

KUNGUN NGARRINDJERI YUNNAN AGREEMENT

This Agreement is dated the

5th June 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 THE RIVER MURRAY ('THE STATE')

RECITAL

- A. The Ngarrindjeri People as descendents 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. 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.
- C. The State wishes to proceed with the construction of a temporary environmental flow regulator at Clayton and temporary environmental flow regulators at the mouths the Finnis River and Currency Creek ('the Tributaries').
- D. The State asserts that the purpose of the regulators is to manage the risk of acidification in the Goolwa Channel and Tributaries by establishing a re-wetting regime for exposed acid sulfate soils/sediments.
- E. The State asserts that the justification for the actions is based upon a full and competent scientific assessment of the problem of acid sulfate soils/sediments existing in the relevant area and that the construction of the regulators is an appropriate and proportionate response to the identified problems.
- F. The State is committed to remove the regulators as soon as is reasonably possible after the need for them passes and warrants that the regulators are a temporary measure. Under no circumstances does the State consider that the regulators are permanent. The State is prepared to create an independent panel of experts for the purpose of determining at what point in time the regulators being constructed will be removed.

- G. The State undertakes to abide by the decision of the independent panel in removing the regulators in the event that the independent panel advises that it considers the regulators are no longer required for the control of the problems associated with acid sulfate soils, or the problem is sufficiently remedied by other means.
- H. Ngarrindjeri consider that the construction of the regulators will result in the damage, disturbance and interference of Aboriginal Sites, including but not limited to, Register Site No. 6626-4727 'Meeting of the Waters' at the specific locations upon which they are intended to be constructed.
- I. Ngarrindjeri state:

'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.'
- J. Ngarrindjeri assert they will suffer pain and loss as a result of the actions of the State in proceeding with construction of the regulators. The State acknowledges the Ngarrindjeri assertion that they will suffer pain and loss but considers that, on the basis of consistent expert advice, the regulators must be built to prevent an environmental disaster in the relevant area.
- K. It is for reason of the asserted pain and loss to be suffered by Ngarrindjeri as a result of the construction of the regulators that the State warrants to remove them at the earliest possible opportunity to limit the asserted damage to Ngarrindjeri.
- L. The State will use its reasonable endeavors to ensure that the asserted Ngarrindjeri pain and suffering from the construction of the regulators is minimised.
- M. Furthermore, the State shall use its reasonable endeavors to access freshwater from the River Murray to stabilise and enhance the environment in the Lower Lakes system, and not extract, or undertake uses of, water from the extent of the new pool created by the regulator at Clayton at plus 0.7 m AHD which does, or may result in significant further stress to the environment.
- N. Ngarrindjeri assert that the State has not adequately justified the basis for construction of a regulator at Clayton and regulators upon the Finnis River and Currency Creek.
- O. Ngarrindjeri assert that it has been placed in a position whereby it is required to bear witness to the damage disturbance and interference of its culture for the period of time that the regulators remain in place.

- P. The State will minimise damage disturbance and interference of the relevant area by constructing regulators with an earthen core as referred in the Schedule A of this Agreement, and minimising the footprint of the regulators accordingly.
- Q. Ngarrindjeri assert that in the event the regulators are not removed within two (2) years from the date the section 23 AHA authorization is made that Ngarrindjeri will exercise their rights against the State for desecration of its culture, including but not limited to legal proceedings under State or Commonwealth legislation.
- R. Ngarrindjeri and the State reserve entirely each of their respective rights and in particular the State reserves its rights with respect the performance of its functions under Commonwealth and State legislation.

It is agreed:

1. DEFINITIONS AND INTERPRETATIONS

- 1.1 unless stated to the contrary, any word referred to in this agreement shall be defined in accordance with the meaning provided to it in the *Aboriginal Heritage Act, 1988 (SA)*.
- 1.2 "AHA" means the *Aboriginal Heritage Act 1988 (SA)*.
- 1.3 "Regulators" means the structures described in Schedule A and located in the Goolwa Channel, Finniss and Currency Creeks.

2. STRUCTURE AND LOCATION OF REGULATORS

To minimise damage of, disturbance of, or interference with Aboriginal Sites of Ngarrindjeri the regulators shall be constructed and located by the State in accordance with Schedule A.

3. INDEPENDENT REVIEW PANEL

- 3.1 The State shall fund the creation of a panel of expert persons to assess the need for the regulators to remain in place in accordance with Recital G ('Independent Review Panel').
- 3.2 The Independent Review Panel shall:
- 3.2.1 Comprise four (4) formally qualified scientific experts in the fields of acid sulfate sediment management, ecology, or environmental science acceptable to both parties, two nominated by Ngarrindjeri and two nominated by the State;
- 3.2.2 Meet regularly and in any event on no less than on two occasions each year;
- 3.2.3 Provide a report to the State and Ngarrindjeri in February 2011 including therein a recommendation whether to retain or remove any or all relevant regulators ('Removal Recommendation');

- 3.3 In the event of a decision deadlock, obtain a casting vote from another formally qualified scientific expert in the field of acid sulfate sediment management (with PhD level qualification) acceptable to both parties.
- 3.4 In the event that the Review Panel provides the State with a Removal Recommendation with respect to all or any of the regulators then the State shall remove the nominated regulators in their entirety within four (4) months of receiving a Removal Recommendation provided that if weather conditions interfere with the use of heavy machinery in the removal process, such other time as is reasonable in the circumstances.

4. CONSULTATION UNDER ABORIGINAL HERITAGE ACT 1988

Ngarrindjeri advises the State that immediately upon execution of this agreement they will forward the letter referred to in Schedule B to the Minister for Aboriginal Affairs and Reconciliation in order for him to complete the consultation process under section 13 AHA with respect to the application on behalf of the Minister for the River Murray seeking authorization under section 23 AHA to damage, disturb or interfere with Aboriginal Sites, including but not limited to Registered Site No. 6626-4727 'Meeting of the Waters' at the specific locations upon which they are intended to be constructed.

5. MEDIATION

- 5.1 If the Removal Recommendation made is that the regulators should be retained for a further period commencing 2 years from the date the section 23 authorisation was granted the State and Ngarrindjeri shall enter into a mediation process.
- 5.2 The mediation will commence on such terms and conditions as the parties agree but will conclude at least three calendar months before the 2-year authorization period referred to in clause 5.1 expires.
- 5.3 The mediation shall be conducted by a mediator acceptable to each of the Parties. The cost of the mediator shall be borne in its entirety by the State.
- 5.4 The State undertakes to pay all reasonable costs as agreed of the Ngarrindjeri in undertaking the mediation process referred to herein.
- 5.5 The Parties will negotiate in good faith with each other about the removal of the regulators referred to in this Agreement.

6. HERITAGE AND NATIVE TITLE

- 6.1 Ngarrindjeri agree that they will not take any legal proceedings seeking removal of the regulators until the mediation referred to in clause 5 is concluded or the State fails to remove the one or more of the regulators in accordance with a Removal Recommendation requiring removal.
- 6.2 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).

- 6.3 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.

7. TERM

This Agreement comes into effect upon execution hereof by both parties and will continue until all obligations under this Agreement are completed, or unless either of the Parties notifies the other of termination of the Agreement which it may do by twenty eight (28) days written notice.

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 State will bear all reasonable costs as agreed by the Parties arising out of the negotiation, preparation and execution of this Agreement.
- 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 Each Party acknowledges the Recitals as true and correct.

9. STATE'S DISCRETION

Nothing in this Agreement shall fetter any discretion of any Minister in the right of the State of South Australia contained within any existing legislation of the State of South Australia.

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

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

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

Signed by the **CROWN IN RIGHT OF THE**)
STATE OF SOUTH AUSTRALIA represented by)
the Minister for the River Murray)


.....
Signature of the Minister for the River
Murray

.....
4/6/09
.....
Date

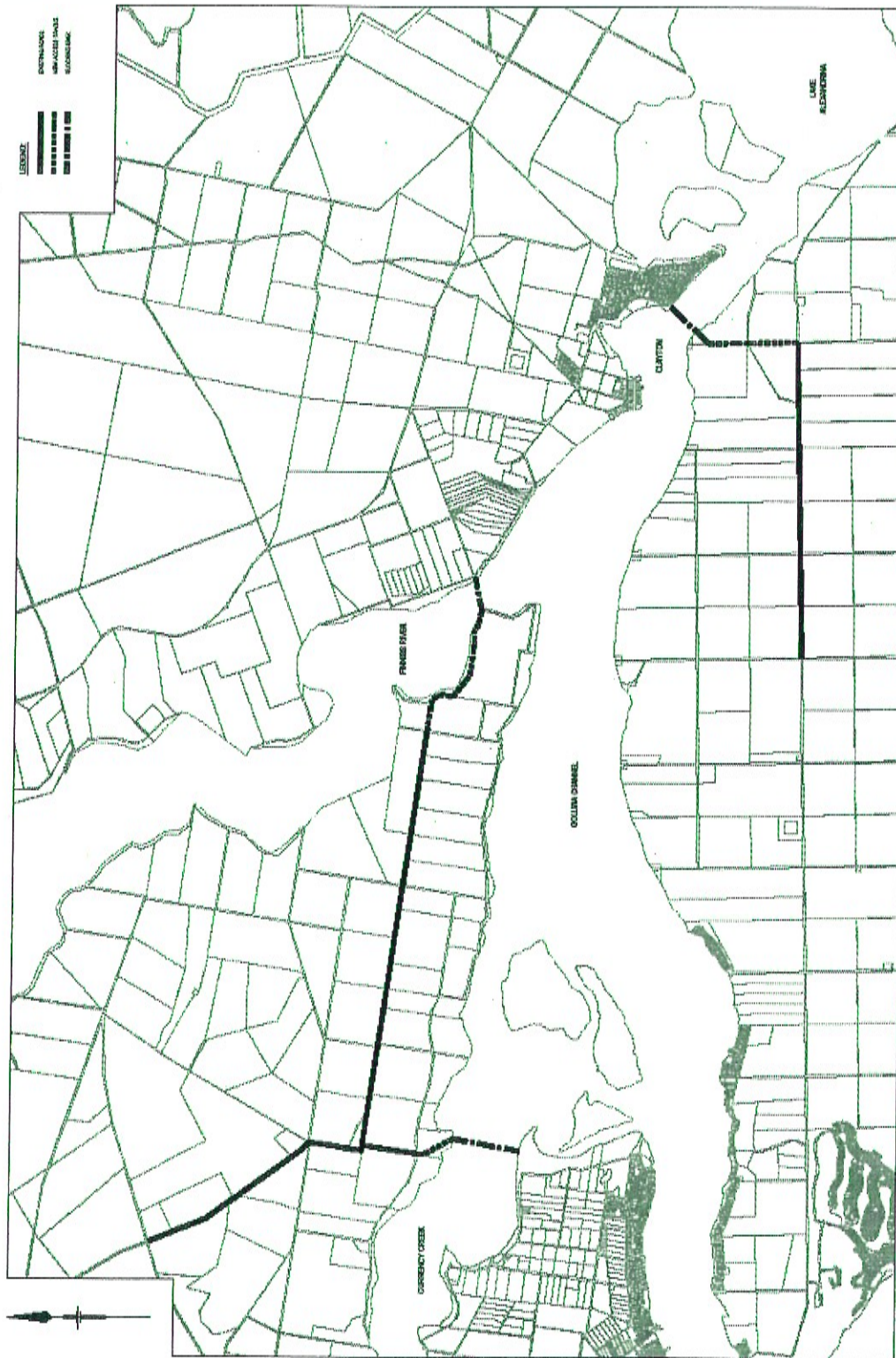
SCHEDULE A

Structure and Location of Regulators

Plan Number	Description
2009 – 1975	Location plan of Clayton, Finniss River and Currency Creek environmental regulators
2009 – 1976	Detailed location and access plan, Clayton environmental regulator
2009 – 1977	Detailed plan of Clayton environmental regulator
2009 – 1978	Schematic plan of longitudinal section and cross sections of Clayton environmental regulator
2009 – 1980	Detailed location and access plan, Currency Creek and Finniss River environmental regulators
2009 – 1981	Detailed plan and section of Finniss River environmental regulator
2009 – 1982	Detailed plan and section of Currency Creek environmental regulator
Untitled	Schematic cross section of earth fill regulator with clay core

2009-1975

DO NOT SCALE PAPER PRINT



2009-1975
A

BIXBY BAYOU IN EOULA CHANNEL
CLAYTON FINNIS RIVER CURRENT CREEK



REV	DATE	DESCRIPTION	BY	CHKD	APP'D
1	01/01/01	ISSUED FOR PERMIT			
2	01/01/01	REVISED FOR PERMIT			

SCALE BAR
0 25 50 75 100
FOOT

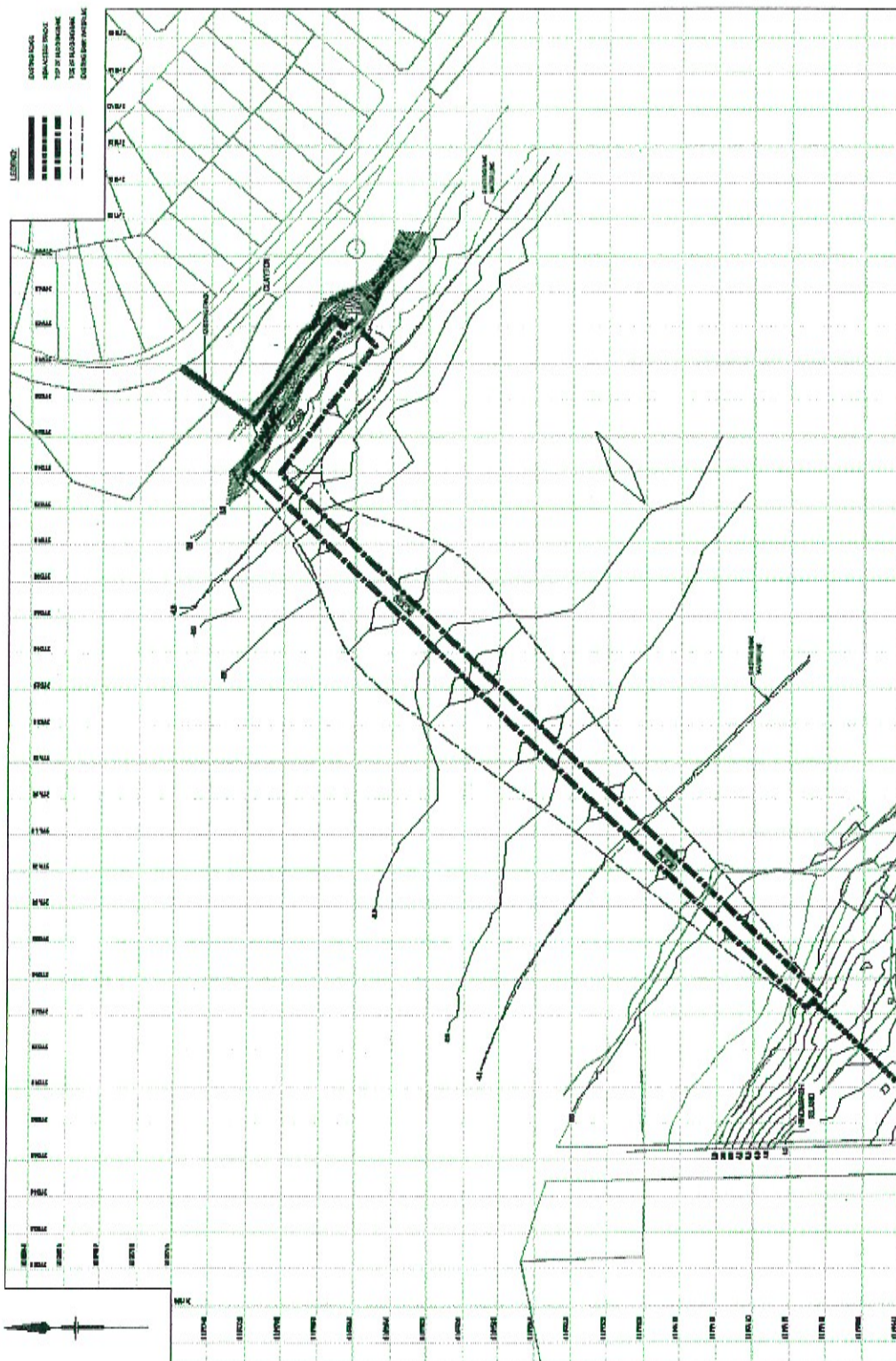
CLAYTON FINNIS RIVER
BIXBY BAYOU
EOLA CHANNEL
LAKE ALEXANDER



2009-1977

DATE

DO NOT SCALE PAPER PRINT



LEGEND

- PROPOSED CANAL
- EXISTING CANAL
- PROPOSED DRAINAGE
- PROPOSED FILL
- PROPOSED ELEVATION
- PROPOSED DRAINAGE
- PROPOSED FILL
- PROPOSED ELEVATION

2009-1977 A

BLOODING BANKS IN GULCHES CHANNEL
CLAYTON SHEET 2
BLOODING BANK PLAN



SA Water
CLAYTON SHEET 2
BLOODING BANK PLAN

CLAYTON SHEET 2
BLOODING BANK PLAN

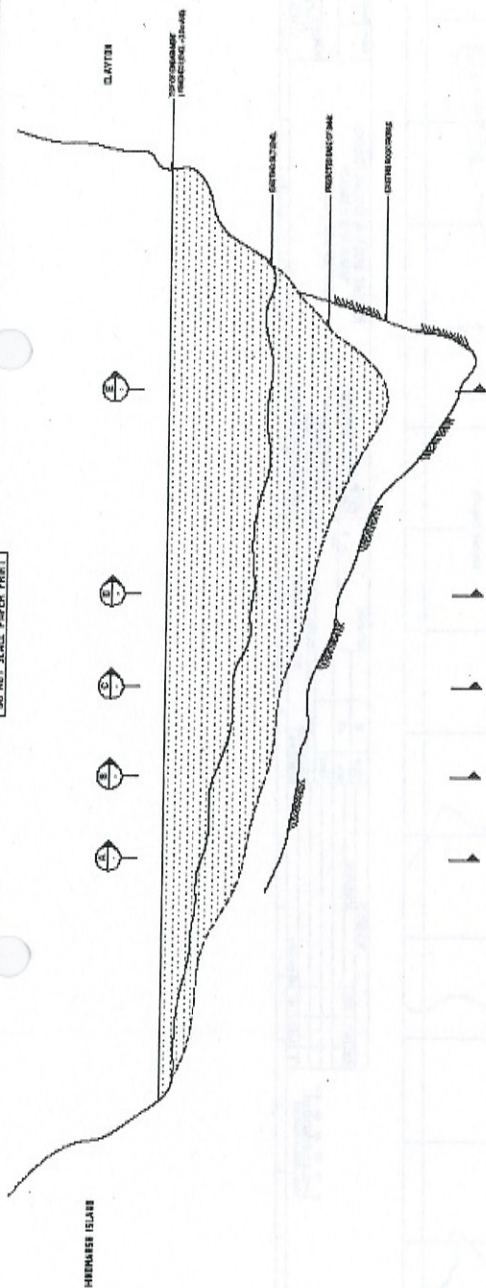
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2	10/10/09	ISSUED FOR TENDERS
3	10/10/09	ISSUED FOR TENDERS
4	10/10/09	ISSUED FOR TENDERS
5	10/10/09	ISSUED FOR TENDERS
6	10/10/09	ISSUED FOR TENDERS
7	10/10/09	ISSUED FOR TENDERS
8	10/10/09	ISSUED FOR TENDERS
9	10/10/09	ISSUED FOR TENDERS
10	10/10/09	ISSUED FOR TENDERS

CLAYTON SHEET 2
BLOODING BANK PLAN

CLAYTON SHEET 2
BLOODING BANK PLAN

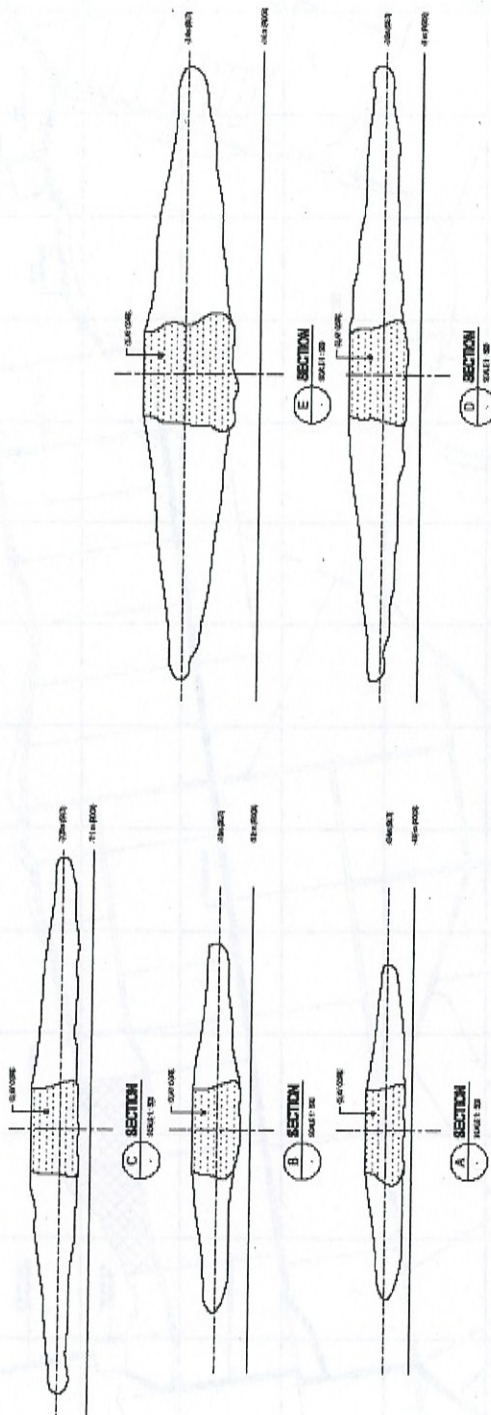
2009-1978

20 MET SCALE PAPER PRINT



BLLOWING ROCK LOUGH

SCALE 1:500



BLLOWING ROCK LOUGH CROSS SECTIONS

SCALE 1:500

REVISIONS		DATE		BY		CHECKED		DATE		BY		CHECKED		DATE	
NO.	DATE	BY	REASON	NO.	DATE	BY	REASON	NO.	DATE	BY	REASON	NO.	DATE	BY	REASON
1				2				3				4			

PROJECT		DATE		BY		CHECKED		DATE		BY		CHECKED		DATE	
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PROJECT		DATE		BY		CHECKED		DATE		BY		CHECKED		DATE	
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BLLOWING ROCK LOUGH
CLAYTON - SHEET 3
BLLOWING ROCK AND SECTIONS

2009-1978 A

2009-1980

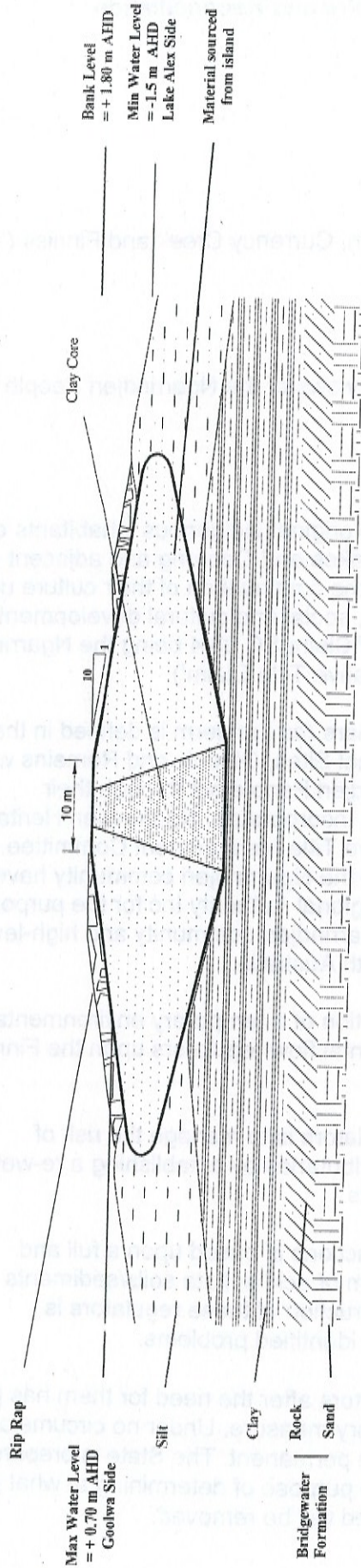
DATE

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SA Water SOUTH AUSTRALIA DEPARTMENT OF WATER 100 RIVERSIDE DRIVE, ADELAIDE, SA 5000		BLINDING BANKS IN DEELVA CHANNEL PRELIMINARY LOCATION AND ACCESS PLAN		Date: 2009-1980 Sheet: A1						
REVISIONS <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>2009-1980</td> <td>PRELIMINARY</td> </tr> </tbody> </table>		NO.	DATE	DESCRIPTION	1	2009-1980	PRELIMINARY	Project: 100 RIVERSIDE DRIVE Client: SA Water Scale: 1:1000 Date: 2009-1980		Date: 2009-1980 Sheet: A1
NO.	DATE	DESCRIPTION								
1	2009-1980	PRELIMINARY								

Typical Section of Earth Fill Regulator



N.T.S.

Goolwa Channel Regulator

Clayton

Schematic Layout of Earth Fill Regulator with Clay Core

Drawn: EvW

Scale: NTS

Date: May 09

SCHEDULE B

Letter to Minister for Aboriginal Affairs and Reconciliation

The Minister for Aboriginal Affairs and Reconciliation
[Address]

Dear Sir

Re: Proposed Construction of Regulators at Clayton, Currency Creek and Finniss ('the Project')

We refer to the above matter.

The submission contained in this letter represents the views of the Ngarrindjeri People in relation to the Project.

It is submitted:

- A. The Ngarrindjeri People as descendents 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. 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.
- C. The State wishes to proceed with the construction of a temporary environmental regulator at Clayton and temporary environmental flow regulators upon the Finniss River and Currency Creek. ('the Tributaries')
- D. The State asserts that the purpose of the regulators is to manage the risk of acidification of the Goolwa Channel and the Tributaries by establishing a re-wetting regime for exposed acid sulfate soils/sediments.
- E. The State asserts that the justification for the actions is based upon a full and competent scientific assessment of the problem of acid sulfate soils/sediments existing in the relevant area and that the construction of these regulators is appropriate and proportionate response to the identified problems.
- F. The State is committed to removing the regulators after the need for them has passed and warrants that the regulators are a temporary measure. Under no circumstances does the State consider that the regulators are permanent. The State is prepared to create an independent panel of experts for the purpose of determining at what point in time the temporary regulators being constructed will be removed.

- G. The State undertakes to abide by the decision of the independent panel in removing the regulators in the event that the independent panel advises that it considers the regulators are no longer required for the control of the problems associated with acid sulfate soils/sediments, or the problem is sufficiently remedied by other means.
- H. Ngarrindjeri consider that the construction of these regulators will result in the damage of, disturbance of and interference with Aboriginal Sites, including but not limited to Registered Site No. 6626-4727 'Meeting of the Waters' at the specific locations upon which they are intended to be constructed
- I. Ngarrindjeri state:
- '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.'*
- J. Ngarrindjeri assert they will suffer pain and loss as a result of the actions of the State in proceeding with these regulators. The State acknowledges that Ngarrindjeri assert that they will suffer pain and loss but considers that the regulators must be built to prevent an environmental disaster in the relevant area.
- K. It is for reason of the asserted pain and loss to be suffered by Ngarrindjeri as a result of the construction of these regulators that the State warrants to remove them at the earliest possible opportunity to limit the asserted damage to Ngarrindjeri.
- L. The State will use its reasonable endeavors to ensure that the asserted Ngarrindjeri pain and suffering from the construction of these regulators is minimised.
- M. Furthermore, the State shall use its reasonable endeavors to access fresh water from the River Murray to stabilise and enhance the environment in the Lower Lakes system, and not to extract, or undertake uses of, water from the extent of the new pool created by the regulator at Clayton at 0.7 m AHD which does, or may result in significant further stress the environment.
- N. Ngarrindjeri assert that the State has not adequately justified the basis for construction of a regulator structure at Clayton and regulators upon the Finnis River and Currency Creek.
- O. Ngarrindjeri assert that it has been placed in a position whereby it is required to bear witness to the damage disturbance and interference of its culture for the period of time that these regulators remain in place.

- P. The State will minimise damage disturbance and interference of the relevant area by constructing regulators with an earthen core, and minimising the footprint of the regulators accordingly.
- Q. Ngarrindjeri assert that in the event the regulators are not removed within two (2) years from the date that the section 23 AHA authorisation is made that Ngarrindjeri will exercise their rights against the State for desecration of its culture, including but not limited to legal proceedings under State or Commonwealth legislation.
- R. Ngarrindjeri and the State reserve entirely each of their respective rights and in particular the State reserves its rights with respect the performance of its functions under Commonwealth and State legislation.

Consultation under section 13 *Aboriginal Heritage Act 1988 SA* (the 'AHA') with respect to authorisation to damage, disturb or interfere with the Meeting of the Waters registered site number 6626-4727 ('the Meeting of the Waters site') under section 23 AHA.

1. Ngarrindjeri understand that in your capacity as Minister for Aboriginal Affairs and Reconciliation that you are considering authorising the damage, disturbance or interference with the Meeting of the Waters site under section 23 AHA in the footprint of the regulators being constructed during the Project on application from the Minister for the River Murray on behalf of the State.
2. In entering consultations with you under section 13 AHA with respect to that application the signatories speak for the Ngarrindjeri People including the Traditional Owners and are authorised to do so.
3. The signatories acknowledge that as part of the consultation process under section 13 AHA they received a bundle of information that was given to them on behalf of the Minister for the River Murray which addressed the reasons why the regulators were necessary to manage the risk of acidification of the Goolwa Channel and Tributaries and contained scientific and other information. This information was provided on 23 April 2009
4. The signatories acknowledge that they or their representatives have perused the submissions and other information provided by the State to the Commonwealth in relation to the referral of the regulators to the *Environment Protection Biodiversity Conservation Act 1992 (C/th)*.
5. After having a reasonable opportunity to consider the material provided to them the signatories, their associated experts and other senior members of the Ngarrindjeri community met with officers of the Department of Water Land Biodiversity Conservation, Department for Environment and Conservation, SA Water Corporation, and the Attorney General's Department over a period of two days on the 6 and 7 May 2009 where further provision of information, discussion and questioning of government officers took place.
6. At the conclusion of that meeting the signatories indicated that, subject to the negotiation of matters relating to the temporary nature of the structures and the material and design of the structures, they considered that no further consultation would be required by them if they could be properly satisfied about these matters. Once satisfied they would then report back to the Minister for Aboriginal Affairs concerning the traditional owners views and this would conclude the consultation process under section 13 AHA.

7. The attached agreement with the Minister for the River Murray on behalf of the State represents and reflects these matters to the satisfaction of the signatories able to be achieved by the process of negotiation.
8. The signatories ask you to take into account the evidence that has been documented and proved in the case of *Chapman v Luminus Pty Ltd* (No5) [2001] FCA 1106 as to why the construction of the Hindmarsh Island Bridge damaged the Meeting of the Waters site. It is for the same reasons the traditional owners assert that you should not authorise damage, disturbance or interference with the Meeting of the Waters site by the regulators as this will have the same effect on the site and the traditional owners as the construction of the Hindmarsh Island Bridge did.
9. The attached agreement has been entered into with the Minister for the River Murray on behalf of the State with respect to these matters. Ngarrindjeri seek that you do not authorise damage, disturbance or interference with Aboriginal Sites within the area, including but not limited to, 'Meeting of the Waters' site at the specific locations upon which the regulators are intended to be constructed for the reasons stated above.
10. In the alternative, if you determine to provide such an authorisation, Ngarrindjeri seek that you place certain conditions upon it as these will minimise damage to the site, namely:
 - a. That the regulators are to be constructed in a manner which minimises damage, disturbance or interference of the Aboriginal Sites as referred to in the Agreement;
 - b. That the authorisation is for a period of two (2) years only;
 - c. That prior to any further application under s23 AHA being considered by you for an extension of any authorization granted by you that such applicant must have undertaken a mediation process provided this mediation process must be completed at least 3 months prior to the expiry of the current authorisation period.

If you have any further queries please do not hesitate to contact us.

Yours faithfully

George Trevorrow
Rupelle

Tom Trevorrow
Chair, Ngarrindjeri Heritage Committee

Mathew Rigney,
Chair, Ngarrindjeri Native Title management Committee

