

**Submission
No 78**

INQUIRY INTO FLOODPLAIN HARVESTING

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International Treaty Compliance and the Water Act 2007

On behalf of all our Original peoples, past and present, I would like to thank the good members of the NSW Upper House for facilitating this Select Committee on Floodplain harvesting. We have been deeply worried that justice and fairness would fail, until now.

We shall start with basic human rights to water.

In 2019, bottled water had to be trucked into our communities including Wilcannia, as there was no drinking water available.

At no stage did the cotton industry, the DPIE or the government give assistance in the supply of this most basic of human needs to our peoples

This United Nations human rights law was breached many times for many months. This breach is against the 2007 Water Act on its first page, at 3b, dealing with International treaty compliance.

It was a massive media story and the cotton industry, the Water Minister, the DPIE or the NSW government did not care at all. They all knew what was going on and did nothing.

Critical human needs water is emptied out of the storage dams to facilitate the capture of more irrigation water. Half empty public dams do not store as much new water as empty dams.

Cotton can be stored much more efficiently than water. The cotton industry has lobbied hard to draw down these public dams and the DPIE and NSW government have been complicit in these rule changes.

It appears to the indigenous peoples of the northern basin that this is a continuation of the process that began 230 years ago to destroy our civilization, which is the oldest in the world.

The Brewarrina fish traps are the oldest man-made structure in the world, at 40,000 years and about 10 times older than the Egyptian pyramids.

Before irrigation commenced in the northern basin they rarely ran dry.

Wilcannia has the lowest life expectancy in the world. The state of NSW is well aware of this and goes out of its way to expedite the deaths of our towns and communities. There is no proof of the contrary.

The upstream irrigator benefits of annihilating our Original peoples that are dependent on the rivers, floodplains and streams would facilitate even more expansion of the irrigation industry on the northern basin.

Toyota Dreamers and Statutory Blacks are not representing our Original peoples.

The Original nations have been plagued by people who do not represent our people. The Australian political parties are dogged with similar people.

These people are all about their own self-interest.

We call some of our people "*Toyota Dreamers*". These people will pretty much sell their soul to get a car. When they get into the swing of how white fellas work, they aim for a house and more wealth.

When these people have mastered this art, they go onto being "*Statutory Blacks*". These Statutory Blacks appear to be very learned. They rarely do anything, if ever, that will benefit the towns like Wilcannia or even the communities they come from. They turn their backs on the blacks. The proof is plain to see.

Northern Basin Aboriginal Nations (NBAN) was set up by the MDBA and has facilitated many Toyota Dreamers and supported Statutory Blacks.

The MDBA wanted an outfit to rubber stamp documents and objectives on behalf of the Original peoples, with minimal fuss and effort. The MDBA and the DPIE got what they wanted, and the Kamilaroi Nation has not got any water. This was and is, the purpose of the NBAN.

We have asked for proof of any benefit to our Kamilaroi nation and to date there has been no response from the NBAN people.

The Kamilaroi nation has removed itself from NBAN and has demanded that NBAN must not represent the Kamilaroi Nation in any way or at any time. NBAN people are not welcome on the Kamilaroi lands, because of this. They are tolerated, but they are not welcome.

The Kamilaroi Nation now holds its own meetings with the DPIE and the MDBA.

15 other Original Nations have signed a document giving me, Alfred Priestley, the power to stop Minister Pavey, or anyone else, from giving the unallocated floodplain harvest water to the wealthy irrigators of the northern basin. This water belongs to the Original Nations, even by the white man's laws.

This signed document is attached to this submission.

To remove any doubt, the Original Nations in NSW own 12,000 megalitres. This is .2 % of all the available surface water in this area. The Originals makes up 9.3% of this population! How is that a fair share of any WSP?

How can a Toyota Dreamer, a Statutory Black, Gwydir Irrigators, the DPIE and MDBA say that it's OK for the Water Minister Pavey, to give our water to wealthy floodplain harvesters? Where is the Water Sharing in this, or is this the Plan, not to share?

The Black Watch

The Natural Resource Access Regulator (NRAR) has consistently failed to stop unlawful extractions of water from the northern basin. NRAR is controlled by the DPIE and it will become evident that the DPIE have been manipulated and directed by the northern basin irrigators, through political means.

As proof of this Mr Barnes posted on social media recently, that "the water users in the Barwon - Darling are taking what they are lawfully entitled and not a drop more. He is the chief regulatory officer.

The Original Nations ask for support from this Upper House select committee on floodplain harvesting to install the Black Watch to take over NRAR as they are clearly compromised.

Our Original Nation's people have a vital interest in managing the rivers and streams for the benefit of everybody and every living thing, not just a very small number of very wealthy and powerful irrigators. We are having this inquiry because this power is out of control.

The Black Watch would give our people employment and dignity. We have access to the latest metering, telemetry and surveillance equipment and we have skilled people that will use all these instruments without fear or favour. This cannot be said for NRAR and we know you will find this out during your inquiry.

The Gwydir Regulated River Water Source Water Sharing Plan (WSP)

The *Gwydir Regulated River Water Source Water Sharing Plan (WSP)* reads really well about sharing water. It's just that they don't share any water with the Original peoples of Kamilaroi Nation, where this *Gwydir WSP* is based.

This is a key water document in our Kamilaroi Nation area and can only be described as a work of fiction.

Pages 10 -15 do not contain one instance where the *Gwydir Water Sharing Plan* has not been breached, year after year.

It is interesting that there is a linkage mentioned between floodplain water and groundwater. Our people have known about this for thousands of years. It's a shame that floodplain water does not get a chance to percolate down into the aquifers much anymore, as the floodplain harvesters have obtained the ability to put this water into private dams, at an alarming speed and at astounding volumes.

Floodplain water has a very limited ability to go past the pumps or other methods of diverting water into these massive illegal private storage dams.

This document mentions the use of performance indicators to validate the adherence to the *Gwydir WSP*, we would be very interested in how anyone could say any of the criteria have been met.

Our Kamilaroi people want to view these performance indicator documents over the last 5 years, with the people responsible for checking this compliance. Perhaps the Upper House Inquiry might like to view this revelation, as well.

The aim of this *Gwydir WSP* is good. The aim of the DPIE and NRAR, who are supposed to check the compliance, seem keen to drive the Originals out of the river systems. If this is not true, why haven't they ordered the irrigators to comply with the *Gwydir WSP*?

Where is the MDBA?

The Crown permitted, and even encouraged the demise of the Original inhabitants by many means. This was carried out over many years. Poisoned water holes, poisoned flour, shooting and pushing whole nation groups off cliffs were just some of the ways of killing our ancestors. They have different methods now.

These people know that the Rainbow Serpent is central to the Originals spiritual wellbeing and by denying us water, that our spirit will be broken. We ask that the Upper House floodplain inquiry put a stop to this tyranny on our people.

The Water Management Act 2000

Our Original peoples read, with interest, the *Water Management Act 2000*. In this Act there is a great deal of information on floodplain harvesting and Original peoples matters.

Our interpretation of this Act clearly states that rain that falls within the defined area of the Gwydir Unregulated River WSP, is floodplain harvest water.

This water has never been allocated to a licence. Consequently, as per the *State Water Management Outcomes Plan (SWMOP)* this water belongs to the Original peoples of the Kamilaroi Nation.

The people that have been using this water have never had a licence to use it and the floodplain harvesting is not a legal form of take.

If floodplain harvesting was just a "bonus " form of water take (as per the *SWMOP*), why will its licensed volume in the Gwydir valley (103 Gigalitres with a mechanism for 500% carryover) amount to an increase in the estimated water take in the Basin Plan of approximately 33%?

It is difficult to accept that NSW simply ignored the metering and monitoring of a form of water that will now become over 25% of the valley's legal take.

Why has the NSW government gone to such an effort to try and recognise and establish the Original People's rights in the *Water Management Act 2000* and the *SWMOP*, but in practice, we are being totally ignored?

State Water Management Outcomes Plan

Section 6 of the *Water Management Act* created the *State Water Management Outcomes Plan (SWMOP)* and section 9 of the WMA requires all actions pursuant to the WMA to give effect to the *SWMOP*. The *SWMOP* has various guidelines and targets from water management within NSW.

This includes Target 7 of the *SWMOP*: ***Mechanisms in place to enable Aboriginal Communities to gain an increased share of the benefits of the water economy.*** This target is relevant to management plans under Part 3 of the *Water Management Act 2000* dealing with *Division 2 - Water sharing*.

Access to water and its dependant ecosystems for hunting, fishing, medicines and trading has been pivotal to the survival of aboriginal communities and to the exercise and enjoyment of aboriginal customs and traditions. Much of these traditional benefits have been lost or eroded through increasing alienation of hunting grounds, loss of habitats and other forms of environmental degradation.

Facilitating greater opportunity to enjoy economic access to water will be an important factor in addressing issues of social justice and socio-economic disadvantage, and for improving the economic prosperity of aboriginal people. This is consistent with section 3 (iv) of the *Water Management Act 2000* that recognises the benefits of Aboriginal people in relation to their spiritual, social, customary and economic use of land and water.

The Water Management Act 2000 Cont...

Greater access to water could provide Aboriginal communities with the means to:

- Help restore, maintain and protect the customs and beliefs of Aboriginal people and natural resources which sustain them,
- help maintain and restore traditional sources of animal, fish and plant life necessary for hunting, medicine and to practice other traditions, and
- develop contemporary industries to support the future economic independence of Aboriginal communities.
- It is not intended that this target be achieved at the expense of existing water users but rather by providing Aboriginal communities with greater opportunity to access, for example:
- ANY UNALLOCATED WATER (only likely to be available in some groundwater and coastal surface water sources) and
- the water market.

In light of this clearly defined target, and the illegality of the floodplain harvesting, the committee would benefit from the comments of DPIE as to how it is exercising its functions in accordance with the SWMOP by giving licences for unallocated water to landholders in preference to the Original peoples. Especially in circumstances where the current licensing assessment process is not limited to only allocating water to the landholdings which were legally floodplain harvesting in 1994.

The Murray Darling Basic Cap Compliance

The Murray Darling Basin Cap was set up in 1995 at 1994 extraction levels, for the northern basin.

This document was signed off by all the Murray Darling states and the MDBA.

Minister Pavey tried to get regulations put in, through the NSW parliament that would have given 390 gegalitres of our water to wealthy irrigators in the northern basin with a 500% carryover.

We note that this greatly exceeds the 46.2 gegalitres set out in the Murray Darling baseline diversion table and there was no mention of this 500% carryover.

Our rivers and the environment have been devastated by drought and having extractions at this 390 gegalitre level and beyond, has caused great suffering to our Original peoples.

Nobody knows how much water has been extracted because NRAR is incapable of doing its main task of getting metering and telemetry installed despite vast sums of money being forwarded for this purpose.

We know it has been a vast amount of water by the amounts of cotton that has been grown.

This is why we demand that the Black Watch be set up, to save our environment, our peoples, and give us dignity in this part of the world. We have no powerful connections to the irrigation industry, our connection is to our peoples, our environment and our spirit, the Rainbow Serpent. We are not conflicted.

Why did the NSW government sign up to the Murray Darling Basin cap which limits the floodplain harvest extraction to 46.2 gegalitres and then put-up regulations that breach the MDB Cap by 343.8 gegalitres with a 500% carryover on any inability for the struggling Darling River system to supply this vastly increased amount?

This is the Original People's water and we demand that any additional unallocated water in the northern basin, be put in our cultural water bucket as the *Water Management Act 2000* clearly states at section 3 (iv).

Our peoples will not sign off on Water Sharing Plans or Water Resource Plans, while this contempt of the Murray Darling Basin Cap remains. The extraction level is 46.2 gegalitres and no more, per year.

The Original peoples are keen to see the Gap Close and we trust you will fix the holes in our cultural water bucket before you put this unallocated floodplain harvest water in it, where it belongs by NSW law. This will benefit the environment and all the peoples in the northern basin be they black, white or green, not just a very select few.

Yours Sincerely

Alfred Priestley
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Kamilaroi Nhurrumbah

