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## **Inquiry Into Auditor-General's Report No. 202: Meeting Obligations To Protect Ramsar Wetlands (2016)**

### **Murray Lower Darling Rivers Indigenous Nations (MLDRIN) submission**

Thank you for the opportunity to present our views regarding the protection of Ramsar Wetlands, in response to the findings and recommendations of the Auditor General's (AG's) report.

#### **About MLDRIN**

The Murray Lower Darling Rivers Indigenous Nations (MLDRIN) is a confederation of Sovereign First Nations from the Southern part of the Murray Darling Basin (MDB). The group currently includes Delegates from 24 Nations across Victoria, NSW, the ACT and South Australia.

Our core work includes:

- Advising the Murray Darling Basin Authority (MDBA) on all matters relevant to Traditional Owners and Aboriginal people in the Southern Murray Darling Basin, in particular, the implementation of the Basin Plan
- Undertaking projects and having an active role in Natural Resource Management and water planning
- Providing a forum for our member Nations to keep informed, deliberate on issues and provide feedback and advice to decision makers across all levels of government
- Advocating for our member Nations' rights and interests in land and water, specifically to progress the recognition of Aboriginal water rights and Cultural Flows
- Providing leadership and capacity building for our member nations

All Victoria's Ramsar Wetlands are places of cultural significance to Traditional Owners. Our submission will focus on the five Ramsar wetlands located within the Victorian Murray Darling Basin (hereafter 'Northern Victorian Ramsar wetlands'), which are of particular significance to First Nations as sources of sustenance

underpinning a cultural economy and as a focal point for creation stories, spirituality and cultural identity.

MLDRIN has long held concerns regarding the condition of Ramsar Wetlands, ongoing threats to the ecological and cultural character of these sites and the inadequate involvement of First Nations in their management and restoration.

We support the findings, conclusion and recommendations of the AGs report. However, we wish to highlight the limited consideration of the important and evolving role of First Nations in Ramsar protection and management.

The five Northern Victorian Ramsar wetlands have been used, protected and managed by First Nations for at least 30,000 years. In a contemporary context, this custodial role has evolved to incorporate First Nations'-led water and catchment planning and natural resource management activities. Water Resource Plans (WRPs) recently prepared by DELWP for the Wimmera – Mallee and Northern Victoria areas include detailed objectives for improved management covering all five Northern Victorian Ramsar Wetlands, as articulated by First Nations. Where First Nations have been able to secure greater opportunities for input and engagement, there are positive examples of inclusion and collaborative management.<sup>1</sup>

First Nations with custodial rights and responsibilities relating to Northern Victorian Ramsar wetlands have identified significant threats to the ecological and cultural character of these sites. MLDRIN's Aboriginal Waterway Assessment program included site assessments at locations within the Gunbower Forest, Kerang Wetlands and Lake Albacutya Ramsar sites. These assessments identified river regulation, altered hydrological cycles and catchment degradation as significant threats to the natural and cultural values of Ramsar sites.<sup>2</sup> We strongly support the AG's conclusion that current management regimes are not supporting the maintenance of ecological and cultural character and that water resources management may not accord with the Limits of Acceptable Change (LAC) for these sites.

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<sup>1</sup> For example the Yorta Yorta Draft Joint Management Plan for Barmah National Park (<https://www.forestsandreserves.vic.gov.au/joint-management/Yorta-Yorta-Draft-Joint-Management-Plan>). Wamba Wamba people have noted the *Kerang Wetlands Ramsar Action Plan* 'included Wamba Wemba and Barapa Barapa Traditional Owners who were involved in identifying cultural values and specific management actions to look after the wetlands.'

<sup>2</sup> Aboriginal Waterways Assessment, *Community Reports* prepared for the Barapa Barapa and Wimmera River assessment projects. See also Will Mooney & Alex Cullen (2019) 'Implementing the Aboriginal Waterways Assessment tool: collaborations to engage and empower First Nations in waterway management,' *Australasian Journal of Environmental Management*, 26:3, 197-215, DOI: [10.1080/14486563.2019.1645752](https://doi.org/10.1080/14486563.2019.1645752)

Of particular concern is the fact that recently completed WRPs for the Wimmera-Mallee and Northern Victoria do not appear to take into account in any systematic and applied manner the ECDs for Ramsar Wetlands, or consider whether there are risks or threats to the LAC, or, if so, what response to those risks/threats is appropriate. For example, in relation to the Wimmera-Mallee WRP, under current and proposed arrangements associated with the WRP, water resources management may not accord with the LAC for the Lake Albacutya Ramsar Site, a situation that may lead to the compromise of its ecological character and failure of Australia to meet its obligations under the Ramsar Convention.<sup>3</sup>

Significantly, deterioration of the condition of Ramsar sites is undermining the ability of First Nations to sustain Traditional Ecological Knowledge and threatening the enjoyment of rights including formally recognised Native Title rights.

Lake Albacutya is the only Northern Victorian Ramsar wetland included within a positive Native Title Determination area.<sup>4</sup> The apparent disparity between watering (hydrological) needs for Lake Albacutya and intended actions under water resource management and environmental water planning is relevant to First Nations' interests (including Native Title rights) in this particular, important example. Specifically, long-term change and degradation of the Ramsar site may adversely impact on Traditional Owners enjoyment of native title to the lands on the lower Wimmera River and terminal lakes system. For instance, long-term changes in ecological character could include loss of redgum or black box woodlands or wetland faunal breeding events in ways that undermine cultural connection and/or revitalisation of culture to which native title is connected. This is one stark example of a scenario apparent across Northern Victorian Ramsar wetlands.

In light of the deep significance of Ramsar Wetlands to First Nations, the ancient, enduring and evolving management obligations and aspirations of First Nations and increasing threats to the condition of these sites, it is imperative that formal collaborative management (co-management) should be a standard for the development of stand-alone Ramsar Management Plans. Plans of management for Ramsar wetlands should be prepared in formal collaboration with First Nations and First Nations should have identified and properly resourced roles in management, restoration and monitoring of these sites.

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<sup>3</sup> See attached MLDRIN's Assessment advice on the Wimmera-Mallee WRP for detailed analysis of these issues.

<sup>4</sup> Federal Court of Australia, Clarke on behalf of the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk Peoples v Victoria [2005] FCA 1795 (13 December 2005) <http://www7.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2005/1795.html>

This approach aligns with resolutions of the Conference of the Parties to the Ramsar Convention, which have adopted guidelines establishing and strengthening local communities and Indigenous people's participation in the management of wetlands ('Ramsar Guidelines')<sup>5</sup> and taking into account cultural values in wetlands.<sup>6</sup> This co-management role is further reinforced by recent amendments to the *Water Act 1989* and the *Catchment and Land Protection Act 1994* to make it mandatory for the relevant statutory bodies to

- incorporate Aboriginal cultural values and uses of water and traditional ecological knowledge in the management of waterways and catchments;
- to consult with Traditional Owner Groups, native title holders and specified Aboriginal parties for the preparation of management plans and strategies for waterways and catchments.<sup>7</sup>

In summary we submit the following recommendations:

- The Victoria Government should prepare stand-alone plans of management for all Victoria's Ramsar Wetlands
- Plans of management must include strategies to address and arrest diminution of the ecological and cultural character of Ramsar Wetlands
- Plans of Management must include strategies to address and arrest impacts on the maintenance and enjoyment of Traditional Ecological Knowledge and the enjoyment of customary rights, including rights formally recognised through Native Title determinations and the Traditional Owner Settlement Act framework.
- Plans of management for Ramsar sites should be prepared in formal collaboration with First Nations to align with Guidelines produced by the Conference of the Parties to the Ramsar Convention,
- First Nations should have identified and properly resourced roles in management, restoration and monitoring of these sites.
- There must be robust and transparent monitoring of Ramsar wetlands, including monitoring of First Nations identified objectives and outcomes

We would be happy to elaborate on any of these points to assist the inquiry.

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<sup>5</sup> Resolution VII.8 – Guidelines for establishing and strengthening local communities and Indigenous people's participation in the management of wetlands (7<sup>th</sup> meeting of the CoP, San Jose Costa Rica, 10-18 May 1999)

<sup>6</sup> Resolution IX.21 - Taking into account cultural values in wetlands (9<sup>th</sup> meeting of the CoP, Kampala, Uganda, 8-15 November 2005)

<sup>7</sup> Water and Catchment Legislation Amendment Act 2019, <https://aiatsis.gov.au/ntpd-resource/29518>