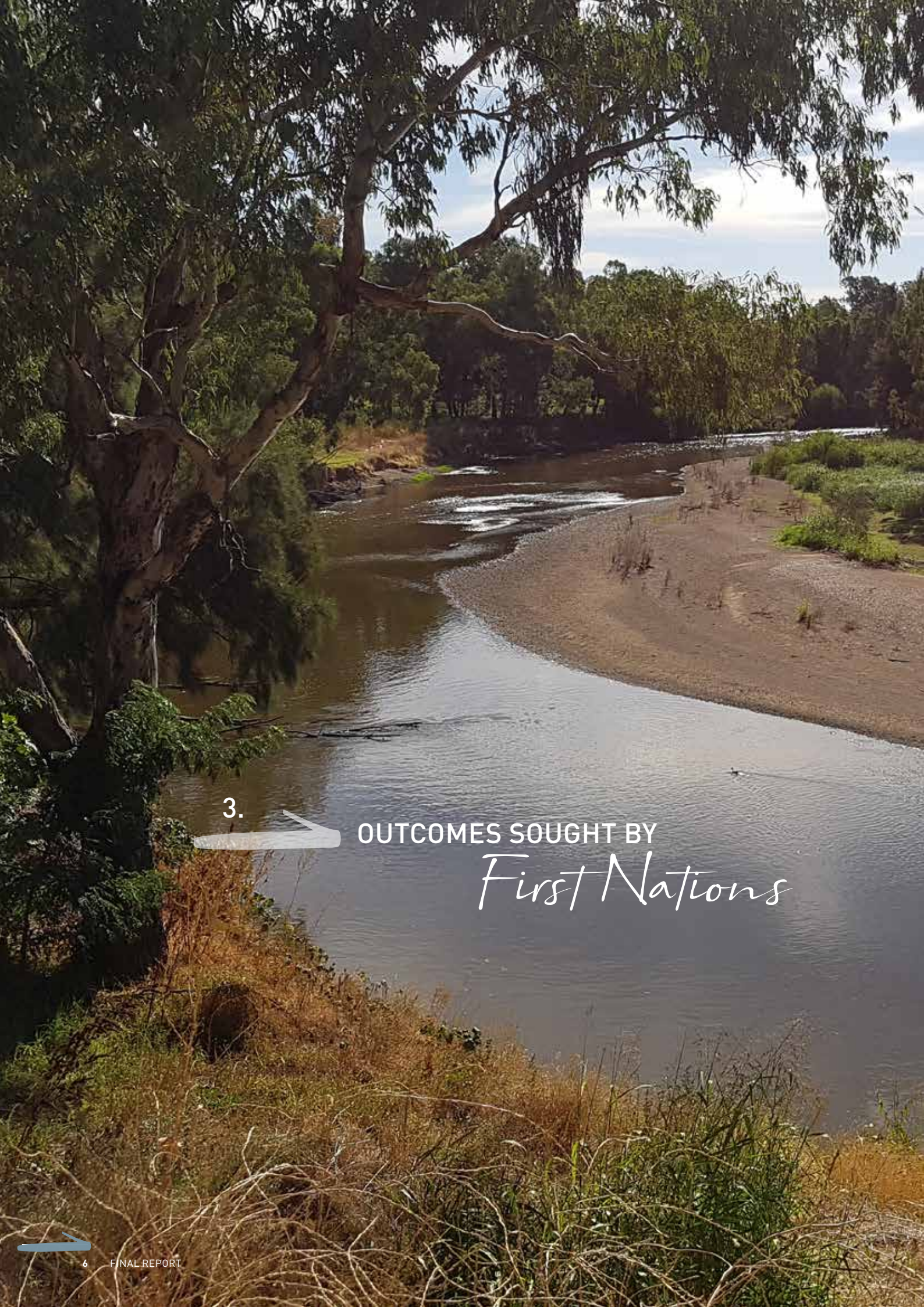
4. REPORT BACK AND COMMIT TO CONTINUOUS IMPROVEMENT (SECTION 3.4)

- 4.1. Implement a monitoring and reporting system that empowers First Nations to track progress toward cultural targets in LTWPs. This should include regular on-Country assessments, feedback loops with Traditional Owners, and transparent reporting on the cultural outcomes achieved.
- 4.2. Institute a mechanism for continuous improvement based on feedback from First Nations. This may involve a standing procedure for incorporating updated cultural objectives, regular reviews, feedback sessions, and collaborative planning to refine and enhance future iterations of LTWPs.

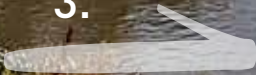
5. INVEST IN LONG TERM CAPABILITY AND COLLABORATION (SECTIONS 3.3 AND 3.4)

- 5.1. Provide ongoing resourcing for First Nations to define what is important to them and how they want to advance their water interests in a strategic way.
- 5.2. Identify cooperative arrangements and investment opportunities that provide substantive roles for First Nations as partners in each LTWP, based on their rights and interests.





3.



OUTCOMES SOUGHT BY

First Nations



MLDRIN was engaged to make recommendations that will support meaningful First Nations involvement and representation in the update of NSW LTWPs, to occur in 2024-25.

Specifically, MLDRIN was asked to:

- Seek views on options for improving inclusion and empowerment of First Nations
- Analyse and assess how First Nations input would be best included in version 2 of LTWPs
- Scope a range of options for strengthening participation and agency of First Nations in LTWP preparation; and
- Develop a set of preferred methodologies for First Nations input into Long Term Water Plans.

Through workshops and interviews conducted for this review, First Nations people highlighted the outcomes that are important to them in relation to the update of LTWPs and watering Country. These outcomes provide a tangible description of how First Nations want to see their rights, interests and aspirations advanced through the redevelopment of LTWPs. First Nations' views span a range of outcomes that they see as relevant to water justice. First Nations people who participated in interviews and workshops expressed the view that strengthened involvement in LTWP development must contribute to outcomes such as tangible benefits for Country, the achievement of water rights and improved power sharing arrangements and self-determination for Nations. In presenting the views of First Nations and scoping options for strengthening participation and agency, MLDRIN has sought to honour the outcomes that First Nations want to see, but this report does not speak on behalf of any individual or Nation.

The National Cultural Flows Research Project (NCFRP) law and policy reform model reflects First Nations' expectations about how they want to see water planning progress towards self-determination (Nelson, Godden and Lindsay

2018). The law and policy reform model identifies three fields of inter-dependent reform and progress. These are 1) water rights, 2) influence in water landscapes and 3) transforming foundations. Figure 1 illustrates the law and policy reform model and how these three fields inter-relate.

The three fields of reform identified in the NCFRP law and reform policy align with feedback and direction regarding the update of LTWPs received from Traditional Owners in workshops and interviews. The NCFRP model is a useful framework to present key outcomes that First Nations highlighted through interviews and workshops conducted for this review.

Tables 1-3 (below) identify tangible options for improved LTWP preparation that can help to deliver on outcomes sought by First Nations. These tables describe the key outcomes that First Nations want to see and identify how the update of LTWPs could help to deliver those outcomes. Given the scope of LTWPs, outcomes identified for 'influence in water landscapes' are most directly relevant, but First Nations presented the view that LTWPs should also progress or enable outcomes sought in other fields where possible.

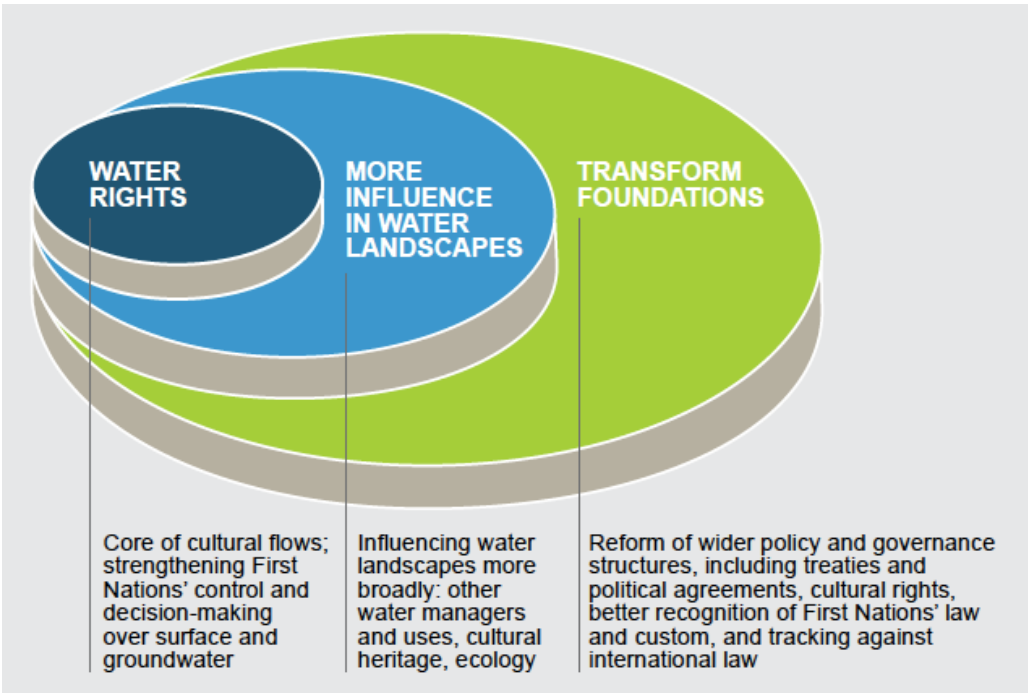


Figure 1: Outline of the National Cultural Flows Research Project law and policy reform model. Source: MLDRIN, NBAN and NAILSMA (2018) A Pathway to Cultural Flows in Australia.

3.1. WATER RIGHTS

TABLE 1 | Summary of outcomes sought by First Nations in relation to water rights and options for LTWP update

WHAT OUTCOMES ARE NATIONS SEEKING?	HOW COULD THE UPDATE OF LTWPs HELP DELIVER?
<p>Nations healing Country with water that they control</p> <p><i>“We need to have the rights given to us to manage it in the best way we know how.”</i></p> <p>- Traditional Owner (Dubbo workshop)</p> <p><i>“Gomerioi wants Environmental Water, we want to control it, that is our environment and our responsibilities to our downstream neighbours. We want to share and do it in a process where everyone is happy.”</i></p> <p>- Traditional Owner (Dubbo workshop)</p> <p><i>“We’ve been delivering outcomes, and we’ll continue if they leave it in our hands.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Identify potential cooperative water management arrangements involving First Nations:</p> <ul style="list-style-type: none"> Review Cooperative Arrangements sections in LTWPs to specify opportunities for First Nations to play a more direct role in determining environmental water use on their Country. <hr/> <p>Identify and support opportunities for First Nations to acquire and utilize Cultural Access Licenses, or other existing ‘rights’ available through NSW water framework:</p> <ul style="list-style-type: none"> Review LTWPs to support First Nations’ aspirations for greater control and improved delivery of cultural access licenses (e.g. the Murrumbidgee CAL) and other existing rights (for example the supplementary water (subcategory “Aboriginal environmental”) access license specified in the WSP for the Barwon-Darling Unregulated River Water Source). <hr/> <p>Recognise Native Title determinations and Native Title rights to water:</p> <ul style="list-style-type: none"> LTWPs should identify Native Title rights to water within each Plan area and highlight how those rights can support First Nations’ agency in healing Country, based on the informed consent of relevant First Nations.
<p>Acquiring water entitlements for cultural and economic use</p> <p><i>“The black fella can’t even harvest his native tucker – bush tucker and medicines, it’s against the law – under environmental water. They can harvest it for their own use, but they can’t sell it – it’s an economic gain.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Highlighting and affirming First Nations right to access water for cultural and economic use:</p> <ul style="list-style-type: none"> LTWPs could clarify that allocation of water for First Nations cultural and economic use is out of scope but affirm the importance of water access and point to other NSW government processes that may support that outcome.

3.2. INFLUENCE IN WATER LANDSCAPES

TABLE 2 | Summary of outcomes sought by First Nations in relation to influence water landscapes and options for LTWP update

WHAT OUTCOMES ARE NATIONS SEEKING?	HOW COULD THE UPDATE OF LTWPs HELP DELIVER?
<p>Tangible cultural benefits from water for the environment</p> <p><i>“They need to think about what’s in it for the mob. If they’re going to do appropriate consultation and... link into their values and then put them in these plans, then what happens after that?”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“We want a commitment from the NSW government, that will deliver, not consider, on certain outcomes for First Nations people. Don’t just put it in there and make it look pretty... deliver – not all talk. When they start doing that, Nations will start respecting government.”</i></p> <p>- Traditional Owner (interview)</p>	<p>During the consultation process, communicate potential benefits that can be advanced through LTWPs, as well as limitations:</p> <ul style="list-style-type: none"> • DPE EHG should develop clear messaging and tangible evidence of how involvement in LTWPs can provide benefits for First Nations and outcomes for Country. • Highlight the role of environmental watering requirements (EWRs) in addressing inappropriate development and identify the potential for First Nations watering requirements to protect Country and support cultural values. <hr/> <p>Update LTWPs and support tangible outcomes for First Nations by influencing the broader water management framework:</p> <ul style="list-style-type: none"> • Identify where Water Sharing Plan (WSP) rules may represent risks or constraints to supporting cultural values or achieving First Nations’ water requirements. • Highlight changes to WSPs as potential management strategies to address risks to cultural values and water requirements. • Identify linkages and seek to influence WSPs to support First Nations objectives and water requirements as defined in LTWPs. • Ensure that First Nations values and cultural watering requirements are included in the prioritization framework to guide water use under different resource availability scenarios. • Consider how First Nations values and cultural watering requirements, identified in LTWPs, can guide DPE EHG input into the development and review of Commonwealth planning and prioritization (eg Basin-wide Environmental Watering Strategy review and Basin Annual Priorities). • See also “LTWPs that reflect and reinforce First Nations rights and interests” below.

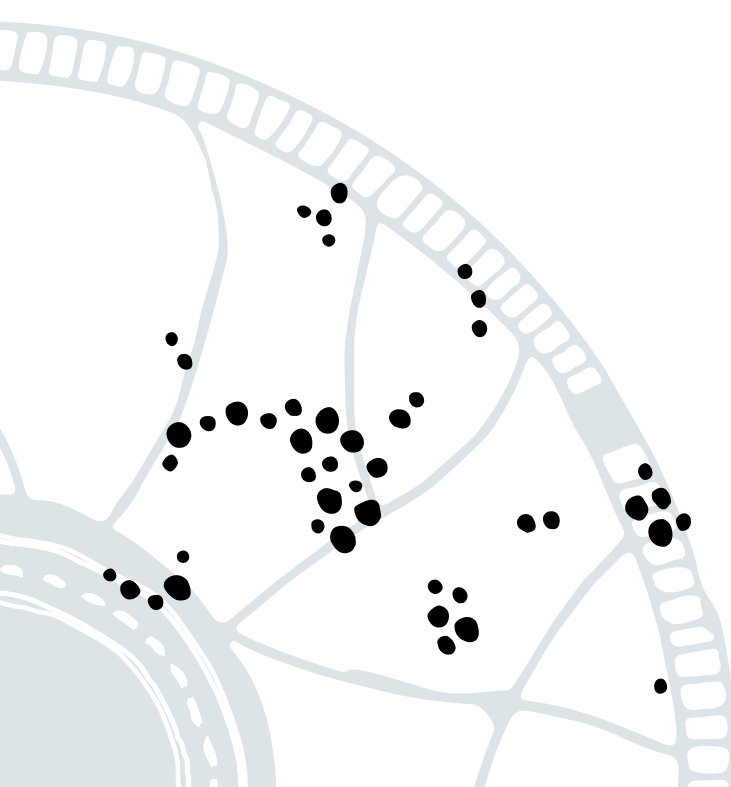


WHAT OUTCOMES ARE NATIONS SEEKING?	HOW COULD THE UPDATE OF LTWPs HELP DELIVER?
<p>Strong relationships and values alignment</p> <p><i>“The reason we trust people is because they come and sit around the fire with us. Come and build authentic relationships with blackfellas.”</i></p> <p>- Traditional Owner (Wagga workshop)</p> <p><i>“Have the people that deliver the outcomes running the engagement process for all the projects around water, and engagement around water. And if they need help, they go to someone like MLDRIN or they engage someone to help them open the doors for the Nations.”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“The community needs to know they have a voice, and they can be heard. Someone accessible...someone that you can trust that you can know is going to go back up to the top.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Build on existing relationships between First Nations and environmental water managers for LTWP development:</p> <ul style="list-style-type: none"> • DPE EHG should immediately identify positive and constructive relationships between First Nations and water planners (including Environmental Water Managers responsible for annual environmental water planning) and invest time and resources to strengthen and deepen those relationships (see case study 2, ‘Cultural water at Gayini Nimmie-Caira’ for further background). <hr/> <p>Build trust on First Nations terms, through honesty, transparency, consistency and accountability:</p> <ul style="list-style-type: none"> • Ensure decision makers in DPE EHG with appropriate authority participate in conversations and build relationships with First Nations over time. • Avoid using consultants and invest in direct relationships between First Nations and water planners. • Embrace truth telling and meet First Nations people on their Country, on their terms. • Improve coordination between NSW agencies working with First Nations on water and clarify the role of proposed Regional Aboriginal Water Advisory Committees in environmental water planning and LTWPs. <hr/> <p>Make a principle-based commitment to First Nations outcomes and embed this in LTWPs:</p> <ul style="list-style-type: none"> • DPE EHG should make an explicit commitment to advance First Nations outcomes through LTWPs which goes beyond current statutory requirements and demonstrates alignment with First Nations rights and expectations including the United Nations Declaration on the Rights of Indigenous People (UNDRIP). <hr/> <p>Uphold the integrity of First Nations’ approaches and methodologies:</p> <ul style="list-style-type: none"> • When applying tools like the Aboriginal Waterways Assessment (AWA) or the NCFRP methodology to inform LTWP development, work in collaboration with First Nations organizations and researchers who created the tools to ensure alignment with best practice.



Wambuul-Macquarie River near Dubbo.
Photo: Will Mooney

WHAT OUTCOMES ARE NATIONS SEEKING?	HOW COULD THE UPDATE OF LTWPs HELP DELIVER?
<p>Culturally appropriate consultation and resourcing for participation</p> <p><i>“Cultural protocol has to be in there right from the start.”</i></p> <p>- Traditional Owner (Dubbo workshop)</p> <p><i>“We need a massive resource bucket that is no different to the way that they massively resource the environmental process.”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“Come out, walk Country with us and get our perspective of Country...it’s got to be a meaningful engagement. Walk Country with us, and everyone in the catchment.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Involve First Nations in a co-design process from commencement:</p> <ul style="list-style-type: none"> • When updating LTWPs, discuss rules of engagement, resourcing, expectations and cultural protocols with each Nation in the first instance. • Develop an explicit strategy for supporting First Nations involvement in LTWP development, including defined and transparent outcomes, targets, timeframes and resourcing. <hr/> <p>Make provision for First Nations involvement and active communication across the life of the LTWP:</p> <ul style="list-style-type: none"> • First Nations participation in LTWPs should be a partnership underpinned by activities and communications over the planning cycle (5 years). • Ensure mechanisms for continuing First Nations participation, inputs and amendments to LTWPs. <hr/> <p>Work with appropriate representatives and decision-making bodies, as directed by each Nation:</p> <ul style="list-style-type: none"> • Understand and engage in accordance with each Nations’ representative structures and decision-making protocols. <hr/> <p>Recruit local people to work consistently with Nations on-Country.</p> <hr/> <p>Ensure adequate resourcing for Nation participation:</p> <ul style="list-style-type: none"> • Identify Nations’ capabilities and resourcing needs. Actively support Nations that have not been able to participate effectively due to lower capacity or resourcing.



WHAT OUTCOMES ARE NATIONS SEEKING?	HOW COULD THE UPDATE OF LTWPs HELP DELIVER?
<p>Respect for First Nations knowledge, law and science in water planning</p> <p><i>“On my Country, there is no separation between water/land/me. I grew out of the Country like an apple from an apple tree - that’s what sustains me.”</i></p> <p>- Traditional Owner (Dubbo workshop)</p> <p><i>“Our TO values should be an asset right from the start.”</i></p> <p>- Traditional Owner (Wagga workshop)</p> <p><i>“Believe in what traditional people tell you about Traditional laws and science.”</i></p> <p>- Traditional Owner (Wagga workshop)</p> <p><i>“We have to allow water to run down the system to our neighbours. And that’s our continental water law.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Include First Nations holistic and relational management systems in LTWP development:</p> <ul style="list-style-type: none"> • When identifying assets, values and objectives in LTWPs, take guidance from First Nations ancestral and totemic obligations to key species, waterways and places (based on informed consent of First Nations people). • Recognise that First Nations people are part of Country and must be empowered to speak for parts of Country. <hr/> <p>Recognise First Nations knowledge and cultural indicators as a legitimate input to planning:</p> <ul style="list-style-type: none"> • When determining objectives, targets and watering requirements, consider First Nations knowledge and indicators of healthy Country and appropriate watering regimes (see also Case Study 1, ‘Identifying cultural and environmental assets in the in the Culliwatta (Barwon)’). <hr/> <p>Understand the importance of upholding First Nations water law to Country and people:</p> <ul style="list-style-type: none"> • Consider how LTWPs can ensure flows of healthy water from upstream Nations to those downstream. • When developing watering requirements, seek information from First Nations about the volume and quality of water they need to pass on, through their Country, to downstream Nations.
<p>LTWPs that reflect and reinforce First Nations rights and interests</p> <p><i>“They need to have a whole suite of cultural science that is going to underpin the support for Aboriginal people to update these plans.”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“If I don’t write myself into those plans then I won’t get what I want.”</i></p> <p>- Traditional Owner (Wagga workshop)</p> <p><i>“I’d like Aboriginal stuff front and centre right throughout the document.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Utilize and invest in on-Country, Nation-led water planning and cultural science:</p> <ul style="list-style-type: none"> • Work with Nations to understand what information, data or objectives they have available to inform LTWPs. • Work with Nations to identify interests and priorities for undertaking on-Country water assessment and planning projects <hr/> <p>Support First Nations to identify water-dependent cultural assets and values:</p> <ul style="list-style-type: none"> • Information about significant water-related places, values, objectives and risks can be sourced from AWAs, Cultural Flows studies or Use and Occupancy Mapping, subject to agreements with Nations (see also section 7). • Consider incorporating relevant water-dependent values for First Nations, beyond the ‘fish, waterbirds, vegetation and ecosystem function’ framework.



WHAT OUTCOMES ARE NATIONS SEEKING?	HOW COULD THE UPDATE OF LTWPs HELP DELIVER?
<p><i>“Be in front of the plan, not at the back. And we stand alone as a Nation, with Nation values and we expect those Nation values to be delivered through water. But at the front, not at the back.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Support First Nations to identify cultural indicators of waterway health and cultural watering requirements:</p> <ul style="list-style-type: none"> • Support Nations to utilize methodologies for determining cultural watering requirements and to develop requirements to reflect their cultural principles and priorities. <hr/> <p>Test alignment between environmental water requirements and cultural outcomes:</p> <ul style="list-style-type: none"> • Cultural watering requirements should be independently developed and reviewed to determine alignment with EWRs. Where EWRs are found to also support cultural outcomes, this alignment should be explicitly identified in LTWPs. <hr/> <p>Ensure LTWPs reinforce First Nations inputs:</p> <ul style="list-style-type: none"> • Consider a stand-alone First Nations chapter in each LTWP and/or chapters for individual Nations, based on feedback from Nations in each plan area. • In addition to individual chapter(s) include relevant First Nations content throughout <i>all</i> sections of LTWPs to strengthen impact and demonstrate consistent regard.
<p>First Nations empowered across the LTWP planning cycle</p> <p><i>“In that long-term watering plan, there has to be flexibility to be able to adjust the water delivery model, to fulfill the First Nations Aboriginal environmental objectives.”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“When the plans are being reviewed, get the mob back out on Country and say how’s it going? ... Are they delivering the right outcomes for your cultural species?”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“They walk in, tick the box and then leg it. And you don’t see them for another five years...A lot of agencies don’t seem to take you for the ride with them and they don’t realize that the outcomes are bigger when they do.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Empower First Nations through an adaptive management approach for LTWPs:</p> <ul style="list-style-type: none"> • The LTWPs should include a standing procedure for incorporating updated cultural values, objectives and watering requirements as Nations complete additional projects and planning. • The update of LTWPs in 2025 should be seen as a starting point for continuous improvement of the Plans through inclusion of updated First Nations information. <hr/> <p>Support First Nations access to Country and monitoring to inform ongoing assessment and review of updated plans:</p> <ul style="list-style-type: none"> • Support First Nations to access Country and monitor achievement of cultural watering requirements. • Ensure First Nations are empowered to inform ongoing reviews and updates of LTWPs. • Support a continuous planning presence for First Nations, working on Country to develop, refine and monitor their cultural watering requirements.

3.3. TRANSFORM FOUNDATIONS

TABLE 3 | Summary of outcomes sought by First Nations in relation to transform foundations and options for LTWP update

WHAT OUTCOMES ARE NATIONS SEEKING?	HOW COULD THE UPDATE OF LTWPs HELP DELIVER?
<p>Nations with agency and autonomy in water planning</p> <p><i>“We need to look into our systems and have appropriate setups. It has to be Nation-led.”</i></p> <p>- Traditional Owner (Dubbo workshop)</p> <p><i>“We should have our own Nation LTWPs.”</i></p> <p>- Traditional Owner (Wagga workshop)</p>	<p>Invest in Nation capacity through water officers, communication and culturally appropriate decision-making forums:</p> <ul style="list-style-type: none"> • Resource Nations to define what is important to them and how they want to advance their interests in a strategic way. • Updating LTWPs can provide a pathway to advancing Nation-led water planning but must be complemented by enduring support for Nations to participate as rights holders, not stakeholders in water management. <hr/> <p>Support Nations to produce, hold and use their own data and develop their own LTWP content:</p> <ul style="list-style-type: none"> • Empower Nations to undertake projects and develop approaches to holding and using data about water-dependent value and objectives. • Empower Nations to develop their own strategies, plans and frameworks which can be used to influence LTWPs on Nations’ terms (see Case Study 1 and 2 for additional perspectives).
<p>Power sharing and self-determination</p> <p><i>“We should be up here: there should be capacity building for us to be running things.”</i></p> <p>- Traditional Owner (Wagga workshop)</p> <p><i>“If you start doing agreements with mobs - an agreement with us is like a treaty. If you signed something, you’ve got do it – and that goes for both sides.”</i></p> <p>- Traditional Owner (interview)</p>	<p>Identify cooperative arrangements and investment opportunities that provide substantive role for First Nations as partners in each LTWP, based on their rights and interests.</p> <hr/> <p>Recognise First Nations, in the LTWPs, as rights holders with unique obligations to heal Country:</p> <ul style="list-style-type: none"> • Use LTWPs to recognise and elevate the status of First Nations as rights holders. • Include guidance that directs and empowers environmental water managers to work with First Nations as rights holders. <hr/> <p>Explore formal agreements with First Nations to support new power sharing arrangements:</p> <ul style="list-style-type: none"> • DPE EHG could investigate options to establish formal agreements with First Nations covering management of water for the environment and recognise such agreements in LTWPs (see case study 2).

3.4. GUIDANCE FOR COLLABORATING WITH TRADITIONAL OWNERS IN LONG-TERM WATER PLANNING

First Nations participants highlighted that involvement in LTWPs should occur across the term of the plans and at all stages of the planning cycle. The guidance outlined in this section presents priorities for supporting First Nations involvement at key stages in

the planning process including preparation, implementation, and review. This guidance should be considered alongside the outcomes and options highlighted in Tables 1-3 (above) as a methodology to inform First Nations involvement in the update of LTWPs.

FIRST NATIONS EXPECTATIONS: RENEWING/PREPARING THE LTWP

"Come out, walk Country with us and get our perspective of Country...it's got to be a meaningful engagement. Walk Country with us, and everyone in the catchment." – Traditional Owner (interview)

"There should be more written up about our involvement right from the start even in the logic." – Traditional Owner (workshop)

"We want our own chapter, our own plan. Then we would be delivering water based on our own aspirations." – Traditional Owner (workshop)

"There's all these different units and then the mob are in consultation fatigue. Being asked the same questions by different sections of the same departments about the same values. So, they've got to be a bit more coordinated, that's all." – Traditional Owner (interview)

FIRST NATIONS EXPECTATIONS: IMPLEMENTING THE LTWP

"Invest in people locally that are going to roll out these long-term watering plans and explain it to them." – Traditional Owner (interview)

"You've got all these people that are engaging across the Basin and you're confusing everyone on each program, and at the end of the day, the only people that should be engaging in water are the ones that deliver outcomes on ground." – Traditional Owner (interview)

"I'd love to get to a point where the NSW government can go to these farmers, and landowners and say listen, 'we'll put water on there, but we need to start having a First Nations outcome. Would you be able to sign this access agreement so we can have them come out before, middle and after the water events to take a look at their Country?' Why is that so hard to do? Open the gate three times a year while there's a water event on." – Traditional Owner (interview)

FIRST NATIONS EXPECTATIONS: REVIEWING THE LTWP

"I'd really love to see the long-term water plans as the vessel to elongate the science and opportunity for Aboriginal people to have input in the broader shorter-term stuff that's going on, but that still underpins a better position for Aboriginal people to work in" – Traditional Owner (interview)

"When the plans are being reviewed, get the mob back out on Country and say how's it going?" – Traditional Owner (interview)

"it's a two-way street - if you want to put water on our Country and you want to work with us, you've got to value our outcomes as much as your own." – Traditional Owner (interview)

GUIDANCE FOR COLLABORATING WITH TRADITIONAL OWNERS IN LONG-TERM WATER PLANNING

PHASE 1

RENEWING/PREPARING THE LTWP

PHASE 1: RENEWING/PREPARING THE LTWP

- Resource First Nations to develop their own plans to care for Country and water including engaging their own experts and holding their own on-Country workshops.
- Work through existing relationships between First Nations and NSW government, seeking confirmation from First Nations about how this should work. For example, this may mean LTWP engagement is facilitated by regional environmental water managers and delivery staff.
- Resource First Nations to develop their own stand-alone chapter in the LTWP. Where there is more than one Traditional Owner within a LTWP area, more than one chapter may be needed.
- Embed outcomes from the First Nations chapter(s) in all relevant parts of the LTWP.
- Respect Indigenous Knowledge as a source of evidence for the LTWP.
- Ensure LTWPs set meaningful targets for delivery of water to meet cultural objectives.

IMPLEMENTING THE LTWP

PHASE 2



PHASE 3: REVIEWING THE LTWP

- Establish the LTWP review process as a forum for First Nations to hold the NSW government to account on the long- and short-term planning, delivery and monitoring of environmental water.
- Resource First Nations to undertake their own review of the LTWP and how well it has delivered cultural objectives, including undertaking additional on-Country work to assess the health of sites that received environmental water during the term of the LTWP.
- Assess the outcomes achieved by the LTWP (ecological and cultural) and the relationship between the NSW government and First Nations.

PHASE 3

REVIEWING THE LTWP



PHASE 2: IMPLEMENTING THE LTWP

- Ensure environmental water delivery teams include targets for cultural objectives in annual environmental watering planning and delivery.
- Ensure environmental water delivery teams report on both ecological and cultural outcomes.
- Resource First Nations to participate in annual environmental water planning and delivery, including walking Country with NSW government staff.
- Resource First Nations to undertake monitoring of cultural and ecological outcomes before, during, and after environmental watering activities.
- Ensure that First Nations have access to any land (including private land) on which environmental watering occurs before, during, and after environmental watering (to the extent safe and practicable) to undertake monitoring activities.

Background AND OBJECTIVES OF THE REVIEW

Since time immemorial, First Nations people have nurtured the rivers, lakes, wetlands and streams of the Murray Darling Basin. The imposition of colonial and settler-state water management regimes has been supported by the erroneous assumption of *aqua nullius* (that the water belonged to no one when the British invaded Australia), which continues to underpin settler water law today (Marshall, 2017).

The over-allocation and over-extraction of this life-giving resource, and the accompanying effects of land use change, have driven the dispossession of First Nations water rights (Hartwig, et al 2021). Today, First Nations hold less than 0.2% of water rights in NSW (Hartwig, et al 2020). Aboriginal people have witnessed the degradation of their sacred waterways, resulting in catastrophic deterioration to environmental, social and cultural outcomes in recent decades, most vividly depicted in the images millions of dead fish lining the waters and banks of the Barka/Darling River in 2019 (AAS, 2019) and again in 2023.

The Murray-Darling Basin Plan (Basin Plan) was established in 2012 to address the over-allocation of water resources in the Murray Darling Basin and to arrest the decline in the condition of Basin ecosystems. Chapter 8, part 4 of the Basin Plan establishes a management framework for environmental water at the Basin and catchment-scale.

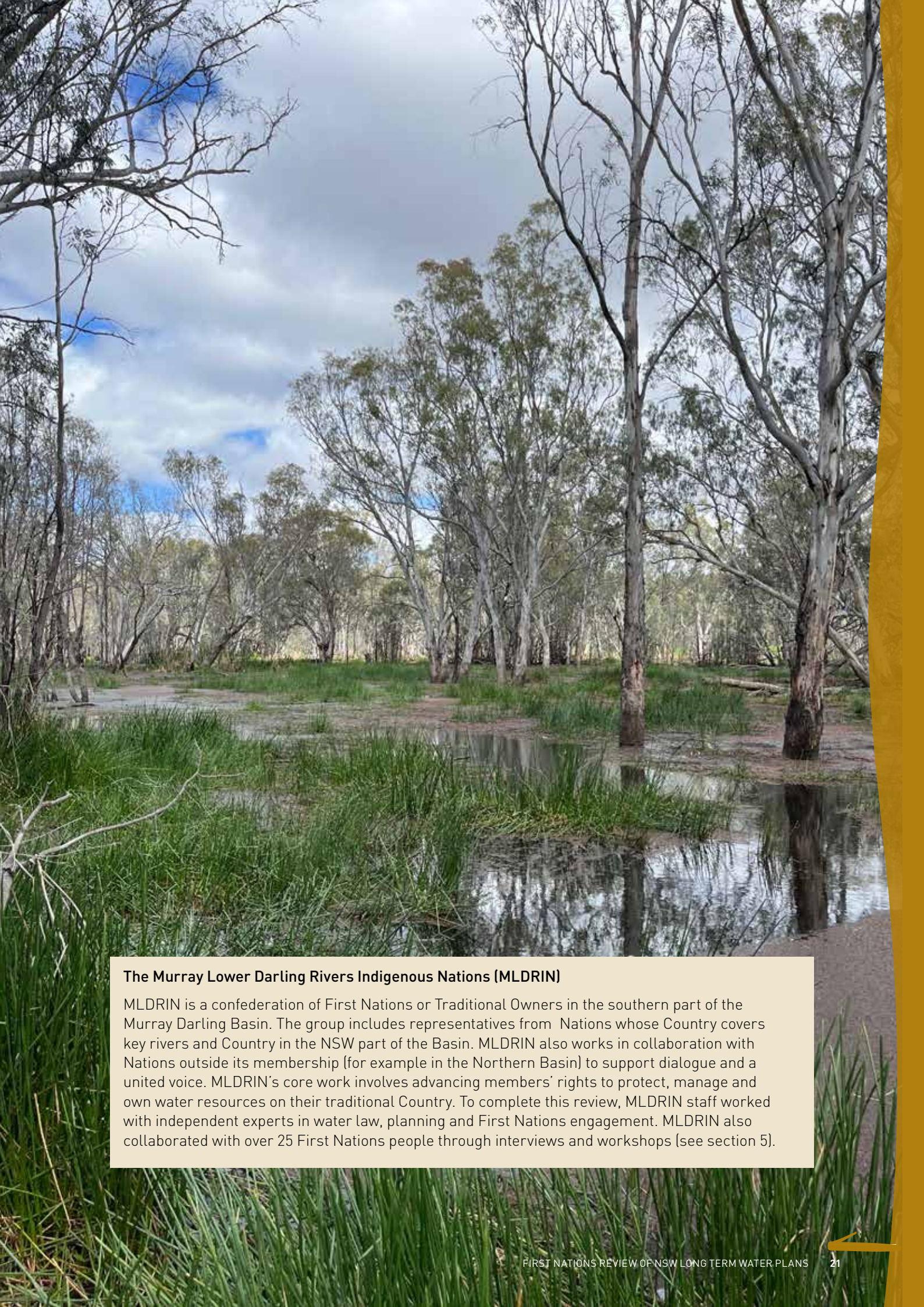
Central to this framework are the Basin-wide environmental watering strategy (BWS) (MDBA, 2019) and long-term watering plans. The BWS establishes long-term environmental outcomes and targets for the Basin and its catchments. LTWPs, which apply to water resource plan areas, contribute to the achievement of the BWS by identifying:

- priority environmental assets and functions in water resource plan areas
- ecological values, objectives and ecological targets for those assets and functions
- environmental watering requirements needed to meet those targets and achieve the objectives.

Long-term watering plans must also be prepared in a manner consistent with the 'principles to be applied in environmental watering' identified in the Basin Plan. These include maximising the benefits of environmental watering by having regard to Indigenous values (Basin Plan, s. 8.35(b)(iv)).

The NSW DPE EHG, in 2019-20, published nine LTWPs for river catchments in the NSW share of the Murray-Darling Basin: Barwon-Darling, Border Rivers, Gwydir, Intersecting Streams, Lachlan, Macquarie-Castlereagh, Murray-Lower Darling, Murrumbidgee and Namoi catchments.

The Basin Plan requires LTWPs to be reviewed and updated every five years or following major amendments to the BWS or water resource plans. The Murray Lower Darling Rivers Indigenous Nations (MLDRIN) has been engaged to review the development and content of the 2019-20 LTWPs from a First Nations' perspective and advise on how best to improve the plans in the upcoming 5-year update (2025) so that they include meaningful First Nations participation and input.



The Murray Lower Darling Rivers Indigenous Nations (MLDRIN)

MLDRIN is a confederation of First Nations or Traditional Owners in the southern part of the Murray Darling Basin. The group includes representatives from Nations whose Country covers key rivers and Country in the NSW part of the Basin. MLDRIN also works in collaboration with Nations outside its membership (for example in the Northern Basin) to support dialogue and a united voice. MLDRIN's core work involves advancing members' rights to protect, manage and own water resources on their traditional Country. To complete this review, MLDRIN staff worked with independent experts in water law, planning and First Nations engagement. MLDRIN also collaborated with over 25 First Nations people through interviews and workshops (see section 5).





4.1. OBJECTIVES OF THIS REVIEW

DPE EHG has commenced a review and update of the inaugural LTWPs published in 2019-20. MLDRIN has been engaged to review existing LTWPs from a First Nations perspective and provide guidance on future improvements. The objectives of this review are to:

- Analyse and assess how First Nations input would be best included in the update of NSW LTWPs, which will likely be published in early 2025, informed by guidance from First Nations including how they want to have input into the development of future LTWPs, and what outcomes First Nations can expect the LTWPs to deliver.
- Assess the development and content of current NSW LTWPs from a First Nations' perspective, to identify gaps and consider opportunities for First Nations participation in the context of the Basin Plan's Environmental Water Management framework.

First Nations have consistently asserted their rights, interests and agency in relation to water management over the decade since the Basin Plan was established. In NSW, growing recognition of First Nations water rights is evident in commitments contained in the NSW Water Strategy (NSW Department of Planning, Industry and Environment, 2021), including to strengthen the role of First Nations in water management and decision making and to develop an Aboriginal Water Strategy. Environmental water planners in NSW are increasingly committed to working with First Nations to ensure their values and objectives are reflected in water management decisions (NSW Department of Planning, Industry and Environment, 2020). This review aims to assist DPE EHG to deliver on these important policy commitments.

Wambuul-Macquarie River near Dubbo.
Photo: Will Mooney

5.

Methodology

MLDRIN developed a tailored approach to undertake the review, incorporating a rigorous assessment of existing LTWPs and analysis of inputs from First Nations and water planners to provide guidance and recommendations for future LTWPs, as requested by DPE EHG.

The findings of the review address the preparation processes and the content of existing NSW LTWPs. MLDRIN's analysis was informed by relevant water planning requirements, best practice guidelines, and First Nations principles for water reform.

Active participation of First Nations people through interviews and workshops has ensured that the analysis and future recommendations accurately portray the experiences, reflections and future objectives of Traditional Owners.



DESKTOP ASSESSMENT

As a first step, MLDRIN undertook an analysis of all nine current NSW LTWPs as well as the *NSW Long Term Water Plans: Background Information* report (NSW Department of Planning and Environment, 2023).

MLDRIN developed a series of questions to assess how First Nations had been involved in LTWP development and how First Nations input had influenced the key operative components of the Plans. MLDRIN assessed each of the nine existing LTWPs and *NSW Long Term Water Plans: Background Information* report against the 18 tailored assessment questions. Next, MLDRIN undertook a further review of all the NSW LTWPs against additional assessment questions to identify key strengths and weaknesses of the suite of LTWPs.

This approach enabled MLDRIN to assess: consistency across the plans, visibility of First Nations' input, and evidence of how First Nations input influenced the LTWPs including priority assets, values, objectives and watering regimes.

The nine LTWPs were also assessed against settler state legal requirements and best practice guidelines, including the Basin Plan Chapter 8, Part 4 requirements and the National Water Initiative (NWI) module on *Engaging Indigenous Peoples in Water Planning and Management* (2017). In the First Nations outcomes and methodology section, MLDRIN has sought to identify ways that the update of LTWPs can ensure alignment with these requirements and best practice guidelines.



ENGAGEMENT WITH PLANNERS

To supplement the desktop review of the 2019-20 LTWPs, a questionnaire was prepared and forwarded to DPE EHG planners involved in the preparation of the LTWPs. MLDRIN facilitated a subsequent workshop with planners and other relevant DPE EHG staff. Engagement with planners was conducted to receive feedback about the process undertaken to engage with First Nations for the development of LTWPs, including what support was provided both to planners, and to First Nations people to participate. The workshop with planners also helped to identify barriers to best practice engagement, and to highlight options for future improvements.

TRADITIONAL OWNER INTERVIEWS

MLDRIN conducted six targeted interviews with Traditional Owners, from the NSW Murray Darling Basin region, who had experience engaging in NSW environmental water planning and LTWP development. Interview responses informed a gap analysis of LTWPs, identification of options for future First Nations input and ways to maximise the impact of First Nations' contributions. Interviewees were remunerated for participation.

These interviews also provide insight to broader aspects of the NSW and Basin Plan environmental water management and planning frameworks.

FIRST NATIONS WORKSHOPS

MLDRIN facilitated and coordinated two workshops, one in the Northern NSW MDB (9 August 2023) and one in the Southern NSW MDB (28 June 2023). 24 Traditional Owners representing 16 distinct First Nations participated across the two workshops. Workshops provided an opportunity for deliberation and collective discussions on First Nations participation in environmental water planning in NSW. Workshops provided guidance and insight to the project team in assessing gaps in the current LTWPs and determining methods for future input and influence in revised plans.

CASE STUDIES

MLDRIN worked with two Nations in NSW to develop case studies documenting First Nations' interests, approaches and aspirations for involvement in the update of the LTWPs (see section 7). The case studies showcase a range of approaches for involvement in LTWP development, based on different Nation's perspectives, priorities and capabilities.



6.

Findings:

STRENGTHS AND GAPS OF CURRENT LTWPS

Government process is always [a] tick a box process. What's going to be different today? We don't want to keep doing the same old thing."

- Traditional Owner (Wagga workshop)

A comprehensive review of the 2019-20 LTWPs and *NSW Long Term Water Plans: Background Information* report shows several strengths, gaps and areas for improvement from a First Nations' perspective. This section summarises the findings from workshops and interviews conducted with First Nations and Traditional Owners (see section 5). This section also summarises the findings from MLDRIN's Desktop Review and a questionnaire and workshop with DPE EHG staff and water planners (see section 5). The detailed findings of the desktop assessment can be found in Appendix A).

The DPE EHG planners who responded to MLDRIN's questionnaire and participated in the workshop were generous and frank in their feedback about the LTWP consultation, preparation, and implementation processes. They also outlined potential challenges for improving systems and processes in future. It was clear that NSW DPE EHG planners aspire to improve First Nations engagement and input across the LTWPs but faced barriers during the previous process.

Findings from interviews and workshops with First Nations and Traditional Owners highlight a clear disconnect between First Nations' experience of involvement in the development and implementation of the 2019-20 LTWPs, and perceived engagement efforts by DPE EHG staff/water planners. This misalignment regarding the value and impact of engagement efforts offers a clear pathway for improvement during an update of the plans. First Nations experiences highlight several other key areas of focus for ensuring genuine First Nations input into LTWPs going forward (see sections 3 and 5).

The experience of First Nations and Traditional Owners outlined in this section relates to their broader experiences of engagement with NSW Government agencies on water matters beyond the 2019-20 LTWPs. This is because First Nations do not view individual government programs or initiatives in isolation, but rather as part of broader, interrelated interactions with the settler-state (Woods et al., 2022). Experience of poor consultation and engagement processes led by one agency can have implications for processes led by other agencies. This finding highlights a broader challenge for Basin Plan implementation beyond development of the LTWPs.

"They're not looking at the holistic approach to water planning. They're looking at it with that silo perspective and there's nothing else connected to that. They're disconnected through the silo system than from a holistic approach to a waterway or a billabong."

- Traditional Owner (interview)

Goobarragandra River.
Photo: Charlie McCormick

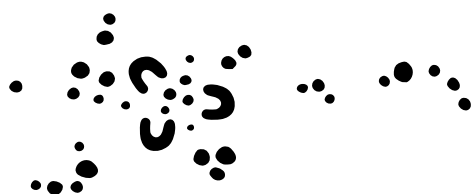
6.1. KEY STRENGTHS

6.1.1. FIRST NATIONS' PERSPECTIVE

Table 4 highlights the key strengths relevant to current (2019-20) LTWPs as identified by First Nations people in workshops and interviews.

TABLE 4 | Summary of Key Strengths – First Nations perspective

FIRST NATIONS PERSPECTIVE	
AREA OF STRENGTH	KEY FINDING
<p>Engagement</p> <p><i>"If we don't have a go, we are never going to know. Getting yourself in the document, means you have a foot in the door."</i></p> <p>- Traditional Owner (interview)</p>	<p>Genuine participation had significant value for First Nations and was linked to tangible inputs into water planning processes, and positive outcomes for identifying and assessing cultural/ecological values.</p> <hr/> <p>There was recognition of renewed efforts by the NSW government (broadly conceived) to support First Nations water planning projects.</p>
<p>Awareness of LTWPs</p> <p><i>"I was on the Lower Murray Darling EWAG, so I remember seeing a presentation through that process. And then being contacted or consulted through e-mail and phone conversations."</i></p> <p>- Traditional Owner (interview)</p>	<p>An awareness of LTWPs had increased through experience working in Government.</p> <p>An awareness of LTWPs had increased through involvement with EWAGs.</p>
<p>Relationships with environmental water managers</p> <p><i>"They take all our advice, that's the thing - they ring and say, 'oh when do you want me to turn the tap on and where do you want to start putting it?'...I think they've learned that it's much better that way because we're the ones that are going to produce the outcome because we are actually the ones that live on ground and see the change and watch the lignum, to see when it's the right time to go."</i></p> <p>- Traditional Owner (interview)</p>	<p>Some Traditional Owners report strong relationships with environmental water managers. These relationships were linked to positive outcomes for water management.</p>



6.1.2. DESKTOP ASSESSMENT AND FEEDBACK FROM PLANNERS

As described by DPE EHG staff and water planners, genuine attempts were made to engage with First Nations people and organisations, despite inadequate resourcing and timeframes. LTWP documents, and responses from DPE EHG staff, highlight that efforts were made to establish relationships and provide an opportunity for Nations to inform plans. It was clear from a review of some LTWPs and feedback from planners that efforts were

made at engagement, and potentially fruitful conversations with First Nations people and groups were initiated in some cases. This included initial conversations and attempts to initiate engagement with MLDRIN and the Northern Basin Aboriginal Nations (NBAN).

However, for a variety of reasons, these engagement activities were not able to be followed through and do not appear to have made an impression on First Nations people (see *Key Gaps*).

TABLE 5 | Summary of Key Strengths – Desktop assessment and feedback from planners

DESKTOP ASSESSMENT AND FEEDBACK FROM PLANNERS	
AREA OF STRENGTH	KEY FINDING
Engagement efforts	From the perspective of planners, genuine attempts were made to engage with First Nations people and organisations, despite inadequate resourcing and timeframes. Responses from planners, and the plans themselves, highlight that efforts were made to establish relationships and scope opportunities for Nations to inform plans across LTWP areas.
LTWP improvement and review	Some plans included new or updated information about cultural values as a trigger for review.
Cultural places, values & objectives	There was some contextual recognition of the significance of particular places and waterscapes to First Nations drawn from existing datasets.
Water-dependent cultural assets	The Aboriginal Heritage Impacts Management Systems (AHIMS) was used to identify cultural assets for planning purposes.
Ecological assets, values, objectives	Some plans included objectives, targets and EWRs for other species (beyond birds, fish and native vegetation), which may include some species of totemic importance to Traditional Custodians.
Robust ecological planning	The strength of the plans in protecting environmental outcomes may also have had the concurrent outcome of protecting First Nations values.
Future work	Some sections describe future work for identifying Aboriginal values and assets.

6.2. KEY GAPS

6.2.1. FIRST NATIONS EXPERIENCE

Table 6 highlights the key gaps and shortcomings relating to current (2019-20) LTWPs that were identified by First Nations through interviews and workshops.

TABLE 6 | Summary of Key Gaps – First Nations perspective

FEEDBACK ON EXISTING LTWPS AND NSW GOVERNMENT WATER PLANNING	
GAPS	KEY FINDING
<p>Engagement</p> <p><i>“The long-term watering plan - you can't contribute if you don't know about it. You can't be involved if you don't know about it, you can't be involved if you're not engaged. And the 2019/2020 water plan, we weren't engaged at all. We weren't engaged [in] the development or the co-design of it.”</i></p> <p>- Traditional Owner (interview)</p> <p><i>I don't think they were very equipped, they had one person working on it, so the time was spread pretty thin, from what I remember.”</i></p> <p>- Traditional Owner (interview)</p>	<ul style="list-style-type: none"> • Some Nations reported not being engaged at all, or there was a failure to engage at Nation level. • There was no strategic planning for First Nations involvement in LTWP processes. Participation was tokenistic or ineffective. • There was a lack of appropriate forums and decision making for Nations to come together to discuss LTWPs. • Communication flow was poor.
<p>Lack of meaningful First Nations content in existing LTWPs</p> <p><i>“I know everyone sort of runs to the AHIMS database to make sure they're doing their due diligence, but they're not really. They're just saying, ok, these sites are in the system, we've acknowledged them. But how are they supporting these sites, through environmental water?”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“But it's a huge breach of trust, particularly not to follow up with Aboriginal people... It shows that if you don't want to talk to Aboriginal people, there are other means to do it, and that's what I don't like.”</i></p> <p>- Traditional Owner (interview)</p>	<ul style="list-style-type: none"> • First Nations content was inadequate. • AHIMS data was not used appropriately or effectively. • Use of AHIMS data, particularly without ground truthing or community consultation, was seen as a breach of trust and cultural protocol.

FEEDBACK ON EXISTING LTWPS AND NSW GOVERNMENT WATER PLANNING

GAPS	KEY FINDING
<p>Cynicism/Frustration about Government processes</p> <p><i>“The brand is damaged. We’ve had gammon service from NSW. My unconscious bias just switches off. What are these people here for again?”</i></p> <p>- Traditional Owner (Wagga workshop)</p>	<ul style="list-style-type: none"> • Participants expressed a sense of consultation fatigue and reported too much ‘inform and consult’. • The NSW Government’s engagement with First Nations on water (particularly water resource planning) was described as a “damaged brand”. • There was a linked concern that involvement does not lead to outcomes or strengthened influence.
<p>Poor coordination between Government agencies</p> <p><i>“You’ve got all these people that are engaging across the Basin and you’re confusing everyone on each program, and at the end of the day, the only people that should be engaging in water are the ones that deliver outcomes on ground”.</i></p> <p>- Traditional Owner (interview)</p>	<ul style="list-style-type: none"> • There was a lack of clarity about the roles of environmental water planners, the former Aboriginal Water Initiative (AWI), and WRP consultation. • There was a lack of clarity regarding how LTWPs interact with annual environmental water planning. • There is poor alignment between First Nations, DPE EHG and Aboriginal Water Program values, principles and approaches.
<p>Benefits and impacts for First Nations unclear</p> <p><i>“[LTWPs] don’t give the mob anything, they don’t give them any power, any value in use to actually negotiate something.”</i></p> <p>- Traditional Owner (interview)</p> <p><i>“I find it very awkward to say long term watering plans... Because ten years might be a drought out here, five years or three years might be very wet, and within that twenty-year period, another five years to ten years of extreme fluctuating weather - that 10 years of drought does not reflect the long-term watering strategy.”</i></p> <p>- Traditional Owner (interview)</p>	<ul style="list-style-type: none"> • The value, benefit and impact of LTWPs has not been made clear to First Nations. • The existing LTWPs don’t create an authorising or empowering policy context for First Nations to advance their interests. • The scope of LTWPs does not align with First Nations experience and connection to Country.
<p>Barriers to accessing Country</p> <p><i>“Will the mob have access then to those values if they’re not on private property, to see if those values are maintained or improved by water delivery? We’re talking long-term here, so the community needs to get back out on Country to say is the water protecting our values? Is it maintaining it? Is it improving it?”</i></p> <p>- Traditional Owner (interview)</p>	<ul style="list-style-type: none"> • Inability to access Country means Traditional Owners can’t assess and plan for what Country needs (including as an input to e-water planning).
<p>Poor water management has impacted rivers and Country</p>	<ul style="list-style-type: none"> • The condition of rivers across the NSW Basin is dire and First Nations experience ongoing degradation of Country.

6.2.2. DESKTOP ASSESSMENT AND FEEDBACK FROM PLANNERS

Table 7 highlights the key gaps and shortcomings relating to current (2019-20) LTWPs that were identified through the desktop assessment (see Methodology) and engagement with NSW Long-term water planners.

TABLE 7 | Summary of Key Gaps – desktop assessment and feedback from planners

DESKTOP ASSESSMENT AND FEEDBACK FROM PLANNERS	
GAPS	KEY FINDING
Engagement and First Nations involvement in LTWP development	<ul style="list-style-type: none"> • DPE-EHG had no documented strategy for appropriate engagement across the LTWPs. • Poor cross-agency coordination and parallel consultation efforts by other agencies complicated and undermined First Nations engagement. • The benefits of participation were not known at their development, and not clearly communicated to First Nations. • LTWP logic and methods did not include a role for First Nations involvement, nor did it clearly link cultural assets to LTWP objectives and outcomes.
First Nations content in LTWP	<ul style="list-style-type: none"> • Assets, values and objectives of importance to First Nations were poorly identified, and there was no ground-truthing of the AHIMS dataset with First Nations. • There was no clear pathway to meaningful impact for First Nations input to the LTWPs. • There was no identification or management of risks to First Nations values and watering requirements. • There were inconsistencies between the LTWPs in terms of how they engaged with First Nations cultural values. • Any First Nations input to the plans is not explicitly stated, making it hard to identify when input has been provided. • Weaknesses undermine ability to implement, monitor and report on outcomes for First Nations values and interests.

Goobarragandra River.
Photo: Charlie McCormick



6.3. ANALYSIS AGAINST KEY REQUIREMENTS AND GUIDELINES

MLDRIN assessed the current 2019-20 LTWPs against settler-state legal requirements and best practice guidelines. These assessments provide an objective analysis of the extent to which the plans meet obligations and recommendations relating to the State of NSW's commitment to the Murray Darling Basin Plan and National Water Initiative (NWI).

Table 8 provides an outline of key requirements included in the Murray Darling Basin Plan, alongside a summary of gaps in the current LTWPs and opportunities for improved alignment through LTWP updates. Table 9 provides an outline of key best practice guidance described in the NWI Module *Engaging Indigenous People in Water Planning and Management* (2017), an assessment of how LTWPs preparation aligned with the guidance, and opportunities for improvement. A more detailed description of the assessment against these requirements and guidance can be found at Appendix B.

The Basin Plan requirements, although relatively weak and minimal, do point to some potential areas of improvement in updating LTWPs (Table 8). These include:

- Investigating and identifying opportunities for collaborative management, including collaborative watering regimes, with First Nations landowners and managers (Basin Plan 8.19(4)).
- Explicitly identifying pathways to improve knowledge of First Nations watering requirements as a strategy to address risks to ecological and cultural values in plan areas (Basin Plan 8.19(5)).
- Undertaking appropriate consultation with First Nations and documenting proper, genuine and realistic consideration of First Nations values in the development of the plans (Basin Plan 8.35(b)(iv) and 8.35(b)(iii)).

The NWI Module *Engaging Indigenous People in Water Planning and Management* (2017) provides detailed guidance about First Nations involvement that is specifically relevant to the development of LTWPs. Despite the relevance and the availability of this Module, it is not clear that NSW developed an approach that aligned with the guidance and it appears that LTWPs are, overall, not consistent with the advice (see Table 9).

The Basin-wide Environmental Watering Strategy (BWS) is another key component of the Basin environmental management framework. The BWS must be prepared having regard to Indigenous values and Indigenous uses, insofar as they relate to environmental objectives (Basin Plan s8.15(4)(e)). LTWPs must also be prepared having regard to the BWS. The current BWS published in 2019, contains no direct requirements for consideration of First Nations values or objectives in the development of LTWPs. The BWS does include guidance on strategies for maximising environmental outcomes which align with the Principles to be applied in environmental watering (Basin Plan, Chapter 8, Part 4, Division 6).

The BWS highlights that:

“Landholders, land managers, community groups and First Nations peoples often have detailed knowledge about rivers and wetlands in their valley. This knowledge can include observations about the condition of local wetlands, their water needs or movement of water through the landscape; where native fish are in the river; or possible risks with different types of flows and opportunities to achieve complementary social, cultural and economic outcomes. The outcomes from water use will be improved if this local knowledge and experience can be tapped.” (MDBA, 2019 pp 53-54).

TABLE 8 | Summary of analysis against Basin Plan requirements

BASIN PLAN REQUIREMENTS	CURRENT LTWPs: GAPS AND OPPORTUNITIES
<p>8.19(4): A long-term watering plan must identify possible co-operative arrangements (for example, possible co-operative watering regimes) between holders of held environmental water, managers of planned environmental water, and owners or managers of environmental assets for the delivery of environmental water</p>	<ul style="list-style-type: none"> • LTWPs have not identified cooperative arrangements with First Nations who may be owners or managers of environmental assets. • Opportunity for explicit identification and strengthened recognition in updated LTWPs.
<p>8.19(5): a long-term watering plan must identify (b) strategies to manage risks to providing for EWRs including 4.03(3)(g): to improve knowledge of water requirements within the Murray- Darling Basin, including requirements relating to the social, spiritual and cultural uses of Basin water resources by Indigenous people</p>	<ul style="list-style-type: none"> • No evidence of risk identification or explicit management strategies relating to First Nations water requirements. • Opportunity to develop and implement strategies to improve knowledge of First Nations water requirements as part of update of LTWPs.
<p>8.20(1) a long-term watering plan must be prepared in consultation with local communities, including bodies established by a Basin State that express community views in relation to environmental watering, and persons materially affected by the management of environmental water</p>	<ul style="list-style-type: none"> • Inadequate consultation with First Nations as local communities and people materially affected. Some consultation with First Nations members on EWAGs, but often not culturally appropriate. • Opportunities for strengthening Nation input and decision making through update of LTWPs.
<p>Principles to be applied in environmental watering 8.35(b)(iv) and 8.35(b)(iii): Environmental watering is to be undertaken in a way that maximizes its benefits and effectiveness by (iii) utilizing local knowledge and experience; and (iv) having regard to Indigenous values</p>	<ul style="list-style-type: none"> • TWP do not demonstrate genuine, proper and realistic consideration for First Nations values (8.20(3) Basin Plan). • Significant opportunities to strengthen involvement and demonstrate genuine, proper and realistic consideration through update of LTWPs.



This guidance highlights opportunities for involving First Nations in LTWP development but lacks detailed advice or direction. The BWS identifies 'First Nations' objectives and outcomes for shared benefits of environmental water' as a key subject requiring substantive updates in the scheduled 2022 review of the Strategy (now to be undertaken in 2024). The MDBA has committed to add a secondary objective that 'environmental watering should seek to achieve social or cultural outcomes, to the extent that environmental outcomes are not compromised', in the updated version of the Strategy (MDBA, 2019 p.89). Future updates

to the BWS can provide valuable direction and guidance for the preparation of LTWPs in NSW (see section 5.3.1).

The NWI Module *Engaging Indigenous People in Water Planning and management* (2017) provides detailed guidance about First Nations involvement that is specifically relevant to the development of LTWPs. Despite the relevance and the availability of this Module, it is not clear that NSW developed an approach that aligned with the guidance and it appears that LTWPs are, overall, not consistent with the advice (see Table 9).

TABLE 9 | Summary of analysis against NWI First Nations engagement module guidance

NWI ENGAGEMENT MODULE GUIDANCE	CURRENT LTWPs: GAPS AND OPPORTUNITIES
<p>Engagement, representation and partnerships: The module outlines a number of approaches for ensuring equitable and culturally appropriate involvement of First Nations in the development of water plans.</p>	<ul style="list-style-type: none"> Limited resourcing, inadequate preparation, constrained timeframes and poor coordination between NSW Government agencies did not support equitable and culturally appropriate involvement. Significant opportunities to build strong engagement and partnerships through development of a strategic approach to First Nations involvement in LTWP update.
<p>Identifying and assessing values and objectives: The module provides guidance to support the assessment of water resources, and identification of water-related values and objectives by First Nations</p>	<ul style="list-style-type: none"> In almost all LTWPs, First Nations water-related values have been identified by non-Aboriginal staff by querying datasets, rather than engagement with Traditional Owners, which is inconsistent with the NWI guidance. Strong opportunities to empower First Nations to identify and assess water-related values and objectives through LTWP update.
<p>Determining watering needs: The module provides guidance on the way First Nations objectives and outcomes should be considered in the development of watering requirements.</p>	<ul style="list-style-type: none"> LTWPs do not demonstrate how Environmental Watering Requirements address or protect identified First Nations values and cultural assets. Opportunities for First Nations to determine cultural, or First Nations watering requirements and test alignment with EWRs.

6.3.1. FIRST NATIONS EXPECTATIONS AND EVOLVING BEST PRACTICE WATER PLANNING

First Nations have consistently asserted their rights, interests and agency in relation to water management over the decade since the Basin Plan was established. Since the existing NSW LTWPs were published, recognition of First Nations rights, interest and agency in relation to water management has grown. A number of recent developments in international and Australian water planning, law and policy have bearing on the review of the existing LTWPs and provide opportunities for improved best practice for First Nations input beyond the minimal requirements currently found in the Basin Plan and NWI.

In NSW, growing recognition of First Nations water rights is evident in commitments contained in the State Water Strategy (2021) and the Our Place on Country Aboriginal Outcomes Strategy (Department of Planning, Industry and Environment, and the Department of Regional New South Wales, 2020).

In 2018, the National Native Title Council completed a seven-year project, the National Cultural Flows Research Project, which included a law and policy roadmap for identifying and giving effect to the concept of 'cultural flows' (MLDRIN, NBAN and NAILSMA, 2018). Giving effect to Aboriginal values and objectives related to water means not only access to water rights, but also enabling Aboriginal people to play a role in water resource management and fulfil their moral responsibility to care for Country. The National Cultural Flows law and policy reform model reflects First Nations' expectations about how they want to see water planning progress on a journey towards self-determination (Nelson, Godden and Lindsay 2018).

The above policy and legal developments have been recognised by Australia's Productivity Commission, in the form of guidance on future national water reform directions contained in the National Water Reform 2020 Report (Productivity Commission, 2021). The Commission points to a changed policy landscape, noting that:

"Governments have also taken some steps to better recognise Aboriginal and Torres Strait Islander people's water interests. In particular, Australia has endorsed the United Nations Declaration on the Rights of Indigenous People (UNDRIP) that states that Indigenous people have the right to own, use and develop waters that they traditionally owned. And the 2020 National Agreement on Closing the Gap includes the outcome that Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters." (Productivity Commission, 2021, p. 48)

The framework provided by the National Cultural Flows Research Project (2018) is used as guidance by the Commission to conceptualise how the aspirations of Aboriginal and Torres Strait Islander people could be met through legal and policy reforms (Productivity Commission, 2021, p.122-123).

The Productivity Commission's advice for future water reform in Australia highlights opportunities for improved First Nations engagement and recognition in future LTWPs beyond the current minimum statutory requirements. DPE EHG can lead innovative and inclusive water planning by acting on First Nations expectations and evolving best practice. DPE EHG can also help build the case for improvements to the Basin Plan framework that guides LTWP development. The planned 2024 review of the Basin-wide Environmental Watering Strategy and the 2026 Basin Plan review both offer opportunities to strengthen recognition of First Nations interests to establish a more favourable authorizing environment for water planners. Future reform should reinforce the centrality of First Nations interests in water planning and management.

Case studies

MLDRIN collaborated with Traditional Owner groups from the northern and southern parts of the NSW Murray Darling Basin to produce two case studies for this review. The case studies highlight specific First Nations' perspectives, interests and expectations for involvement in environmental water planning and LTWPs.

The examples provided in the case studies illustrate innovative approaches that can inform LTWP updates, but they are not intended to represent the views or interests of all First Nations whose Country covers parts of the NSW Murray Darling Basin. These case studies should be considered alongside the First Nations outcomes and methodologies presented in this report, to strengthen understanding of tangible options for First Nations involvement in LTWPs.

Case study 1 was prepared in collaboration with Murawarri man Fred Hooper as a spokesperson for KJ&FA Enterprises (an Aboriginal family owned and operated Supply Nation and Supply NSW registered business). Case Study 2 was prepared in collaboration with Uncle Ian Woods and Jamie Woods, representatives of the Nari Nari Tribal Council.

6.1. CASE STUDY 1

IDENTIFYING ENVIRONMENTAL AND CULTURAL ASSETS FOR FIRST NATIONS HEALTHY WATERWAYS ENVIRONMENTAL REHABILITATION, CULTURAL AND ENDANGERED SPECIES RECOVERY PROGRAM IN THE CULLIWATTA (BARWON)

The First Nations Healthy Waterways Environmental Rehabilitation, Cultural and Endangered Species Recovery project shows how identifying First Nations water-related values and objectives, and developing watering requirements that support them, can provide critical inputs into environmental watering planning on a continuous basis..

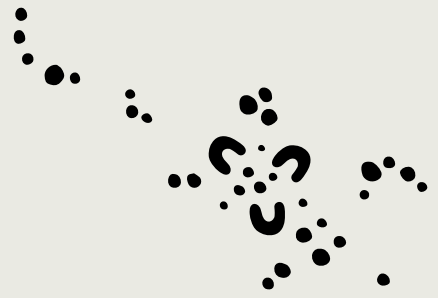
Linking cultural knowledge to Aboriginal environmental and cultural outcomes

The Healthy Billabong and Wetlands project is currently being undertaken by First Nations in the Culliwatta/Barwon region.

Desktop research identified potential sites along the Barwon-Darling for healthy Billabongs projects, as well as cultural and environmental assets including endangered or threatened species that could serve as "indicator" species for First Nations-led recovery projects at identified sites. Many of these species are also totem animals.

Some of the identified endangered species at sites as part of the Healthy Billabong and Wetlands project:

- Five clawed worm-skink (reptile)
- Tipinjiri (Darling River snail)
- Winged Peppergrass (annual herb or perennial forb)
- Australian Painted Snipe (small freshwater bird)



A workshop was conducted with First Nations representatives from the Murrawarri, Ngemba, Ngiyampaa, and Euahlayi nations. Gomerioi Nation was not represented but a representative provided later input into the project. Each Nation identified an ideal public site for a Billabong or waterway project, as well as potential First Nations objectives for those sites.

On a two-day ground-proofing field trip to identified sites First Nations participants identified environmental and cultural assets as well as evidence of endangered or critical species. For example, at Mayes Bend (Murrawarri), evidence of the critically endangered Tipinjiri (Darling River Snail) had been found in the form of dead shells. Sightings of the endangered Grey Snake nearby indicated that it could be present in the area. The group felt that a more intensive flora and fauna site audit needed to be undertaken.

Sites for a potential First Nations Healthy Waterways Environmental Rehabilitation, Cultural and Endangered Species Recovery Program:

- Mayes Bend—Murrawarri Country
- Mulga Creek—Ngiyampaa Country
- Bourke Fishing Reserve
- Two sites at Brewarrina, one on Ngemba Country and one shared between the Ngemba and Euahlayi Nations
- Yambie Lagoon—Euahlayi Country
- Barwon Nature Reserve and Collymungle—both sites shared by the Euahlayi and the Gomerioi Nations
- Cato Creek and an area in the Barwon Nature Reserve (non-Nations identified sites)

Watering objectives for shared outcomes

By building on desktop data with ground-proofing site visits, cultural and environmental knowledge was directly linked to environmental watering priorities. First Nations knowledge identified priority assets and environmental watering requirements for endangered species—for environmental and cultural outcomes.

Next steps include, the development of a project plan outlining the following:

- a site restoration program for each site,
- the establishment of a First Nations River Ranger Program,
- ongoing monitoring of sites,
- cultural activities, with the potential for incorporating local education programs, and
- a formal science project with universities and citizen science.

The capacity to monitor for new and evolving data on the ground means First Nations knowledge will guide environmental watering priorities in the immediate and long-term as an integral part of the entire process. On-Country water assessment, monitoring and planning will provide a critical base for developing inputs into long-term water planning.

Projects like a First Nations Healthy Waterways Environmental Rehabilitation, Cultural and Endangered Species Recovery Program could inform similar projects in other river systems for First Nations to build agency and meaningfully influence LTWPs, and feed into Basin-wide environmental watering strategies.

First Nations Healthy Billabong and Wetlands project is currently being undertaken in partnership with KJ&FA Enterprises (an Aboriginal family owned and operated Supply Nation and Supply NSW registered business) and NSW DPE-EHG.

6.2. CASE STUDY 2

CULTURAL WATER AT GAYINI NIMMIE-CAIRA

“Water managed for culture is key in allowing first peoples to connect to country. Managing water for cultural purposes will further help the landscape to recover and empower first peoples.”

[Nari Nari Tribal Council and Murray Darling Wetlands Working Group 2022].

Gayini Nimmie-Caira is an 88,000-ha property on the Lowbidgee floodplain that is rich in cultural heritage, with 50,000 years of Indigenous occupation. Located in the southern Murray-Darling Basin, the property is owned by the Nari Nari Tribal Council (NNTC), who manage the wetland with an integrated economic, social, cultural, and ecological vision for Country (O’Donnell et al. 2023).

The NNTC, the Nature Conservancy, the University of New South Wales, and the Murray Darling Wetlands Working Group brought together cultural objectives, Indigenous science, Western environmental science, community partnerships, conservation skills, and sustainable agriculture to deliver a new, holistic “Healthy Country Planning” approach to land and water management. The model placed First Nations owners at the centre of planning, delivery and evaluation and a strong network of partners with diverse management expertise to underpin effective long-term management (Woods et al.,).

NNTC in partnership with the Murray Darling Wetlands Working Group have developed a First Nations Cultural Water Plan (Nari Nari Tribal Council and Murray Darling Wetlands Working Group 2022).

The plan:

- identifies cultural water objectives, including:
 - Cultural targets,
 - Water dependent communities and habitats, including threatened species and culturally significant species, and
 - Nari Nari Cultural Landscape – Murrugay areas;
- provides cultural values to measure the successful implementation of this plan;
- provides a guide that can be easily shared with partners and the community;
- informs the development of annual and long-term water plans and priorities;
- provides a monitoring framework that sets expectations for NNTC involvement in monitoring watering and other activities at Gayini.

NNTC’s Cultural Water Plan can therefore influence other activities undertaken at Gayini by the NSW government, including:

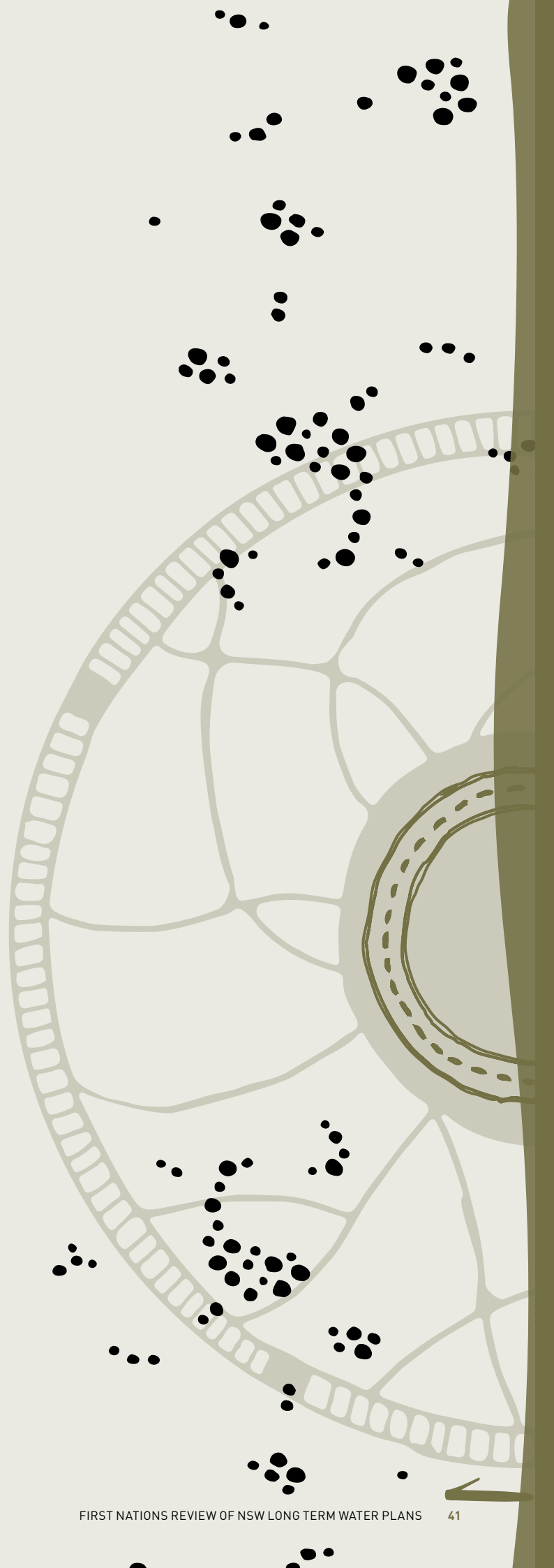
- Environmental Watering Plan, which documents the demand for environmental water within and beyond the project area.
- Long Term Land Management and Water Management Plan, which outlines how the area will be managed in the future with some land managed for First Nations cultural heritage and environmental values and other land managed for commercial use.
- Actions to reconfigure the water delivery infrastructure to enhance the delivery of environmental water to lands identified as having high ecological value (Woods et al.,).

Environmental watering at Gayini Nimmie-Caira has achieved multiple ecological and cultural benefits. The NNTC is working with the environmental watering team in NSW DPE-EHG, as well as the Commonwealth Environmental Water Holder and UNSW to design future research projects to better understand the way Country responds to land and water management activities.

Nari Nari Traditional Owner Jamie Woods describes Gayini as 'a place of healing', a unique and special place where Nari Nari can spend time connecting with Country. He describes cultural water flows at Gayini as 'the giver of life' and that 'Gayini produces the next generation for the world', through the birds that breed there and then travel to wetlands around the globe.

By recreating floodplain functions, the NNTC aims to increase cultural-environmental health outcomes that reverse the harm done by colonial land management, as well as create economic value. NNTC has also established vegetation monitoring programs, as well as undertaking pest management, infrastructure works, and removal of water blockages caused by roads and levee banks. As people work together, and walk Country together, Jamie Woods says that they can 'look, listen and feel' the way Country is changing and healing.

NNTC's experience of working with environmental water managers in partnership has enabled genuine two-way learning and trusted relationships to develop. The NNTC approach shows how effective a Nation-led water planning process can be. NNTC and their care of Gayini provide a model for how Traditional Owners can develop their own annual and long-term water priorities, which can then be reflected in NSW government long-term water plans. NSW Government should consider enabling similar opportunities for other Nations.



7.

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8.

Appendices

There are three appendices to this main report. The technical reports have been prepared by MLDRIN as part of undertaking this review of the NSW LTWPs and are now held by the NSW Government.

APPENDIX A

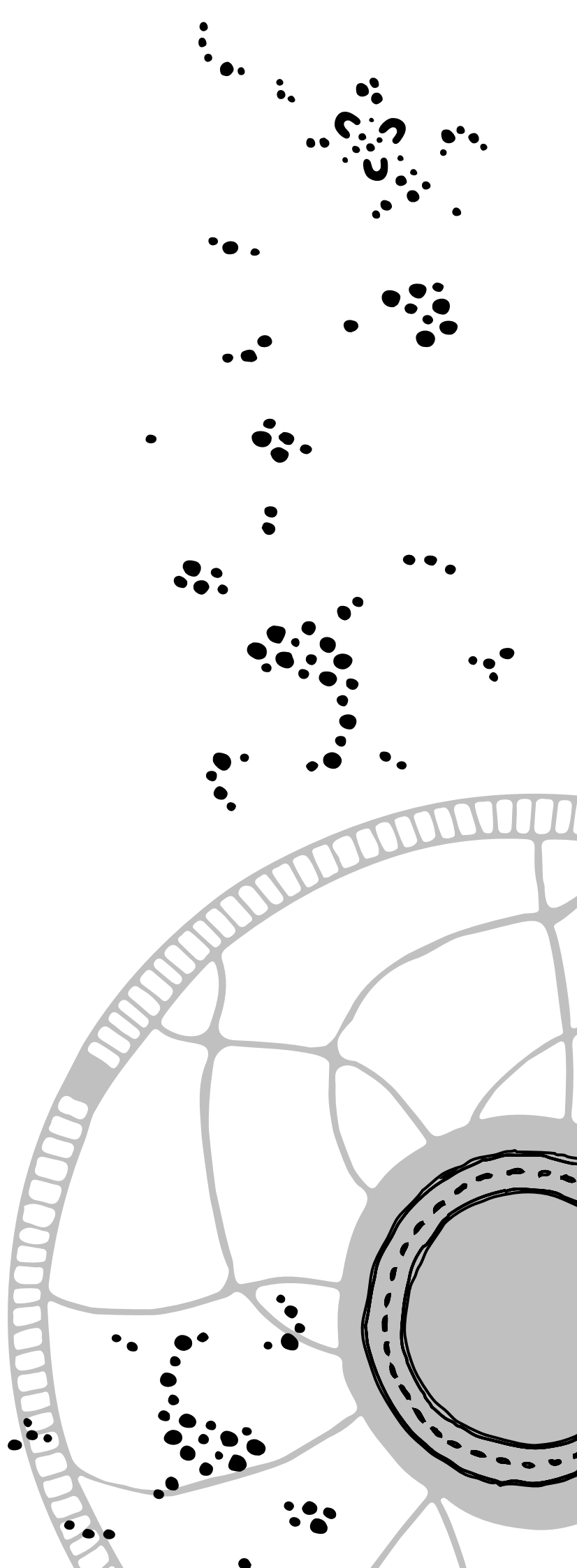
Technical report: Detailed desktop assessment and feedback from NSW long term water planning team members

APPENDIX B

Technical report: Analysis of NSW LTWPs against key requirements and guidelines

APPENDIX C

Contract milestones and data on First Nations participation in the review



MURRAY LOWER DARLING RIVERS
Indigenous Nations