

Ngarrindjeri Kurangk Le:wunanangk

Management Plan, No. 1

NGAENU (Marks Point)

**Ngarrindjeri Regional Authority Inc.
2016**



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Dedication and Acknowledgements

The Ngarrindjeri Regional Authority Inc. (NRA) in partnership with the Ngarrindjeri Heritage Committee Inc. (NHC) thanks and acknowledges the Elders, leaders and young people past and present for assisting in the production of this plan. We honour and acknowledge the work and commitment of those who have passed. May their spirits find rest and peace within Ngarrindjeri Ruwe/Ruwar (lands, waters, sky, spirits and all living things).

The NRA thanks the Ngarrindjeri Yarluwar-Ruwe (NYR) Program for producing this plan and acknowledges the resources provided by the South Australian Government, Department of Environment, Water and Natural Resources as part of the Ngarrindjeri Partnerships Project. The Partnerships Project is part of the Federally Funded Murray Futures Program.

The NRA also wishes to acknowledge the historic signing of the Kungun Ngarrindjeri Yunnan Agreement (KNYA) on 07 July 2011 between the Coorong District Council and the Ngarrindjeri Nation as well as the apology, made by the Coorong District Council on the same date (see Appendix A), when it entered into a new relationship with the Ngarrindjeri Nation. This new relationship is underpinned by the Kungun Ngarrindjeri Yunann Agreement between the Council and the Ngarrindjeri nation. The core Ngarrindjeri values associated with Ngaenu (Marks Point) include identity, culture, responsibility, creativity, respect, resilience, education, economy and society. These values underpin improved understanding and better relations between Ngarrindjeri and non-Indigenous people in the Coorong District Council region. The Ngarrindjeri Regional Authority would like to see the Coorong District Council re-named using the more respectful Ngarrindjeri word – Kurangk.

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1. Ngarrindjeri Kurangk Le:wunanangk Management Plan No. 1

The NRA vision and management framework for this management plan adhere to and respect Ngarrindjeri laws and traditions as passed on by Ngarrindjeri Creation Ancestors and the Old People. These laws and traditions are reflected in the Vision Statement and Goals of the *Ngarrindjeri Nation Yarluwar-Ruwe Plan: Caring for our Sea Country and Culture* (2006) and the goals of the Ngarrindjeri Regional Authority (see below). The NRA has prepared the *Ngarrindjeri Kurangk Le:wunanangk Management Plan No. 1* to clearly articulate the cultural and spiritual importance of this land to Ngarrindjeri people and to guide and underpin future management of Ngaenu (Marks Point) with Yannarumi principles and values (see below) and to provide a creative and culturally alive vision for the future.

2. Values of Place for Ngarrindjeri

A place to be Ngarrindjeri – to enjoy, to learn, and to remember the Old People.

Ngarrindjeri Ruwe/Ruwar - the land, waters, people and all living things are connected. Ngaenu (Marks Point) has deep spiritual, cultural and historical significance to Ngarrindjeri – past, present and future. It is an important place of cultural teaching on the shores of the Kurangk (Coorong). It is part of the living body of the Ngarrindjeri nation and was created by Ngurunderi (the Creator and Lawgiver). It is one of the important places where Ngarrindjeri could live as Ngarrindjeri – a place to be relatively free of the oppressive laws and controls of the era before the 1967 Referendum.

In the times before white invasion Ngarrindjeri lived at this place and looked after our families by looking after our lands and waters – our body.

From this place Ngarrindjeri witnessed the brutal invasion of our lands and waters. Ngarrindjeri men were executed near here without trial. On the other side of the Kurangk is a place still called the Gallows (Figure 1). Each year Ngarrindjeri will hold ceremonies and tell stories at Ngaenu to remember the Old People, the invasion of our Ngarrindjeri lands and waters and to bring life to Ngarrindjeri Ruwe/Ruwar.

Ngaenu has remained a Ngarrindjeri place since time immemorial. It is a place of joy and also a place of suffering. Ngarrindjeri people lived here during many years of harsh racist laws. Ngarrindjeri Elders want this area to be a place of remembrance and healing. It will be restored through culturally appropriate re-vegetation and Ngarrindjeri care. Ngaenu is a place of hope, survival and cultural renewal.

Ngarrindjeri have negotiated Kungun Ngarrindjeri Yunnan Agreements (Listen to what Ngarrindjeri have to say) with the South Australian Government (Crown) and the Coorong District Council. These agreements set the foundation for a new just relationship between Ngarrindjeri and those who have come to Ngarrindjeri Yarluwar-Ruwe (Sea Country) through colonisation. The agreements include State recognition of Ngarrindjeri as traditional owners of Ngarrindjeri Yarluwar-Ruwe and commit governments to support

Ngarrindjeri to take cultural responsibility for their care. These agreements are part of Ngaenu – they honour the Old People and they are the results of the strength and commitment of Ngarrindjeri leaders to secure a new healthy future for Ngarrindjeri Ruwe/Ruwar.

Figure 1: Looking towards the gallows from Ngaenu



These agreements provide the sound foundations and framework for Ngaenu. They are like the Ngaralti (pine sticks) that support a strong Ngowanthe (wurley). It is the preference of the Ngarrindjeri Regional Authority for Ngaenu to be returned to the Ngarrindjeri people - its traditional owners. This repatriation will help to heal Ngarrindjeri Ruwe/Ruwar.

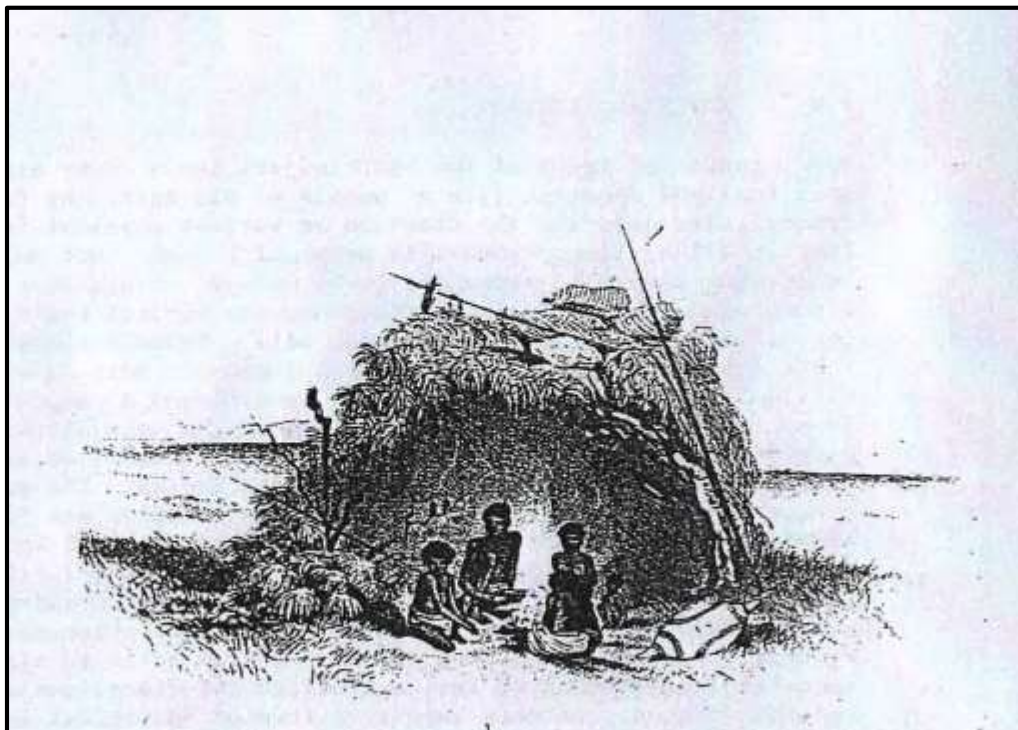


Figure 2: Ngarrindjeri Old People camping on the Kurangk (Drawn by G.F. Angus 1847). Source: Luebbers. R.A 1981.

3. Ngarrindjeri Cultural Recovery

Ngarrindjeri know that the lands and waters is a living body and must be healthy for Ngarrindjeri to be healthy. When Ngarrindjeri undertake Caring for Country activities the principle of Ruwe/Ruwar remains paramount for them (see page 9), this occurs in re-vegetation programs, cultural heritage assessments or other forms of research and planning associated with the lands, waters, sky, people and all living things.

For Ngarrindjeri to be healthy, activities such as conservation and natural resource management need to respect the form in which Ngarrindjeri Yarluwar-Ruwe was created by Ngurunderi and other Ngarrindjeri Creation Ancestors. This requires recognition that decisions and activities that potentially impact on what western science describes as the ecological character of an area, need to take into account and understand the Ngarrindjeri character of Yarluwar-Ruwe. This recognition will support the passing on of traditions, knowledge and responsibilities as part of Ngarrindjeri caring for the lands, waters, sky and all living things. The *Ngarrindjeri Kurangk Le:wunanangk Management Plan No. 1* is designed to begin this process of cultural recovery.

Ngarrindjeri are working towards the creation of healthy programs:

- Projects/engagements that build Ngarrindjeri capacity to Care *as* Country- lands, waters, sky and all living things.
- Projects/engagements that respect Ngarrindjeri knowledge, law, tradition and expertise.
- Projects/engagements that bring energy into Ngarrindjeri lives, programs and plans.

Ngarrindjeri women and men share knowledge, stories and connections to Ngarrindjeri Yarluwar-Ruwe. Ngarrindjeri also have stories and knowledge that are gender-specific or passed on by Elders to younger people in particular situations. Ngaenu will be managed as a healing and learning place to support these different uses and values.

4. Ngarrindjeri Yannarumi

Ngaenu is part of the living body of Yarluwar-Ruwe/Ruwar (lands, waters, sky, body spirit and all living things) and Creation Ancestors. Ngarrindjeri people, past, present and future are part of this living body. Ngaenu has been cared for by Ngarrindjeri over many generations. For this part of Ngarrindjeri Yarluwar-Ruwe to continue to give life to the Ngarrindjeri Nation it must be healthy and cared for in a culturally respectful and appropriate manner. This management plan is an important step towards recognising and supporting Ngarrindjeri cultural obligations to Ruwe/Ruwar.

The NRA is the lawful Ngarrindjeri body put into place by the Ngarrindjeri to ensure that Ngarrindjeri Ruwe/Ruwar is healthy and life-giving. For Ngarrindjeri Ruwe/Ruwar to be healthy the NRA has identified the following goals: Strong Culture, Sovereign First Nation, Secure Future, Healthy Country, Confident People, Creative Economy, Respected History and Regional Leader. These goals prioritise the interconnectivity between people and

Country.

The health of Ngarrindjeri Ruwe/Ruwar relies on maintaining the foundational and ongoing spiritual connection between Ngurunderi (the Creator and Spiritual Ancestor), Ruwe (Country, Lands and Water) and the Ngarrindjeri Nation. Ngarrindjeri have a deep obligation, right and responsibility to speak for, care for and manage Ngarrindjeri Yarluwar-Ruwe (Sea Country) based on the Creation. This concept is termed Ngarrindjeri Yannarumi or 'Ngarrindjeri speaking as country'. For Ngarrindjeri, speaking lawfully as country (Yannarumi), is critical to the health of lands and waters. Importantly, Ngarrindjeri capacity to speak as country, is only improving recently with more respectful relationships between Ngarrindjeri and the State.

Ngarrindjeri Yannarumi Assessment

Through Ngarrindjeri Yannarumi, the NRA takes responsibility for assessing whether something is healthy, lawful and creates wellbeing – based on the concept of Ngarrindjeri Ruwe/Ruwar. This assessment of projects, practices, partnerships, plans and other activities is conducted with the wellbeing of Ngarrindjeri Ruwe/Ruwar as its objective. Ngarrindjeri leaders have always worked this way, following the laws of the Creation Ancestors and guided by Elders.

When Ngarrindjeri develop management plans for Yarluwar-Ruwe, or assess existing management plans, the Ngarrindjeri Yannarumi principles are applied. The NRA's goals (see above) are used as assessment tools. The *Ngarrindjeri Kurangk Le:wunanangk Management Plan No. 1* contributes to all of the NRA's goals and will improve the health of the lands, waters, sky and all living things.

The following Ngarrindjeri Yannarumi principles guide the *Ngarrindjeri Kurangk Le:wunanangk Management Plan No. 1*:

- Ngarrindjeri Ruwe/Ruwar needs to be healthy for Ngarrindjeri to be healthy.
- Ngaenu is part of the living body of the Ngarrindjeri Nation.
- Ngarrindjeri care for, speak for and exercise cultural responsibility as Ngarrindjeri Ruwe/Ruwar.

5. Background

5.1 Ngarrindjeri Ruwe/Ruwar

Indigenous Australian philosophies of being are based on an interconnection between country, body and spirit. This interconnection is fundamental to wellbeing. The Ngarrindjeri Nation in southern South Australia uses the term Ruwe/Ruwar to encapsulate this concept and argue healthy lands and waters are critical to healthy Ngarrindjeri People and culture. Ngarrindjeri have the responsibility to care for Ruwe/Ruwar. Through the NRA the Ngarrindjeri Nation is conducting negotiations and agreement-making with South Australian and Commonwealth government agencies to transform the existing natural resource and heritage management regimes in the region towards recognition of, and

support for healthy Ngarrindjeri Ruwe/Ruwar.

Underpinning these negotiations is a long-term Ngarrindjeri educational strategy that seeks to explain the Ngarrindjeri principle that ‘the lands and waters is a living body and it must be healthy for Ngarrindjeri to be healthy’. When Ngarrindjeri undertake ‘Caring for Country’ activities, ‘cultural heritage assessments’ or other forms of research and planning associated with the lands, waters people and all living things, the principle of Ruwe/Ruwar remains paramount.

5.2 The Ngarrindjeri Regional Authority

The Ngarrindjeri Regional Authority (NRA) was established by the Ngarrindjeri Nation in 2007. It is a contemporary form of ongoing Ngarrindjeri government. In the mid-1980s, for example, Ngarrindjeri Nation elders met to elect a new Rupelli (Head of traditional governance – the Tendi). Prior to 2007 the Ngarrindjeri Nation was negotiating agreements with State government departments, local councils and other agencies through the groundbreaking Kungun Ngarrindjeri Yunnan (Listen to what Ngarrindjeri have to say) agreement strategy (see Hemming & Trevorrow 2005; Hemming & Rigney 2008; Hemming, Rigney & Berg 2011). Ngarrindjeri representative organisations, elected committees and the traditional form of government the Tendi worked together to make decisions on behalf of the Ngarrindjeri people. This form of representation was expanded to include annual elections for Ngarrindjeri community representatives to sit on the governing Board of the newly constituted Ngarrindjeri Regional Authority Incorporated. After its establishment the NRA entered into two Commonwealth Government Regional Partnership Agreements, an international treaty with other Indigenous nations and a whole-of-government Kungun Ngarrindjeri Yunnan Agreement with the State of South Australia. Ngarrindjeri aim to negotiate rights to self-determination, land and resources based on the spirit of the original promises contained in the South Australian Letters Patent (1836), but they also draw upon other international conventions and connections. They refer, for instance, to principles contained in international treaties and conventions such as the United League of Indigenous Nations (ULIN) Treaty and the United Nations Declaration on the Rights of Indigenous Peoples.

Recently the NRA has entered in a Speaking As Country Deed with the State of South Australia (Minister for Sustainability, Environment and Conservation) in connection with the dredging of the Murray Mouth (Appendix F). This recognizes that when Ngarrindjeri are speaking on matters relating to Country, they are speaking as Country. Through its Caring for Country programs the NRA is working with government and local communities to develop new forms of governance that incorporate Ngarrindjeri expertise and capacity.

5.3 Ngarrindjeri Yarluwar-Ruwe Program (Caring for Country)

In 2007, following in the footsteps of earlier Ngarrindjeri NRM and cultural heritage programs, the NRA established a Caring for Country Program (later re-named the NRA Yarluwar-Ruwe Program) to implement and further develop the visions of the groundbreaking *Yarluwar-Ruwe Plan*. Through its Yarluwar-Ruwe Program (Caring for Country) the

NRA is working with government and local communities to develop new forms of natural resource management that recognise Ngarrindjeri values and incorporate Ngarrindjeri expertise and capacity. The Yarlular-Ruwe Program facilitates a series of objectives that include: coordinated development and implementation of Caring for Country, strategies and activities within Ngarrindjeri country; a forum for engagement, discussion and innovation; the provision of advice and formal responses to requests from the Ngarrindjeri nation and external bodies such as governments at all levels, education and research organisations, and the business sector; promotion of the NRA and its activities; and supporting the NRA in achieving its goals to build its capacity and create increasing opportunities to manage Ngarrindjeri Yarlular-Ruwe (lands, waters and all living things).

Importantly, the Yarlular-Ruwe Program provides a culturally appropriate and strategic Indigenous engagement mechanism supporting a number of major regional NRM partnership projects such as the Murray Futures Program. It also facilitates ongoing and developing partnership between the NRA and the four regional NRM Boards and the NRM programs of the regional Local Councils. It is a successful mechanism for discussion, analysis and decision-making and has been influenced by best-practices in leading First Nation contexts internationally (see Hemming, Rigney & Berg 2011). As a program, it is the conduit for all external and internal projects and programs associated with Ngarrindjeri Yarlular-Ruwe. First contact from outside organisations is made via the NRA Board and the KNYA Taskforce. Once ideas, projects and programs have been presented through these channels they are referred to the NRA Yarlular-Ruwe Program for detailed assessment, engagement and consideration.

5.4 Ngarrindjeri Regional Authority's KNY Agreement with South Australia

In 2009 the Ngarrindjeri Nation in South Australia negotiated a new agreement with the State of South Australia (Crown) that recognised traditional ownership of Ngarrindjeri lands and waters and established a process for negotiating and supporting Ngarrindjeri rights and responsibilities for Country (*Ruwe*) (see Hemming, Rigney & Berg 2011). In line with Ngarrindjeri political and legal strategies, it takes the form of a whole-of-government, contract law agreement between the Ngarrindjeri Nation and the State of South Australia (Appendix B). This contract agreement is called a *Kungun Ngarrindjeri Yunnan* agreement (KNY - Listen to what Ngarrindjeri have to say), it provides for a resourced, formal structure for meetings and negotiations between the Ngarrindjeri Regional Authority and government, universities, private industries and other non-Indigenous organisations (see Ngarrindjeri Nation 2006).

This whole-of-government KNY agreement was set in place to frame the Ngarrindjeri strategy for negotiating Ngarrindjeri interests in Natural Resource Management and in particular, to enable Ngarrindjeri to take a leading role in the South Australian Government's long-term plan for Kurangk , Lower Lakes and the Murray Mouth. This is a legally binding agreement entered into between Ngarrindjeri and various Ministers of the Crown in South Australia to articulate specific rights and obligations that provide the beginnings of a new, more just relationship between the State and the Ngarrindjeri nation.

5.5 Ngarrindjeri philosophies

Ngarrindjeri Yarluwar-Ruwe

Ngarrindjeri have occupied, enjoyed, managed and used our inhabited lands and waters, since Creation.

We were here when the sea level began rising about 18,000 years ago, and our ancestors watched the sea flooding over our coastal plains. We were here when the sea stabilised at its current level about 5,000 years ago. Our Creation stories record these dramatic changes. We were here when the European invaders began stealing our land and our resources; killing our people and our *Ngartjis*, such as *Kondoli* (whale) and *Paingal* (seal); polluting our rivers, lakes and Kurangk; and draining our wetlands/nurseries.

And we are still here!

Because of the richness of our natural resources and our sustainable use and management of them, our Yarluwar- Ruwe supported among the highest density of Aboriginal population anywhere in Australia prior to European invasion. Our population at that time has been estimated to be about 6,000 people.

Our culture and economy have always depended on the resources of our Yarluwar-Ruwe. We used and continue to use the resources of the land, but it was the saltwater and freshwater environments that provided us with most of our needs. Such was the wealth of sea and marine life such as fish, shellfish, eels, water birds and water plants that we have always lived a settled lifestyle. Our knowledge of our Yarluwar- Ruwe will continue to underpin our survival and our economy. Tendi, our formal governing council, ensured and will continue to ensure our stable and sustainable society, which maintains our obligations to Sea Country.

Our creation stories and oral traditions have been passed down from generation to generation and with them a detailed knowledge of our Yarluwar-Ruwe. We developed many tools and other equipment to harvest and process our Sea Country resources, including fish nets, fishing weirs, spears, lines, snare traps, decoys, bark canoes, reed rafts, large floating fishing platforms and woven baskets. Our capacity for storing food enabled us to organise large gatherings of Ngarrindjeri people to engage in trade, ceremonies and other social activities with neighbouring nations.

Ngarrindjeri people speak a common Ngarrindjeri language. Both men and women hold special cultural and environmental knowledge and both men and women have always been involved, and continue to be involved, in passing down our knowledge between generations and in decision-making about Ngarrindjeri affairs, land waters and resources.

Ngarrindjeri people hold cultural and spiritual connections to particular places, to

particular species of animals and plants, and all elements of the environment are part of our kinship system. Particular animal and plant species are the *Ngartji* (totem or special friend) of Ngarrindjeri people, who have special responsibility to care for their *Ngartji*. To care for *Ngartjis* is to care for country.



Figure 3: Ellen Trevorrow, Ngarrindjeri Elder and basket weaver. Stories, laws and traditions are passed on through weaving.

5.6 Ngarrindjeri Yarluwar-Ruwe Plan

The *Ngarrindjeri Nation Yarluwar-Ruwe Plan* (2006) outlines Ngarrindjeri plans for Ngarrindjeri Ruwe/Ruwar and highlights opportunities for the development of educational, research and tourism initiatives. This plan is officially recognised by the state and Federal governments and underpins a formal Regional Partnership Agreement focusing on Caring for Country and Economic Development. The Ngarrindjeri vision for country is outlined below:

Our Lands, Our Waters, Our People, All Living Things are connected. We implore people to respect our Ruwe (Country) as it was created in the Kaldowinyeri (the Creation). We long for sparkling, clean waters, healthy land and people and all living things. We long for the Yarluwar-Ruwe (Sea Country) of our ancestors. Our vision is all people Caring, Sharing, Knowing and Respecting the lands, the waters and all living things.

Our Goals are:

- *For our people, children and descendants to be healthy and to enjoy our healthy lands and waters.*
- *To see our lands and waters healthy and spiritually alive.*
- *For all our people to benefit from our equity in our lands and waters.*
- *To see our closest friends, our Ngartjis (special friends) healthy and spiritually alive.*
- *For our people to continue to occupy and benefit from our lands and waters.*
- *To see all people respecting our laws and living in harmony with our lands and waters (2006:5)*

The culture and economy of the Ngarrindjeri have always depended on Yarluwar-Ruwe and

its resources. The land and waters are a living body and the Ngarrindjeri are part of its existence.

The Ngarrindjeri desire a new relationship, a strong partnership with governments and other stakeholders so that the land and waters can be healthy again. Kungun Ngarrindjeri Yunnan agreements are the preferred Ngarrindjeri process for establishing these partnerships. Ngaenu is vital to Ngarrindjeri culture and spiritual beliefs. This association is expressed through creation stories (cultural and spiritual histories) about Yarluwar-Ruwe which reveals the significance of the relationship between the country and the people, both practically and spiritually.

The *Yarluwar-Ruwe Plan* refers to Ngarrindjeri Creation Stories which record dramatic changes in coastal sea levels. These creation stories explain the richness of natural resources, especially a wealth of fresh and salt water marine life such as fish, shellfish, eels, water birds (Ngartjis) and water plants. These stories provide Ngarrindjeri with the laws and lessons for sustainable use, care and management of these species.

Since the arrival of Europeans Ngarrindjeri people have witnessed the draining of their wetlands along the rivers and in the south east and the disconnection of the living body of Murrundi (the River Murray), Lower Lakes and Kurangk through the installation of locks, levee banks and barrages. Ngarrindjeri people have watched their Ngartjis diminish, their lands cleared and the degradation of Yarluwar-Ruwe.

Ngarrindjeri economy has always been based on the sustainable use and trade of the natural resources. Since European settlement, many of the natural resources have deteriorated. The Ngarrindjeri understand that industries that have led to the unsustainable use of resources (e.g. irrigation) are here to stay, however, the Ngarrindjeri seek a “just and rightful share in the economic benefits from our Country across all industries” (Ngarrindjeri Nation Yarluwar-Ruwe Plan 2006). A proper relationship and role in the management of the land is a fundamental platform in building and maintaining Ngarrindjeri culture and self-respect. Ngarrindjeri believe that their future involvement in the management of the land and waters would be positive and beneficial to all members of the community, both Indigenous and non-Indigenous, and would represent a significant step in the process of reconciliation (Ngarrindjeri Nation 2006; KNY 2009). The strengthening of Ngarrindjeri people and their culture requires a serious involvement in the management of their traditional lands and waters.

5.7 Ngarrindjeri Ruwe/Ruwar – the Ngarrindjeri connection between lands, waters, body, spirit and all living things

Ngarrindjeri cultural and community wellbeing has suffered through the rapid loss of ecological character of Ngaenu. In recent years Ngarrindjeri leaders have worked with the South Australian Government and researchers to explain the link between Ngarrindjeri culture, people, lands, waters ... (sky) ... and all living things (Ngarrindjeri Nation 2006; Bell

2008; Hemming et al. 2008; Birckhead et al. 2011). This fundamental philosophical and spiritual connection (Ruwe/Ruwar) is reliant on healthy lands and waters, and the maintenance of the connectivity of Ngaenu as created by Ngurunderi (Hemming et al. 1989; Bell 1998).

Ngarrindjeri have conducted research into the relationship between loss of ecological character and loss of cultural, economic and social wellbeing. Opportunities to manage Yarlular-Ruwe according to Ngarrindjeri traditions and laws have been negatively affected by successive government policies and Ngarrindjeri believe this has also contributed significantly to decreased community wellbeing. It is a key Ngarrindjeri aim to re-invigorate the cultural landscape, ensuring that interconnectedness continues to be maintained.

The ecological character of the region needs to be improved through management that incorporates Ngarrindjeri knowledge and expertise. This would incorporate a major role for the Ngarrindjeri Yarlular-Ruwe Program in governance and management. The Ngarrindjeri Yarlular-Ruwe Program is a regional initiative that privileges the fundamental connection between healthy people, culture, economy and ecosystems.

5.8 Ngurunderi the Creator

The following Ngarrindjeri Creation narrative is reproduced from the Yarlular-Ruwe Plan (2006). It provides an account of the cultural connections (Ruwe/Ruwar) between Ngarrindjeri and Yarlular-Ruwe (all Ngarrindjeri lands, waters and sky).

A long, long time ago Ngurunderi our Spiritual Ancestor chased Pondi, the giant Murray Cod, from the junction where the Darling and Murrundi (River Murray) meet. Back then, the River Murray was just a small stream and Pondi had nowhere to go. As Ngurunderi chased him in his bark canoe he went ploughing and crashing through the land and his huge body and tail created the mighty River Murray. When Ngurunderi and his brother-in-law Nepele caught Pondi at the place where the fresh and salt water meet they cut him up into many pieces, which became the fresh and salt water fish for the Ngarrindjeri people. To the last piece Ngurunderi said, "you keep being a Pondi (Murray Cod)". As Ngurunderi travelled throughout our Country, he created landforms, waterways and life. He gave to his people the stories, meanings and laws associated with our lands and waters of his creation. He gave each Lakalinyeri (clan) our identity to our Ruwe (country) and our Ngartjis (animals, birds, fish and plants) - who are our friends. Ngurunderi taught us how to hunt and gather our foods from the lands and waters. He taught us, don't be greedy, don't take any more than what you need, and share with one another. Ngurunderi also warned us that if we don't share we will be punished.

Ngarrindjeri respect the gifts of Creation that Ngurunderi passed down to our Spiritual Ancestors, our Elders and to us. Ngarrindjeri must follow the Traditional Laws; we must respect and honour the lands, waters and all living things. Ngurunderi taught us our Miwi, which is our inner spiritual connection to our lands, waters, each other and all living things, and which is passed down through our mothers since Creation. Our Great Grandmothers,

including Indigenous People in planning, research and management of their lands, waters, sky and all living things. The Ngarrindjeri have procedures and protocols developed over time which enable the addressing of legislative requirements, policy directions at State and Australian levels and international obligations.

The ***Environment Protection and Biodiversity Conservation Act 1999 (Cth)*** promotes the use of Indigenous people's knowledge when taking a cooperative approach to maintenance and Indigenous issues as a key objective.

Natural resource management policies and legislation are beginning to reflect the Ngarrindjeri understandings stated above. Consultation with the Indigenous owners of the land is a requirement of section 7 of the ***River Murray Act 2003*** and further includes their participation in the process of management. In addition, the ***Natural Resources Management Act 2004*** has the serious consideration of Indigenous issues as a key objective.

The ***Marine Parks Act 2007 (SA)*** is the legislation governing the management of the state's 19 Marine Parks. Areas within each park are zoned for different uses with the Sanctuary Zones providing the highest level of conservation. Habitat protection zones are there as a buffer for the sanctuary zones and restrict potentially damaging activities.

The ***National Parks and Wildlife Act 1972 (SA)*** and the ***Native Vegetation Act 1992 (SA)*** are both relevant to this management plan and need to be reflected in any conservation works undertaken at Ngaenu.



Figure 5:
Ngarrindjeri Elders including Tom Trevorrow (deceased), Major Sumner, Darrell Sumner and several NRA staff at Ngaenu in 2013

7. The Plan

7.1 Key Document Review

The following documents have been reviewed in relation to relevant key research and investigations undertaken about the land, including Indigenous studies, land use studies, statutory documents and visionary reports and strategic plans. All of these documents

provide relatively consistent recommendations in relation to Ruwe (the land).

Ngarrindjeri Nation Yarluwar-Ruwe Plan: Caring for Ngarrindjeri Sea Country and Culture (2006)

This is the primary Ngarrindjeri Nation planning document. It provides vision, policy, priorities and strategies emerging from the Ngarrindjeri Nation's responsibility for Ngarrindjeri Ruwe.

The *Ngarrindjeri Nation Yarluwar-Ruwe (Sea Country) Plan* has been prepared by Ngarrindjeri People to help government agencies, natural resource managers, researchers, industry and the wider Australian community to better understand and recognise rights and responsibilities to our Yarluwar-Ruwe, including the lower Murrundi (Murray River), Lower Lakes, Kurangk and adjacent marine and land areas. Our vision for our Yarluwar-Ruwe is based on the relationship between our people and our Yarluwar-Ruwe which goes back to Creation. The river, lakes, wetlands/nurseries, Kurangk estuary and sea have sustained us culturally and economically for tens of thousands of years.

Owing to the abuse and misuse of Ngarrindjeri lands and waters by non-Indigenous people in more recent times, and the denial of Ngarrindjeri rights and interests for most of that time, we now find that, as the Traditional Owners of our land, water and sky and all living things, we must stand up and speak out to save our Ruwe (Country) before we reach the point of no return.

The Sea Country Plan begins by introducing our people and culture and explaining our relationship with our Yarluwar-Ruwe. Over the last 200 years there have been attempts to break that relationship with our Yarluwar-Ruwe, and although we continue to feel the pain of these onslaughts, Ngarrindjeri have remained connected and Ngarrindjeri have remained strong. We have witnessed the destruction of our precious lands and waters by newcomers, who do not understand their new surroundings and who do not or will not respect our rights and obligations to Country.

The Plan then articulates the issues, objectives, strategies and priority actions that we intend to address to realise our vision for the future of our Yarluwar-Ruwe. While some of these strategies and actions may challenge existing management arrangements, they are all consistent with our human rights, cultural rights and cultural obligations, and they are laid out here in keeping with our values of caring and sharing that always has been the Ngarrindjeri way.

After exploring opportunities for partnerships for implementing our Yarluwar-Ruwe Plan, we review other major plans, policies and laws that have been developed for our Yarluwar-Ruwe by government agencies and other organisations. We look for areas of common ground and explain how support for our Yarluwar-Ruwe Plan can assist government agencies and others to meet their own objectives and commitments, and work towards a more sustainable future for humankind and all living things of creation. We invite you to

read our Yarluwar-Ruwe Plan carefully and commit yourself to working with us for the benefit of our shared future and for our land and waters upon which we all depend (Ngarrindjeri Nation 2006:6).

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The NRA prioritises and recognises the *Declaration on the Rights of Indigenous Peoples* adopted by the United Nations in September 2007 and ratified by the Australian Government in April 2009. The Declaration sets out the individual and collective rights of indigenous peoples, as well as their rights to culture, identity, language, employment, health, education, lands, waters and other issues. It also ‘emphasizes the rights of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions, and to pursue their development in keeping with their own needs and aspirations’. In accordance with Articles 19, 25 & 32 Indigenous people must have a central role in the development, implementation and evaluation of policy and legislative or administrative measures that concern water.

The Ramsar Convention

International treaties and agreements such as the *Ramsar Convention* acknowledge the need for including Indigenous People in planning, research and management of their lands, waters, sky and all living things.

A number of key points made by the *Ramsar Culture Working Group* (RCWG 2013) in recent position papers characterise the overall Ramsar agenda as a cultural one. This understanding fits with the directions being taken by the NRA in promoting Ngarrindjeri philosophies of being as crucial to ‘wise use’ of the Kurangk Ramsar wetland. The work being undertaken by the NRA in partnership with DEWNR will better align South Australia’s approach to Ramsar management with the Ramsar Strategic Plan post-2015.

Existing Ramsar obligations for both the wise use of all wetlands and the conservation of listed sites are defined by reference to the “maintenance of the ecological character” of wetlands. Ecological character is in turn defined under the Convention as including “wetland ecosystem services”, and these are defined as including cultural services. More fundamentally, all concern for sustainable development of wetlands begins from a mixture of utilitarian and ethical values that are unavoidably anthropocentric constructs, and thus are firmly situated in a context of human culture.

Kungun Ngarrindjeri Miminar Yunnan: Listen to Ngarrindjeri women speaking (2008).

This publication provides a specific focus on the views, priorities, objectives and visions of Ngarrindjeri women. It builds upon the *Ngarrindjeri Yarluwar-Ruwe Plan* and identifies key opportunities and challenges for Ngarrindjeri people, and in particular women, with the development of a new Ngarrindjeri Regional Authority.

7.2 Location of Ngaenu

Ngaenu is situated on the northern side of Kurangk (the Coorong Lagoon) in South Australia and is approximately 20 kilometers east of the mouth of Murrundi (the Murray River) (see Figure 6).

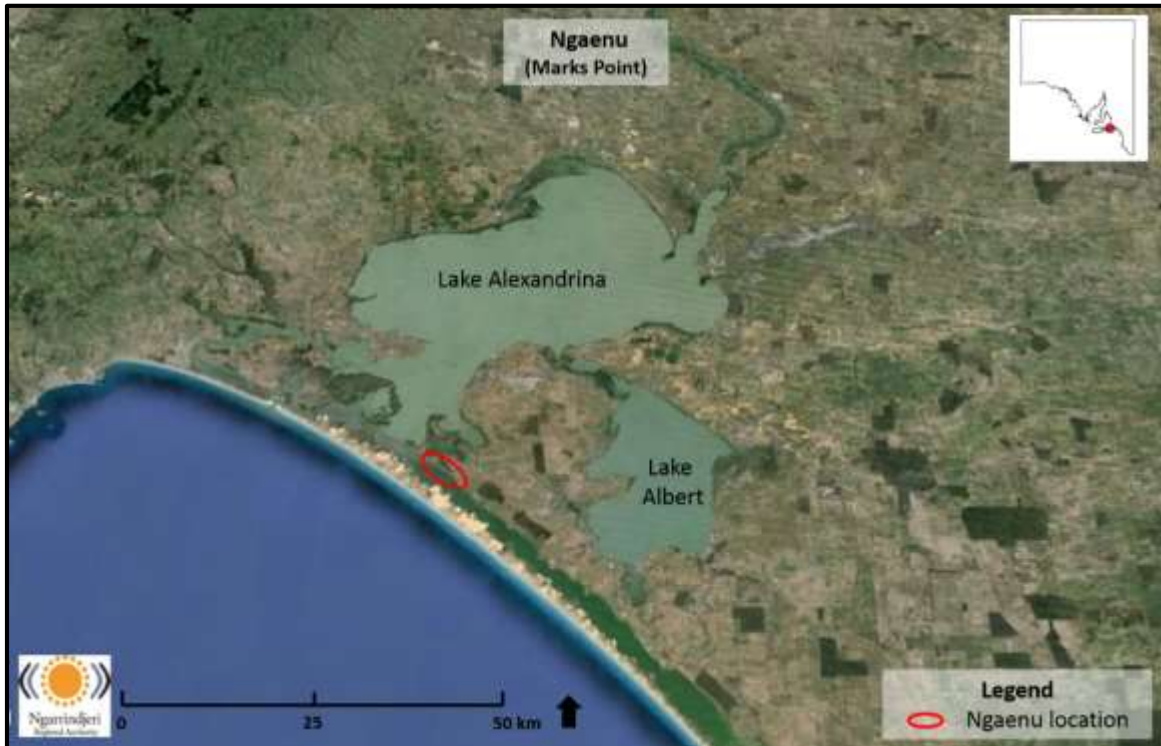


Figure 6: Map showing location of Ngaenu

7.3 Methodology

This plan has been developed by the Ngarrindjeri Regional Authority through the Yarluwar Ruwe Program, in conjunction with the Ngarrindjeri Heritage Committee Inc., Ngarrindjeri Native Title Management Committee Inc., Ngarrindjeri Elders and community. Some of the activities undertaken to develop this plan were:

- Ngarrindjeri Yarluwar Ruwe Program meetings
- Facilitation of Cultural Knowledge Transmission with Elders
- Site visits and planning meetings with NRA staff, including Yarluwar Ruwe Program Co-ordinator, Cultural Heritage Program Manager, Heritage Specialists
- Site visits and planning meetings with NRA & the Department of Environment, Water and Natural Resources (DEWNR) Coorong, Lower Lakes and Murray Mouth Revegetation team and DEWNR Coorong National Park staff
- Site visit with Ngarrindjeri Elders

7.4 Land use – planned areas (zones)

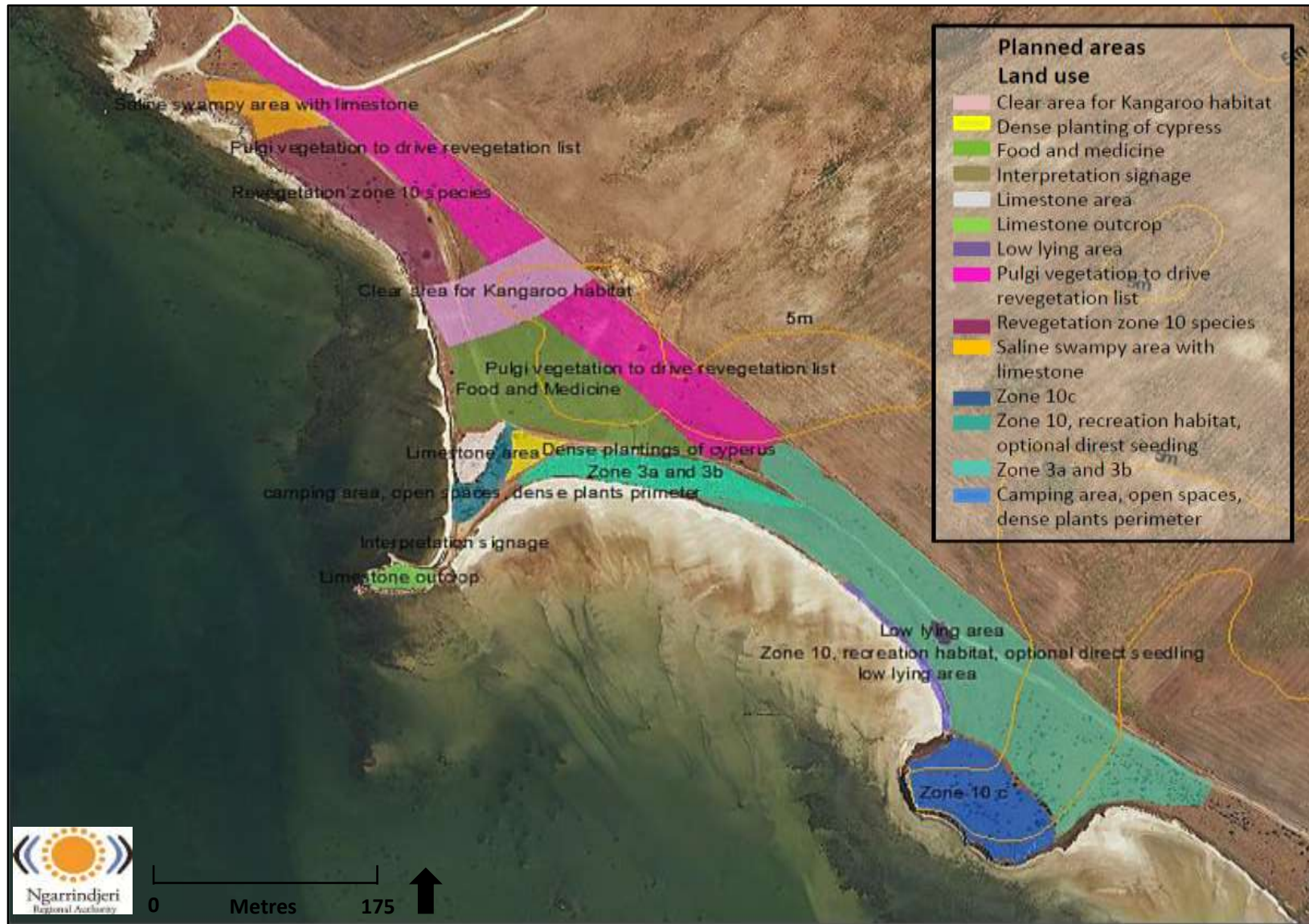


Figure 7: Showing the pattern of land use that will restore the cultural health of Ngaenu

The pattern of land use that needs to be implemented at Ngaenu to restore the area's vitality and cultural health is outlined above (figure 7) and is based on Yannarumi principles and values. This ordering of the land allows for a broad range of habitats for Ngartjis, Ngarrindjeri foods and medicines, sheltered areas and fuel for camping and fires as well as the physical restoration of the land following centuries of harsh colonial pastoral practices. After this land use plan is implemented, Ngaenu will again be a place of education and ceremonies and a place to camp with family and friends.











AREA/ZONE AND PLANNED USE	ENGLISH TRANSLATION
 Wanggami Kundun	(Kangaroo Resting) Clearing, area for Kangaroo habitat
 Lerwun	(Sitting/dwelling) Dense planting of Cyprus
 Nanko-Walun Tumbetun Nguni	(well; becoming or feeling good / better) (making something live; saving; restoring, healing) (vegetable food eaten by Ngarrindjeri) Food and Medicine
	Interpretation Signage
 Lerwun	(Sitting/dwelling) Limestone area
 Yayun	(food) Limestone outcrop
 Lakun / Lankun	(weaving with rushes) Low lying area
 Ngowanthi	(wurley) Pulgi vegetation to drive revegetation list
	Revegetation Zone 10 species
 Taiki	(salt; salty; swamp water) Saline swampy area with Limestone
 Ngratenum Pulgi-Wali Mutjari Pulgi-Wali	(school/teaching place) (ceremony gathering) (place) Zone 10c
 Tumbi-Warrun Tumbetun	(saving; restoring; making something live; enlivening) (making something live; saving; restoring, healing) Zone 10, recreational, habitat, optional direct seedling
 Pekun	(leaving empty) Zone 3a and 3b
 Lerwun	(Sitting/dwelling) Camping area, open spaces, dense plants on perimeter

Table 1: Land use areas, their planned use and English translations of their names

8. Threats to Ngaenu

8.1 Threats to Cultural Health

The value of the Ngaenu area as a meeting place for the local Ngarrindjeri community has been significantly affected to date by the exclusion of Ngarrindjeri from management of the area and the relentless decline in the Yannarumi status (cultural health) of the area since colonisation. This has reduced the area's ability to support community well-being and the intergenerational transfer of cultural knowledge and skills.

Recommended Remedial actions:

The NRA is developing a cultural health assessment strategy that will be implemented at Ngaenu. Actions identified to address the improved cultural health of the area in this Plan prioritise the following:

- The development and implementation of Ngarrindjeri cultural health assessment
- Improved Ngarrindjeri management of Ngaenu in line with improved cultural and ecological health
- Ngarrindjeri training, economic development and employment developed to support Ngarrindjeri management of Ngaenu

8.2 Environmental factors impacting on cultural health

Pest Animals - Rabbits

Evidence of large numbers of European rabbits (*Oryctolagus cuniculus*) is widespread across portions of the surveyed area. At present, the extensive damage they are causing appears to be limited to the middle of the Ngaenu area. The limestone outcrops to the south of this area are the most severely degraded by the presence of rabbits (see map at the end of this section).

In a number of locations, the digging of warrens has, disturbed and damaged cultural heritage materials. Figures 8, 9 and 10 (below) show some examples of the damage these animals are causing, including damage to cultural heritage materials. Rabbit populations can increase rapidly under favourable conditions leading to degradation of native vegetation. The health of the Ngaenu area depends upon the maintenance of a low abundance of rabbits via management.

Initially a comprehensive GPS mapping survey of the warrens and other rabbit damage at Ngaenu needs to be undertaken. Consequent control measures cannot include warren ripping due to the high cultural sensitivity of the area. In more open areas baiting can be employed while fumigation of warrens can be undertaken across Ngaenu. Coupled with this, warren entrances in and around the limestone outcrops can be infilled using imported soil or local limestone rocks. Employing these methods in concert should prove effective in controlling rabbits within the Ngaenu area.

Recommended Remedial action:

- Develop and implement a culturally appropriate rabbit control program throughout Ngaenu that is coordinated with rabbit management at the district scale.



Figure 8: Rabbit damage in main track



Figure 9: Disturbance of cultural materials



Figure 10: Rabbit damage on the point at Ngaenu

Pest Flora

A number of exotic floral species have a hold in several of the zones within the Ngaenu area. A map of the results of a preliminary survey of pressures on the land at Ngaenu, including pest plants can be found at the end of this section. While several zones appeared relatively free of exotic flora (noticeably zones 10, 10c and the northern half of the Pulgi vegetation zone) a number of other zones (e.g. the southern part of the Pulgi vegetation zone and the food and medicine area showed both minor and major infestations of a variety of exotic flora. Some examples are shown below.

In addition, there is a major infestation of African boxthorn (*Lycium ferocissimum*) on the limestone outcrop immediately adjacent to the point at Ngaenu which requires urgent attention to prevent its spread. This localised infestation is not shown on the map at the end of this section.



Figure 11: Scabiosa
(*Scabiosa columbaria*)



Figure 12: Scotch thistle
(*Onopordum acanthium*)



Figure 13: Salvation Jane
(*Echium plantagineum*)

Recommended Remedial action:

- Develop and implement a pest flora control program throughout the Ngaenu precinct. A comprehensive GPS mapping survey of pest plant locations within the Ngaenu area needs to be carried out before an eradication program is undertaken.



Figure 14: Map of Ngaenu showing results of a survey of threats to the area

8.3 Visitor impacts on Ngaenu

Damage caused by 4x4 vehicles

In the main, visitors to the area are acting responsibly however a small number are driving recreational vehicles off track with consequent erosion or they are driving recklessly on authorised tracks which has resulted in localised erosion of sections of track.



Figure 15: Degraded track (right) with new track (left)



Figure 16: Disturbed cultural materials in track

In one location, the track has eroded to a depth of 1.2 metres causing extensive damage to

a shell midden containing a variety of Ngarrindjeri cultural materials (see Figure 16 above). In other locations, visitors are creating new unauthorised tracks in their attempts to avoid eroded sections of the authorised track (see Figure 15).

Recommended remedial actions:

- Strategies to alleviate this vehicle damage could include appropriate revegetation along the sides of authorised tracks as well as the placement of logs or rocks to clearly delineate tracks to deter drivers from driving off track. Signage warning of the cultural and environmental damage caused by reckless and irresponsible driving could also help to prevent this threat from escalating.

9. Threats beyond the scope of this plan

9.1 Climate change

“Ngarrindjeri have long experience with climate change and sea level changes. Our creation stories tell us about the flooding of our lands and the changes to rivers and coast lines. ... We have watched our fresh water holes dry up and turn salty and we’ve seen our coastal camping places and middens washed away by rising sea levels” (Ngarrindjeri Nation Sea Country Plan 2007:18).

At present the degree and exact nature of threat posed to the Ngaenu area by climate change is difficult to foresee due to a number of factors including ongoing geological subsidence within the southern Murray Darling basin. The threats outlined below are all likely to be exacerbated by this ongoing tectonic subsidence. Bourman et al. (2000:142) conclude that “... (e)ven very slow rates of basin subsidence can have a major geomorphological effect on coastal configuration, particularly where sea-level appears to be rising independently...”.

Although higher sea levels are predicted with more intense storm surges along coastal areas (Caton et al. 2007), Ngaenu has the protective barrier dune system of the Young-husband Peninsula immediately to the south. Nonetheless, figure 17 (below) shows the low lying nature of much of the foreshore at Ngaenu and highlights the potential for serious erosion with only a minor rise in sea levels. Ngarrindjeri Elders recount today how they used to have cooking fires on the beach at Ngaenu in the 1980’s but due to shoreline regression, the beach is no longer present. In fact the SA Coast Protection Board has forecast a potential 60 m retreat of the shoreline in this area by 2100 (Advice received from Coastal Protection Board as part of Goolwa Beach Masterplan Consultation August 2015). In addition, in regard to climate change and the hyper saline condition of Kurangk, “Tidal flows within the Murray Mouth will alter in complex ways following sea level change, while changes in seasonal run-off have the potential to alter critical salinity values ...” (2007:119).

According to the Climate Change 2014 Synthesis Report by the Intergovernmental Panel On Climate Change (IPCC),

“Surface temperature is projected to rise over the 21st century under all assessed emission scenarios. It is *very likely* that heat waves will occur more often and last longer, and that extreme precipitation events will become more intense and frequent in many regions. The ocean will continue to warm and acidify, and global mean sea level to rise” (2014:58).

Unfortunately, rising aridity due to climate change is also forecast in the decades ahead, and this is likely to lead to a reduced capacity for dune ...(and other)... flora to recover after intense storm damage (Caton et al. 2007:133).

The complex nature of the predictions associated with climate change needs to be more fully understood in relation to the Ngaenu area before appropriate risk management recommendations are crafted.



Figure 17: Present shoreline of Ngaenu

Recommended remedial action:

- The present attempt to stabilise the low lying foreshore of Ngaenu with the planting of large numbers of various species of *Melaleuca* is a good beginning in alleviating shoreline regression (see photo above) although more research is needed to inform future risk management actions in regard to this and other threats associated with climate change.

9.2 Hypersaline waters

Historic land management strategies within the region have led to the present situation of unnaturally high salt levels within which is negatively affecting the cultural/ environmental health of the greater Ngaenu area. Indeed, Salinity levels in the Kurangk are now higher than at any time in the past (Fluin et al. 2007; Haynes et al. 2011). Apart from intensive river regulation impeding the natural river flow in Murrundi (Murray River), which acts to reduce salinity levels in the Kurangk, the present hypersaline condition of the southern

lagoon of the Kurangk is also largely due to the stopping of the inflow of water from the Upper South East Wetlands (McKirdy et al. 2009). This has resulted in:

- reduced habitat quality for water birds
- reduced habitat extent and quality for native fish
- reduced habitat extent and quality for wading birds
- reduced diversity and abundance of submerged aquatic vegetation

Remedial action:

- The South Australian government’s South East Flows Project, scheduled to begin towards the end of 2015 is designed to reintroduce a precolonial natural drainage regime for the upper south east of the state. This is expected to alleviate the present hypersaline nature of water in the Kurangk.

10. Threat assessment / Management matrix

ISSUES	NATURE & EXTENT OF ISSUE	TREND	RECOMMENDED REMEDIAL ACTIONS
Decline in cultural health over time	Exclusion of Ngarrindjeri from management of Ngaenu	Reversing	Management planning and actions for Ngaenu undertaken by Ngarrindjeri People
Pest plants	Extensive in several zones and non-existent in others	Increasing	Mapping survey followed by eradication Program
Pest animals (Rabbits)	Extensive in several zones and non-existent in others	Increasing	Mapping survey followed by baiting and fumigation and infilling of warren entrances
4 x 4 vehicles	Extensive in several zones and non-existent in others	Increasing	Culturally appropriate revegetation, signage and barriers
Climate change	Unknown at present	Increasing	Research followed by formulation of management actions
Hypersaline waters	Throughout the Kurangk	Stabilised at highest level in the history of the Kurangk	Expected to be alleviated by the South East Flows Restoration project

Table 2: Summary of threats to the Ngaenu area and recommended remedial actions

10.1 Culturally appropriate species list

Table 3: Culturally appropriate species list

TYPE OF PLANT	Uses codes (see below)	Zone 10 c	Zone 10, recreation habitat, optional direct seedling	Low lying area 1	Low lying area 2	Zone 3a & 3b	Dense plantings of cypress	Limestone area	camping area, open spaces, dense plants perimeter	Revegetation zone 10 species	Food and Medicine	Saline swampy area with limestone	Limestone outcrop	Interpretive signage	Pulgi vegetation to drive revegetation list	Clear area for Kangaroo habitat	Total No.
Acacia pycnantha (Golden Wattle)	F&G										100				300		400
Acacia sophorae (Coastal Wattle)	F										100				100		200
Adriana quadripartita / klotzschii (Coast Bitterbush)	M		400						100	100	100				200		900
Allocasuarina verticilata (Drooping Sheoak)	W&T		400						100	100	200				300		1100
Banksia marginata (Silver Banksia)	F		200								100				100		400
Banksia ornata (Desert Banksia)	F		200								100				100		400
Billardiera cymosa (Sweet Apple-berry)	F	200	200								200		50		100		750
Callitris gracilis (Southern Cypress Pine)	Sh		200												500		700
Carpobrotus rossii (pigface)	F	400	200							100	200		50		200		1150
Clematis microphylla (Old Man's Beard, Yalkari)	F&M		200								200				100		500
Cyperus gymnocaulos (spiney flat-sedge)	Weav			400	100		400										900
Dianella brevicaulis (Peeintuck)	F&M	400	400							100	200		50		200		1350
Kunzea pomifera (Muntries)	F	400	400						100	100	300		100		200		1600

TYPE OF PLANT	Uses codes (see below)	Zone 10 c	Zone 10, recreation habitat, optional direct seedling	Low lying area 1	Low lying area 2	Zone 3a & 3b	Dense plantings of cypress	Limestone area	camping area, open spaces, dense plants perimeter	Revegetation zone 10 species	Food and Medicine	Saline swampy area with limestone	Limestone outcrop	Interpretive signage	Pulgi vegetation to drive revegetation list	Clear area for Kangaroo habitat	Total No.
Melaleuca halmaturorum (Paperbark)	SWTC																0
Melaleuca lanceolata (Dryland Tea-tree)	SWTC		400						100	100	200				400		1200
Myoporum isulare (Boobiella)	F		200						50	100	100				200		650
Olearia axillaris (Coastal Daisy bush)	C&M		400						200	300	400		50		400		1750
Rhagodia species (Ruby Saltbush)	F&D		200						100	200	200		50		200		950
Solanum laciniatum (Cut-leaf Kangaroo- apple, Mookitch)	F&M		200							100	200				200		700
Tetragonia implexica (Bower spinach)	F	200	200							200	200		50		200		1050
Thomasia petalocalyx (Paper-flower)		100	100						100	100	100		50		100		650
Total plants:		1700	4500	400	100	0	400	0	850	1600	3200	0	450	0	4100	0	17300
	Area (ha)	1.46	6.43	0.19	0.05	0.99	0.18	0.23	0.33	1.66	2.65	0.55	0.18	0.01	4.24	1.36	20.5

Uses code - **F&G**, Food & Gum **M**, Medicine **W&T**, Weapons & Tools **Sh**, Shelter **F&M**, Food & Medicine
SWTC, Shelter, Weapons, Tools, Ceremony **C&M**, Ceremony & Medicine **F&D**, Food & Dye **Weav**, Weaving.

Table 3: Culturally appropriate species list (continued).

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Appendices

Appendix A

Coorong District Council – Apology 2011



Apology to the Ngarrindjeri

To the Ngarrindjeri, the Traditional Owners of the lands and waters within the region of the Coorong District Council, we express sorrow and sincere regret for the suffering and injustice that you have experienced since colonisation and share with you our feelings of shame and sorrow at the mistreatment your people have suffered.

We respect your autonomy and uniqueness of your culture. We offer our support and commitment to your determination to empower your communities in the struggle for justice, freedom and protection of your Heritage, Culture and interest within the Council area and acknowledge your right to determine your future.

We commit to work with you. We acknowledge your wisdom and we commit to ensuring our actions and expressions best assist your work. We accept your frustrations at our past ways of misunderstanding you.

We are shamed to acknowledge that there is still racism within our communities. We accept that our words must match our actions and we pledge to you that we will work to remove racism and ignorance.

We will recognise your leadership, we honour your visions, and we hope for a future of working together with respect for each other.

We look forward to achieving reconciliation with justice.

We ask to walk beside you and to stand with you to remedy the legacy of European occupation of your land and waters and control of your lives.

The work of The Coorong District Council will be guided by your vision of a future where reconciliation through agreement making may be possible and we may walk together in achieving that goal.

Signed for and on behalf of The Coorong District Council by:


Mayor Dr. Roger Strother


Witnessed for the Council by the Chief Executive Officer
Mr. Michael Boyd


Witnessed for the Ngarrindjeri People by the Deputy Rupelle of the Ngarrindjeri Tandi Mr. Darrell Sumner, on behalf of Rupelle the late Mr. George Trevorrow


Witnessed for the Ngarrindjeri People by the Chair of the Ngarrindjeri Native Title Committee Mr. Matthew Rigney


Witnessed for the Ngarrindjeri People by the Chair of the Ngarrindjeri Heritage Committee Mr. Tom Trevorrow

Date 7-7-2011

Appendix B

Kungun Ngarrindjeri Yunnan Agreement between the State of South Australia (Crown) and the Ngarrindjeri Nation 2009

KUNGUN NGARRINDJERI YUNNAN AGREEMENT

This Agreement is dated the 2009.

BETWEEN:

NGARRINDJERI TENDI INCORPORATED, NGARRINDJERI HERITAGE COMMITTEE INCORPORATED AND NGARRINDJERI NATIVE TITLE MANAGEMENT COMMITTEE FOR AND ON BEHALF OF THE NGARRINDJERI PEOPLE care of the Ngarrindjeri Land and Progress Association Incorporated Camp Coorong Race Relations and Cultural Education Centre of Post Office Box 126 Meningie SA 5264 ('NGARRINDJERI')

-And-

CROWN IN RIGHT OF THE STATE OF SOUTH AUSTRALIA REPRESENTED BY THE MINISTER FOR ENVIRONMENT AND CONSERVATION, THE MINISTER FOR ABORIGINAL AFFAIRS AND RECONCILIATION, THE MINISTER FOR THE RIVER MURRAY, AND THE MINISTER FOR AGRICULTURE, FOOD AND FISHERIES ('MINISTERS')

RECITAL

A. The Ngarrindjeri People as descendants of the original indigenous inhabitants of the lands and waters of the Murray River, Lower Lakes and Coorong and adjacent areas assert control over these lands and waters by the continuation of their culture upon their traditional lands to pursue their economic, social and cultural development of the land and waters located within the boundary of Claim SC 98/4 being the Ngarrindjeri Native Title Claim as described therein ('the Native Title Claim').

B.

The Ngarrindjeri People are the traditional owners (as that term is defined in the Aboriginal Heritage Act, 1988 (SA)) of Aboriginal Sites, Objects and Remains within the area of the Native Title Claim.

C.

The Ngarrindjeri People act through their representative bodies being Ngarrindjeri Tendi Incorporated, Ngarrindjeri Heritage Committee Incorporated and Ngarrindjeri Native Title Management Committee. These bodies, with other representative bodies within the Ngarrindjeri community have formed a peak body called the Ngarrindjeri Regional Authority Inc. for the purpose of coordinating activities and resources of the Ngarrindjeri community and high level interactions with the State Government of South Australia.

D.

The Ministers have expressed a desire for a new relationship between the State of South Australia and Ngarrindjeri based upon mutual respect and trust acknowledging that Ngarrindjeri consider protection and maintenance of culture and cultural sites upon its land and waters central in every respect to Ngarrindjeri community well being and existence.

E.

By this Agreement the Ministers wish to provide support and resources to the Ngarrindjeri Regional Authority Inc and enter into negotiations and consultations with the Ngarrindjeri about the maintenance and protection of Ngarrindjeri culture and cultural sites and the natural resources of the Land.

F.

The Parties seek to negotiate and consult to enable Ngarrindjeri cultural values to become integral to all planning and future management arrangements that are made with respect to the Land and aim to recognize and assure active Ngarrindjeri participation in those arrangements. To this end both parties

commit to a negotiation and consultation framework in this Agreement that will lead to a better understanding between themselves and enable the achievement of these goals.

G.

For the purpose of achieving the objectives referred to in this Agreement each of the Ministers will be represented by an authorized representative from a relevant government department under their jurisdiction in consultations and negotiations that fall outside the quarterly meetings between the Ministers and the Ngarrindjeri Regional Authority.

H.

The agreement may be referred to by the title: “Kungun Ngarrindjeri Yunnan Agreement”, which translates to mean, “Listening to Ngarrindjeri People Talking Agreement”.

IT IS AGREED:

1.

Definitions

‘Ministers’ means the Minister for Environment and Conservation, Minister for Aboriginal Affairs and Reconciliation, the Minister for the River Murray, and the Minister for Agriculture, Food and Fisheries, and includes any and all departments and instrumentalities of the South Australian Government that the Ministers are accountable for, or any of their agents, employees, officials or representatives.

‘Agreement’ refers to this Agreement and includes the schedules;

‘Commencement Date’ is the date of execution of this Agreement;

‘Cultural Knowledge’ means all and any cultural knowledge, whether such knowledge has been disclosed or remains undisclosed by the Aboriginal people represented by the Ngarrindjeri, including but not limited to:

(a)

traditions, observances, customs or beliefs;

(b)

songs, music, dances, stories, ceremonies, symbols, narratives and designs;

(c)

languages;

(d)

spiritual knowledge;

(e)

traditional economies and resources management;

(f)

scientific, spatial, agricultural, technical, biological and ecological knowledge; and includes documentation or other forms of media arising therefrom including but not limited to archives, films, photographs, videotape or audiotape.

‘Land’ means the land and waters referred to in the Ngarrindjeri & Others Native Title Claim, being Federal Court Action No. SG 6027/98;

‘Parties’ shall mean the Ministers and Ngarrindjeri;

‘Schedule’ means a schedule under this Agreement;

2. Acknowledgement

2.1

The Ministers acknowledge that the Ngarrindjeri are the Traditional Owners of the Land and that according to their traditions, customs and spiritual beliefs its lands and waters remain their traditional country.

2.2 The Ministers also acknowledge and respect the rights, interests and obligations of Ngarrindjeri to speak and care for their traditional country, lands and waters in accordance with their laws, customs, beliefs and traditions.

2.3

The Ministers also acknowledge and respect the knowledge skill and experiences of the Ngarrindjeri to speak and care for their respective traditional country, lands and waters in accordance with their laws, customs, beliefs and traditions.

2.4

In order to enter meaningful negotiations and consultations with Ngarrindjeri the Ministers wish:

2.4.1

To respect the interest and aspirations of Ngarrindjeri people and to give due recognition to the ability of those Ngarrindjeri people to make a significant contribution to the promotion of the principles of ecologically sustainable development in relation to the use and management of natural and other resources;

2.4.2

To promote a cooperative approach in the protection and management of the environment by the involvement of Ngarrindjeri people;

2.4.3

To recognise the role of Ngarrindjeri people in the conservation and ecologically sustainable use of Australia's biodiversity;

2.4.4

To promote the ethical use of Ngarrindjeri people's knowledge of biodiversity by the involvement of and cooperation with the owners of the knowledge;

2.4.5

To promote a partnership approach to environmental protection, heritage and biodiversity conservation through recognising and promoting Ngarrindjeri people's role in and knowledge of the conservation and ecologically sustainable use of biodiversity.

2.5

The Ministers in consultations with Ngarrindjeri people shall consider the role and interest of Ngarrindjeri peoples in the conservation and ecologically sustainable use of natural resources in the context of relevant obligations under international treaties.

2.6

The Parties acknowledges that the Recitals are true and correct.

3. Commitments by Ministers to Ngarrindjeri

3.1

To enable the Ngarrindjeri to actively participate fully in the on ground management and rehabilitation of the Land the Ministers will ensure that:

3.1.1

an amount of no less than \$2.5M is committed to programs to be conducted by the Ngarrindjeri Regional Authority Inc or its related entities from the Coorong, Lower Lakes and Murray Mouth Rehabilitation Works Program; such programs to be within the funding framework articulated by the Commonwealth Government in their funding criteria to the South Australian Government and conditional upon the State of South Australia obtaining funding in that amount, for that purpose;

3.2

To enable recognition of the significance of Ngarrindjeri cultural values to the Land the Ministers will ensure:

3.2.1

That should there be an allocation of fifty (50) GL of fresh water, to Lake Alexandrina within the next twelve months in accordance with criteria specified by the Commonwealth Government, that the Minister for Water Security will consult with Ngarrindjeri concerning their cultural water requirements and flows in determining its use within the ambit of the criteria specified by the Commonwealth Government;

3.2.2

That there is a public acknowledgment of the positive findings of the Federal Court decision in Chapman v. Luminus (No. 5) by von Doussa J. that the cultural beliefs held by Ngarrindjeri persons were genuine beliefs based upon Aboriginal tradition and that this matter had not been fully or properly explored in the Hindmarsh Island Bridge Royal Commission, and that such acknowledgement occur by an agreed protocol determined between the South Australian Government and the Ngarrindjeri Regional Authority Inc.

4. Support of Ngarrindjeri Regional Authority Inc.

4.1

To achieve the commitments referred to in this Agreement and to be a suitable body for consultation and discussion, the Ngarrindjeri have formed the Ngarrindjeri Regional Authority Inc.

4.2

The purpose of the Ngarrindjeri Regional Authority Inc. in the context of this Agreement is:

4.2.1

to ensure that information is exchanged between State Government Departments and the Ngarrindjeri;

4.2.2

that there is a clear avenue for regular and clear communications between the State Government Departments and the Ngarrindjeri;

4.2.3

that proper consideration is given by State Government Departments to Aboriginal Heritage matters and to ensure the interest of the traditional owners represented by the Ngarrindjeri of any land or other natural resources are considered;

4.2.4

to develop programs which align with caring for country objectives of the Ngarrindjeri in the protection of land, water and marine environments and the achievement of culturally appropriate outcomes for soils, water resources, geological features and landscapes, native vegetation, animals, other organisms and the ecosystems by the institution of relevant programs and the creation of a research institute and other supporting infrastructure;

4.2.5

to promote capacity building, infrastructure and well being within the Ngarrindjeri community; and

4.2.6

to promote and develop cultural awareness and skills training.

4.3

The Ministers agree to commit six hundred thousand dollars (\$600,000.00) over the next three (3) years to support the development of the Ngarrindjeri Regional Authority Inc and to resource the Ngarrindjeri with respect to consultation under this Agreement and any other agreements that may fall out of any consultation herein; such payment to be made by payment of \$200,000 upon execution of this Agreement and \$200,000 thereafter on the first and second anniversary of this Agreement or at other agreed times.

5. Consultation

5.1

Subject Matters for Consultation

5.1.1

The Ministers acknowledge that it is important for the Ngarrindjeri to gain economic benefit from the management of protected areas including game reserves, marine parks, conservation parks and national parks, including the training and employment of Ngarrindjeri rangers and other staff, and the

5.1.2

The Ministers acknowledge that it is crucial for Ngarrindjeri to be involved in planning and implementation processes with respect to management plans for parks and reserves, water resources and waters that are the subject of this Agreement and will consult with Ngarrindjeri about the best way to achieve this input.

5.1.3

The Ministers wish to ensure that Ngarrindjeri interests are included in the planning, development and allocation of funding by the South Australian Government for the Murray Futures Lower Lakes and Coorong programs funded by the Commonwealth Government by consulting with the Ngarrindjeri Regional Authority Inc pursuant to this clause.

5.2

The Ministers and the Ngarrindjeri Regional Authority Inc shall meet quarterly to consult, discuss and consider issues pertinent to the matters contained in clause 5.1 and such other matters as the parties agree that are properly within the subject matter of this Agreement.

5.3

The Ngarrindjeri Regional Authority Inc and the Ministers shall each produce a quarterly report to be included as a minuted item and attachment to minutes of meetings.

5.4

The Ministers and the Ngarrindjeri agree to consult in good faith with each other from time to time in addition to the quarterly meetings for the purpose of discussing any and all issues relevant to each of them in relation to matters contained in clause 5.1 and such other matters as are properly the subject of this Agreement as may be agreed from time to time.

5.5

The persons appointed as the contact for each of the parties are listed below. Either Party may appoint replacement or additional persons and shall inform the other Party in writing of the names of such persons.

5.6

All and any notices under this Agreement shall be sent to:

5.6.1

For Ngarrindjeri

To be advised within 28 days of the execution of this Agreement.

5.6.2

For the Ministers:

To be advised within 28 days of the execution of this Agreement.

Each Party may appoint replacement or additional persons and shall inform the other Party in writing of the names of such persons.

6. Negotiation

6.1

Subject Matters for Negotiation

6.1.1

The Ministers acknowledge that Ngarrindjeri desire a hand-back of all existing and future conservation parks and national parks and a management role in other protected areas, including game reserves and marine parks, by negotiated agreements and that it will acknowledge the Ngarrindjeri aspirations for the hand back and future management of these areas as part of a negotiation about co-management of parks and reserves.

6.1.2

The Ministers will negotiate in good faith with Ngarrindjeri about co-management of parks and reserves and this negotiation will take place within the context of native title claim resolution negotiations and pursuant to this Agreement.

6.1.3

The Ministers will negotiate in good faith with the Ngarrindjeri to develop an agreement that acknowledges Ngarrindjeri ownership of Cultural Knowledge and ensures that the all Cultural Knowledge is managed consistently with that ownership.

6.1.4

The Ministers and Ngarrindjeri agree to negotiate in good faith with each other for the purpose of resolving other matters that are properly the subject of this Agreement as agreed from time to time.

6.1.5 To achieve successful and lasting agreements, the process of the Negotiation must embody:

6.1.5.1

Commitment

There should be a serious resolve and commitment by each of the Parties to reach agreement. The Parties should match their commitment with sufficient resources to support the process.

6.1.5.2

Conducted in South Australia

To meet the circumstances of the negotiations, the process should be located and managed in South Australia.

6.1.5.3

Fair

The process should provide a level playing field where no party is disadvantaged because of the process.

6.1.5.4

Impartial

No one party should have control of the process. All Parties should be equal parties in its management.

6.1.5.5

Effective

The process should encourage effective negotiations which are efficient, and avoid creating barriers to progress.

6.1.5.6

Understandable

Each party should clearly understand its duties and responsibilities in the negotiations process.

6.2

To ensure the Negotiation occurs in accordance with the principles stated in Clause 6.1, including equal access by both Parties to resources to conduct the Negotiation:

6.2.1

The Ministers will be responsible for the costs of the Ngarrindjeri in undertaking the Negotiation, including reasonable costs of expert support; in such amount as is agreed between the parties. 6.2.2 The Ministers and Ngarrindjeri agree that they will follow the process for the Negotiation set out in Schedule 1 where agreed.

6.3

The parties will appoint persons who are properly authorized to negotiate with respect to the particular subject matter and legal context.

6.4

It is agreed that the following criteria apply in determining whether a Party is ready to negotiate ('Agreed Negotiation Readiness Criteria'):

6.4.1

The Ngarrindjeri is ready when it:

6.4.1.1

Has identified subject matters they wish to include in the Negotiation. ;

6.4.1.2

Has consulted its community;

6.4.1.3

Has adopted a ratification process and is duly authorized according to law.

6.4.2

The Ministers are ready when:

6.4.2.1

They have identified the subject matters they wish to include in the Negotiation;

6.4.2.2

They have established a mechanism for consultation with non-Indigenous interests and have consulted with them;

6.4.2.3

They have identified and instructed a negotiator and have adopted a ratification process within the relevant Agency or Agencies.

6.5

All and any notices under this Agreement shall be sent to:

6.5.1

For Ngarrindjeri

Shaun Berg
Berg Lawyers
18 – 20 Grenfell Street
Adelaide SA 5000

6.5.2

For the Ministers :

To be advised within twenty eight days of this Agreement being executed.

7. Heritage and Native Title

7.1

This Agreement is made as an act of good faith and is not intended to affect, extinguish, or derogate from any subsisting legal rights, powers, interests or obligations of the Ngarrindjeri People, including, but not limited to any such Ngarrindjeri or sovereign rights, native title rights and interests, or rights under the *Aboriginal Heritage Act 1988 (SA)* or *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Commonwealth)*.

7.2

For the sake of clarity, this Agreement does not comprise an Indigenous Land Use Agreement as defined under the *Native Title Act 1993 (Commonwealth)*, nor comprise an agreement to alter, extinguish, surrender or derogate from common law, equity or statutory native title rights of the native title applicants to assert native title for and on behalf of the native title claimant group.

8. Miscellaneous

8.1 This Agreement does not supersede or affect any prior agreements and understandings between the Parties.

8.2 No amendment or variation of this Agreement is valid or binding on a Party unless made in writing executed by all Parties.

8.3 Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

8.4 No failure to exercise nor any delay in exercising any right, power or remedy by a Party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the Party granting that waiver unless made in writing.


8.5 The Ministers will bear all costs of the Parties arising out of the negotiation, preparation and execution of this Deed. All stamp duty which may be payable on or in connection with this Agreement will be borne by the Ministers.

8.6 This Agreement may be executed in counterparts. The date on which the last counterpart is signed is the date of execution of the Agreement.

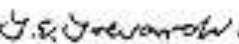
8.7 An amount payable by a Party under this Agreement in respect of a taxable supply by another Party is not expressed in this Agreement to include GST and the recipient must, in addition to that amount and at the same time, pay to the supplier of the taxable supply the GST payable in respect of the supply.

EXECUTED AS AN AGREEMENT.

Signed for and on behalf of the NGARRINDJERI)
TENDI INCORPORATED)
for and on behalf of the Ngarrindjeri People)


Signature of Frank George Trevorrow Date 5/6/09

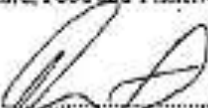
Signed for and on behalf of the NGARRINDJERI)
HERITAGE COMMITTEE INCORPORATED)
for and on behalf of the Ngarrindjeri People)


Signature of Thomas Edwin Trevorrow Date 5/6/09

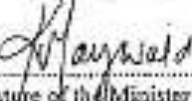
Signed for and on behalf of the NGARRINDJERI)
NATIVE TITLE MANAGEMENT COMMITTEE)
for and on behalf of the Ngarrindjeri People)



Signature of Matthew Rigney Date 5/6/09

Signed by the CROWN IN RIGHT OF THE)
STATE OF SOUTH AUSTRALIA represented by)
the Minister for Environment and Conservation, the)
Minister for Aboriginal Affairs and Reconciliation,)
the Minister for the River Murray, and the Minister)
for Agriculture, Food and Fisheries)


Signature of the Minister for Environment and Conservation Date 11/6/09


Signature of the Minister for Aboriginal Affairs and Reconciliation Date 11/6/09


Signature of the Minister for the River Murray Date 28.05.09


Signature of the Minister for Agriculture, Food and Fisheries Date 26.05.09

Appendix C

Kurangk

By Auntie Leila Rankine (deceased)

Land of my father's people,
Place of my ancestors' past,
Never will I forget you,
For you are dear to my heart.

I've climbed your golden sand-dunes,
And walked through your native scrub,
Swum in your sea-green waters,
Watched the birds, in their evening flight.

Oh how my heart is longing
To hear the song of the surf
From the mighty Southern Ocean
Whose shores I often trod.

The many lovely wild flowers
Whose seeds are scattered by the winds
Like a cloak of many colours
Grow there, within your fields.

The midden heaps around me,
The bleached bones on the shore
are fragments of a lifetime
which I yearn to know once more.

Through the wind and sand around me
At night by camp fire bright,
Midst the blue smoke wafting upwards,
I recall my ancestors' life.

Oh the spirit of the long ago
And guardian of the past
As I stand beside your waters
My soul knows peace at last.

Appendix D

Ngarrindjeri Declaration of Dominion

Proclamation of Ngarrindjeri Dominion

This proclamation was hand delivered to
Her Excellency Marjorie Jackson Nelson, Governor of South Australia,
by four Ngarrindjeri leaders,
George Trevorrow, Matt Rigney, Tom Trevorrow and Ellen Trevorrow
on the 17th December 2003
for presentation to the State Government.

PROCLAMATION OF The time immemorial Ngarrindjeri Dominion

Now Being First Notified to

Her Excellency, Marjorie Jackson-Nelson, Governor of South Australia

FOR THE CROWN IN THE RIGHT OF THE STATE OF SOUTH AUSTRALIA

AS REPRESENTED BY EXECUTIVE COUNCIL

FOR AND ON BEHALF OF THE INHABITANTS OF SOUTH AUSTRALIA

Greetings!

1. WHEREAS by statute assented to in 1834 the Crown of the United Kingdom of Great Britain proposed to declare certain lands wrongly presumed by Preamble to be “*waste and unoccupied*” in a “*province of South Australia*” to be established without notice to its Indigenous inhabitant proprietors, to be “*open to purchase by British subjects*” upon its establishment [s.6, South Australia Act 4&5 William IV, cap.95.]; and,
2. WHEREAS in December 1835 at London, the South Australian Colonizing Commission denied on behalf of the promoters of the said *Province* “*this declaration of the legislature as absolutely rebutting, the title of any aboriginal inhabitants of the proposed Colony to the occupation of the Soil*” [C.O.13/3]; and,
3. WHEREAS on 6 January 1836 at London, the South Australian Colonizing Commission agreed to submit “*arrangements for purchasing the lands of the natives*” of “*the province of South Australia*” to the Colonial Office at the request by letter of the Secretary of State for the Colonies, Lord Glenelg; and,
4. WHEREAS in their First Report to the Parliament of the said United Kingdom the South Australian Colonizing Commission agreed that “*the locations of the colonists will be conducted on the principle of securing to the natives [sic] their proprietary right to the soil*” - so as to require cession of any territory to be “*perfectly voluntary*” [First Annual Report of the South Australian Colonizing Commissioners, House of Commons, 1836 Sessional Papers 36 No. 491, 39 No. 426, pp. 8-9]; and,
5. WHEREAS the said arrangements proposed that the Crown of the United Kingdom of Great Britain

allow the opening for public sale in England of “those lands uninhabited or not in the occupation and enjoyment of the Native race” in “the province of South Australia”; and,

6. WHEREAS the said arrangements proposed that “should the Natives occupying or enjoying any lands comprised within the surveys directed by the Colonial Commissioner not surrender their **right** to such lands by a **voluntary sale**”;

Then in that case the Colonizing Commissioners have two duties, namely:

ONE [The first Duty]

“to **secure** to the Natives the full and undisturbed **occupation** or enjoyment of those lands”,

and TWO [The Second Duty]

“to afford them **legal redress** against depredations and **trespasses**”; and,

7. WHEREAS by Letters Patent of 1836 issued to Governor Hindmarsh in London the Crown of the United Kingdom of Great Britain purported to allow the said Colonizing Commissioner to begin embarking British subjects upon certain commercial terms on ships and sail for South Australia on condition

*‘that nothing in these Letters Patent contained shall effect or be construed to effect the **rights** of any aboriginal Natives of the said province to the actual **occupation** or enjoyment in their persons or in the persons of their **descendants** of any lands now actually occupied or enjoyed by such Natives’* [C.O. 13/3]; and,

8. WHEREAS clause 34 of the Instruction to the Resident Colonizing Commissioner guaranteed that “no lands which the natives may possess in occupation or enjoyment be offered for sale until previously **ceded** by the natives” [The Select Committee on the Aborigines, Report, 19 September 1860, Legislative Council of the Parliament of South Australia, p.5]; and,

9. WHEREAS clause 35 of the said Instructions to the Resident Colonizing Commissioner required that “the aborigines are **not disturbed** in the enjoyment of the lands over which they may possess proprietary rights, and of which they are not disposed to make a voluntary sale” and required “evidence of the faithful fulfillment of the bargains or **treaties** which you may effect with the aborigines for the cessation of lands” [op.cit.]; and,

BEING APPRISED OF THE INEQUITY WE THEREUPON SUFFER, TAKE NOTICE THAT:

The fundamental relationship between the governed and government in South Australia has never been achieved in a politically democratic, equal and just process over the life of the State, because Aboriginal people lack due Constitutional recognition for their original land rights in the State.

The Constitution of the Parliament of South Australia was drafted by a 19th Century Premier of South Australia, without the full democratic involvement of the people or the community, and without Aboriginal input.

Of main concern for the better future of South Australia is the just, equal and democratic treatment of all South Australians by government, and especially of all Aboriginal people, and in recognition of their prior equity.

At the heart of the principle of a social contract between the people and Government is the right of the community to determine its future by making society accountable to the State, within a just system of laws.

South Australia began in an 1834 Act of a colonising British Parliament in London half- way around the world, and it determined all local Aboriginal people to be *persona nullius*, despite their inherent

proprietary rights.

The founding legislation for South Australia was an ignominious start to a 167 year history of infamy for the Aboriginal people, who have never been asked to establish any form of legal relations with the colonising State.

Central to the Wakefield Plan for colonising the Aboriginal lands of South Australia was a repugnance for slavery and the securing of a privileged English social contract for a few, while dispossessing Aboriginal land owners.

Slavery had been abolished in Britain and its colonies from 1833, and the worst fear of the emigrants to South Australia was being found guilty of enslaving the Aboriginal people. To avoid any legal penalty for slavery and to avoid any allegation of slavery, Aboriginal people were deprived of any right or equity to their lands and were refused a social right to work.

This was a specific design especially incorporated in the establishment of South Australia. Although Aboriginal people were British subjects by law, this was only nominal justice, because taking their lands was justified.

The legal doctrine of *terra nullius* refuted by the Mabo judgment was developed by English law to permanently entrench this injustice in the State's legal and constitutional framework, and to deny Aboriginal equity.

There is an urgent need for the people of South Australia to recognise this ignominy of the past and to go forward together with all local Aboriginal people for a better and more just future in community upholding respect.

It is up to the community to extend the hand of partnership and co-operation to all people and groups in the State, and to reform South Australia to be inclusive of everyone's rights.

The traditional way to achieve unison of this nature, both for Indigenous and immigrant cultures alike, is for a social compact or contract to be formulated to establish the peace.

The whole community must be consulted and all interest groups must have a legal right to negotiate with government in the make-up and terms of a rewrite of the State's Constitution.

A bright and just future for all is only based upon an equal and democratic negotiation by all.

Accordingly, as -

THE NGARRINDJERI HAVE ALWAYS **OCCUPIED** THE TRADITIONAL LANDS OF THE
NGARRINDJERI NATION

and,

NGARRINDJERI HAVE NEVER **CEDED** NOR SOLD OUR LANDS AND WATERS,

We ambassadors of the Ngarrindjeri Nation, George Trevorrow, Rupelli of the Ngarrindjeri Tendi, Thomas Edwin Trevorrow, Chairperson of the Ngarrindjeri Heritage Committee, and Matt Rigney, Chairperson of the Ngarrindjeri Native Title Committee, having been properly authorised in the Ngarrindjeri way to make this proclamation on behalf of all Ngarrindjeri, do hereby:

declare and proclaim

our homeland as traditionally delineated, including all waters, foreshore and riverbed thereof,

is now and always has been occupied by Ngarrindjeri.

THEREFORE WE HUMBLY REQUIRE THAT YOUR CROWN FORTHWITH RECOGNISE THE
NGARRINDJERI DOMINIUM IN OUR SOIL AND BENEATH OUR WATERS, AS IS OUR
ORIGINAL RIGHT AND DOMINION EVIDENCED BY OUR NATIVE RIGHT, AND -

ONE:

Enter a Social Charter with the Ngarrindjeri Nation to inscribe the mutual recognition of our dominium as between the Ngarrindjeri Nation and the Crown within South Australia;
and

TWO:

Present Parliament with a Bill for a Ngarrindjeri treaty to be enacted by indenture, which secures the Dominium of our Ngarrindjeri lands and waters to the perpetual inheritance of the Ngarrindjeri Nation, and which enshrines a Bill of Rights for the advancement of the human rights of all South Australians, and the particular maintenance of the Ngarrindjeri heritage in perpetuity.

Given under our hand and the Public Seal of Ngarrindjeri

as presented to the Governor of South Australia on Wednesday the 17 day of December 2003.

SIGNED:
George Trevorrow, Rupelli of the Ngarrindjeri Tendi

.....
Thomas Edwin Trevorrow, Chairperson of the Ngarrindjeri Heritage Committee

.....
Matt Rigney, Chairperson of the Ngarrindjeri Native Title Committee

Recorded in Register of Ngarrindjeri Proclamations, Vol 2, Page 1

Copy transmitted this day to

The Governor of South Australia [the Representative of the Crown, acting with the advice and consent of the Executive Council].

Her Majesty Queen Elizabeth II, Queen of Australia and the United Kingdom of Great Britain and Northern Ireland.

The Ngarrindjeri Nation calls on the S.A. Government to meet with the Ngarrindjeri leaders and Elders to negotiate a Treaty between both governments.

Appendix E

Speaking As Country Deed – Murray Mouth

NGARRINDJERI SPEAKING AS COUNTRY DEED

This Deed is made on the 24th day of December 2014.

Between:

NGARRINDJERI REGIONAL AUTHORITY INC of 50 Princes Hwy, Murray Bridge, SA 5253 for and on behalf of the Ngarrindjeri People ('Ngarrindjeri')

-and-

MINISTER FOR SUSTAINABILITY, ENVIRONMENT AND CONSERVATION a body corporate pursuant to the *Administrative Arrangements Act 1994 (SA)*, to be administered by Department of Environment, Water and Natural Resources (South Australia) of GPO Box 1047 ADELAIDE, South Australia, 5001, **ABN 36 702 093 234** ("**the Minister**")

Recitals:

- A. Ngarrindjeri and the Crown in right of the State of South Australia represented by the Minister for Environment, and Conservation, the Minister for Aboriginal Affairs and Reconciliation, the Minister for the River Murray, and the Minister for Agriculture, Food and Fisheries entered into an agreement titled 'Kungun Ngarrindjeri Yunnan Agreement' on 5 June 2009 ('KNY Agreement').
- B. The KNY Agreement created a respectful basis upon which Ngarrindjeri and the relevant Ministers have been able to develop and expand their relationship.
- C. The Murray Mouth ('Mouth') is a dynamic system, influenced by the flow of River Murray water over the barrages and inward tidal movement from the Southern Ocean. When River Murray flows to South Australia are low, barrage releases are low and sand deposition occurs inside the Mouth causing restrictions and increasing the risk of closure.
- D. It is important that the Mouth stays open to maintain connectivity between the River, the Coorong and the Southern Ocean, to discharge salt and other nutrients out to sea, and to maintain healthy ecosystems in the Coorong.
- E. During the past year, inflow conditions in the River Murray System and South Australia have been relatively low. Since late 2013, as a result of these lower flow conditions, the Mouth has become severely constricted, and is now at risk of closure. The Minister will commence dredging of the Mouth as soon as practicable to maintain an open Mouth.
- F. Dredging has been shown to be the most effective method for keeping the Mouth open under periods of restricted flow over the barrages, in terms of cost and environmental criteria, compared with a range of structural and other methods.

- G. The Parties agree about the importance of freshwater flows down the River Murray.
- H. The Parties acknowledge that the Murray-Darling Basin Plan states an outcome will be pursued of ensuring the mouth of the River Murray is open without the need for dredging in at least 95% of years, with flows every year through the Murray Mouth Barrages.
- I. The Minister considers that dredging in and around the mouth of the River Murray is necessary for the health of the River Murray, Lower Lakes and Coorong and has requested that the Ngarrindjeri assist in relation to this process. The Minister is committed to ensuring the dredging process is carried out when necessary as quickly and with minimal inconvenience as is reasonably possible.
- J. The Ngarrindjeri assert they have an inherited customary right and duty under their traditional laws and customs to speak for, control and care for their country, knowledge, objects, articles and remains. Ngarrindjeri say:

'The Meeting of the Waters is a fundamental aspect of the Ngarrindjeri world where all things are connected, whether they are living, from the past and/or for future generations. The Meeting of the Waters makes manifest core concepts of Ngarrindjeri culture that bind land, body, spirit, and story in an integrated, interfunctional world. The principles that flow from this cultural system are based upon respect for story, country, the old people, elders and family. The pursuit of these principles is contingent upon maintaining a relationship with country. The violation of these respect principles are manifest through the destruction of Ngarrindjeri yarluwar ruwe (a concept that embodies the connectedness and interfunctionality of their culture) and their effect upon the behaviours and survival of ngatji (the animals, birds and fish). According to these principles and contingent beliefs the "environment" cannot be compartmentalised: the land is Ngarrindjeri and Ngarrindjeri are the land. All things are connected and interconnected. Ngarrindjeri philosophy is based on maintaining the integrity of the relationship between place and person. It is the responsibility of the living to maintain this continuity. The past is not and cannot be separated from the here and now or the future. To break connections between person and place is to violate Ngarrindjeri culture. The objective in undertaking activities upon Ngarrindjeri country should be to not cause violence to Ngarrindjeri culture.'

- K. The Minister recognises that the area in and around the mouth of the River Murray is culturally sensitive and forms part of the Aboriginal Registered Site No. 6626-4727 titled 'the Meeting of the Waters' ('Site'). Ngarrindjeri and the Minister wish to promote a broader understanding of the Site and what actions are desirable to allow it to remain culturally and physically healthy.
- L. The Ngarrindjeri and the Minister wish to implement strategies and programs from time to time where they work together to enhance and foster the cultural well being of the area encompassing the site, including but not limited to achieving fresh water flows down the River Murray sufficient to clear the mouth of the River Murray and support and enhance the inputs of Ngarrindjeri in these processes and activities.
- M. The Minister has agreed to fund the Ngarrindjeri to undertake a number of activities that promote the importance of the Site and develop ways to improve the health of this

area.

It is Agreed:

1. Acknowledgements

- 1.1 The Minister repeats the acknowledgments in the KNY Agreement.
- 1.2 The Minister acknowledges that Ngarrindjeri will be guided by their cultural obligations and protocols in devising strategies and programs which are encompassed within the concept of 'Ngarrindjeri speaking as country'.
- 1.3 The Ngarrindjeri acknowledge that the Minister has responsibilities under the Ramsar Convention to maintain the ecological character and Indigenous interest of the Coorong and Lakes Alexandrina and Albert wetland of International importance, including through the maintenance of an open Murray Mouth.

2. Commitment

- 2.1 The Parties commit to together, seek ways to consider Ngarrindjeri rights and to advance Ngarrindjeri interests when decisions are being made about their traditional country, lands and waters including the registered Aboriginal Site titled 'Meeting of the Waters'.
- 2.2 The Ngarrindjeri are committed to ensure that sufficient fresh water is available in the River Murray system at relevant times of the year to enhance the health of the country generally and to minimise the need for interventions in the future, such as the dredging of the mouth of the River Murray.

3. Interpretation and Definitions

- 3.1 The Parties consider the acknowledgments and commitments referred to in this Deed are true and correct.
- 3.2 The following interpretation rules shall apply to this Deed:
 - 3.2.1 Reference to an Act includes any regulations made pursuant to that Act and any Amendments to the Act or Regulations for the time being in force and also to any Act or Regulations passed in substitution therefore.
 - 3.2.2 The singular includes the plural and vice versa
 - 3.2.3 The reference to a person includes a firm, council operation, governmental authority (State or Commonwealth) or body whether incorporated or not.
 - 3.2.4 Reference to a clause means a clause in this Deed.
 - 3.2.5 The meaning of a word or words followed by the word "includes" or "including" is not limited only to the meaning of the word or words following the word "includes" or "including"
 - 3.2.6 Words and phrases

defined in the *Aboriginal Heritage Act 1988* have the same meaning in this Deed.

3.2.7 Headings are for convenience of reference and do not affect the interpretation of this Deed;

3.3 The following words have the meanings set out below:

“NTA” means the *Native Title Act (1993)* (Cth) as amended;

“Party/Parties” means the Minister and the Ngarrindjeri.

4. Funding to Ngarrindjeri

4.1 The funding as agreed to be supplied by the Minister to the Ngarrindjeri Regional Authority on behalf of the Ngarrindjeri by way of Deed of Grant dated 27 December 2014 and will be applied in the following way:

4.2 To establish and support a Working group to develop proposals to be considered by the Minister to:

4.2.1 Promote greater community understanding by the public and relevant statutory bodies of Ngarrindjeri traditions, culture, laws and spiritual beliefs in the River, Coorong and Lakes Alexandrina and Albert, and adjacent areas including a specific focus upon of the Site, including by way of cultural education, interpretive signage and digital media presentations;

4.2.2 Devise strategies and undertake discussions with each other and other parties which endeavour to assist in obtaining water flows down the River Murray at relevant times of the year and otherwise maintain the general health of the Site and its surrounds and to minimise the need for interventions in the future, such as the dredging of the Mouth;

4.2.3 Identify potential funding sources for such activities;

4.2.4 Provide Ngarrindjeri input to inform decisions being made about the lands and waters of the Site and surrounds;

4.2.5 Facilitate, monitor and progress those proposals that are approved.

5. Advancing Relationship

5.1 The Parties acknowledge that to achieve successful and lasting outcomes, the discussions between them must embody:

5.1.1 Commitment

There must be a serious resolve and commitment by each of the Parties to reach an outcome. Subject to the availability of resources, the Parties must endeavour to match their commitment with sufficient resources to support the process.

5.1.2 Fairness

The process must provide a level playing field where no party is disadvantaged because of the process.

5.1.3 Effectiveness

The process must encourage processes which are efficient, and avoid creating barriers to progress.

5.1.4 Understandable

Each party should clearly understand its duties and responsibilities in the process.

6. Working Group

- 6.1 Upon the principles expressed in Clause 3.1 of this Deed, Ngarrindjeri and the Minister have agreed to form a working group about the matters referred to in Clause 2.1 of this Deed.
- 6.2 The working group shall meet from time to time on a regular basis, and in any event no less than every three (3) months, to formulate the strategies committed to in Clause 2.1 herein.
- 6.3 The persons comprising the working group shall consist of 3 representatives of each party to this Deed to be nominated by the respective parties from time to time.

7. Dredging of the Mouth and related matters

- 7.1 The Minister shall, through his representatives (including but not limited to public servants or contractors) in undertaking the dredging, comply with the dredging conditions as described in Schedule 1 of this Deed.
- 7.2 The Minister commits to consult with Ngarrindjeri about any changes to the dredging conditions including proposed dredging depth parameters, stop work protocols for the dredging contractor, and to support their perspectives being taken into account in the design of the proposed dredging channel configuration.
- 7.3 The Parties state that the plans for dredging as set out in Schedule 1 (or as agreed from time to time by the Parties to this Deed) is an appropriate risk management strategy to ensure that the dredging activities will not damage, disturb or interfere with the Site.
- 7.4 The Minister will seek to procure with SA Water to permit Ngarrindjeri people safe access to the dredging activities.

- 7.5 Each party will advise the other which person is the nominated Project Co-ordinator for the purposes of Schedule 1.

8. Term of Deed

- 8.1 This Deed comes into effect upon execution hereof by both Parties and will continue, unless terminated by either party or by mutual agreement. The Ngarrindjeri agree to not bring this Deed to an end before 30 June 2016, without the agreement of the Minister. The Parties will undertake a review of the Deed prior to 29 May 2016 to consider future arrangements.

9. Disputes

- 9.1 The Parties record their intention that, if any dispute or difference arises out of or in relation to this Deed, it is to be resolved in a spirit of good faith between senior representatives of each Party and adopt agreed procedures as required from time to time.

10. Waiver

- 10.1 A Party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 10.2 The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 10.3 A waiver is not effective unless it is in writing.
- 10.4 Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

11. Assignment

- 11.1 Neither Party may assign, license or otherwise deal with the benefit of any of its rights under this Deed to any person without the prior written approval of the other Party.

12. Proper Law

- 12.1 The proper law of this Deed is the law of or applicable in South Australia.

13. Notices

- 13.1 Notices given by one Party to another pursuant to this Deed shall be in writing and sent to the respective addresses and shall be deemed served at the time of transmission if sent by facsimile or email or upon the earlier of four (4) clear working days if posted by ordinary pre-paid post (if posted within Australia) of the date of actual receipt. For the purposes of this clause the addresses to which notices are to be sent shall be –

For the Ngarrindjeri:

Shaun Berg
Berg Lawyers
37 Hurtle Square
ADELAIDE SA 5000
Telephone: (08) 8232 4360

For the Minister:

Janice Goodwins
Program Leader, Strategy and Business
Department of Environment, Water and Natural Resources
GPO Box 1047
ADELAIDE SA 5001
Telephone: (08) 8204 9069

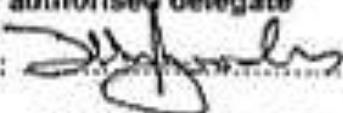
EXECUTED as a Deed

Signed for and on behalf of the NGARRINDJERI)
REGIONAL AUTHORITY INCORPORATED)
for and on behalf of the Ngarrindjeri People)


..... 
Signature of authorised person

..... Timothy James HARTMAN
Name of authorised person
(BLOCK LETTERS)

..... 
Witness

SIGNED for and on behalf of the)
MINISTER FOR SUSTAINABILITY,)
ENVIRONMENT AND CONSERVATION)
by his duly authorised delegate)
SIGNED by: )
Acting Chief Executive, Department)
of Environment, Water and Natural)
Resources)

Dated: 26/12/2014

In the presence of: 
Witness Print Name: JAMES GORDON