

South Australian State of the Environment Report 2023

**Towards healthy Country: respecting
Indigenous knowledges, expertise
and values**

Report prepared by:

Associate Professor Steve Hemming, and
Professor Daryle Rigney
Jumbunna Research
Jumbunna Institute for Indigenous Education and Research
University of Technology Sydney

Table of Contents

Table of Contents	1
Acknowledgements	2
Framing Statements	3
Executive Summary	5
Background and Discussion	6
South Australia at the time of British colonisation and First Nations continuing Caring for/as Country	8
Recent developments in State of the Environment reporting at the national and state levels	9
Discussion of relevant International frameworks	10
Developing a new Indigenous Framework for State of the Environment Reporting	14
Source and mechanisms for Indigenous reporting for SA SoEs and other instruments	14
Process	14
Acknowledgement in Nature Positive Report	16
Case study –Ngarrindjeri Yarluwar-Ruwe: Negotiating and monitoring respectful spaces for First Nation engagement with settler colonial natural resource management	17
Introduction	17
Changing colonising flows: new spaces of diplomacy, negotiation and creativity	18
Conclusions	21
Recommendations	22
References	23
Appendices	25

Acknowledgements

The authors of this report respect and acknowledge the continuing, and unique responsibilities and rights of First Nations peoples to Country

We pay respects to the Kurna Nation, the Traditional Owners of these Lands and Waters, their Elders, leaders and young people.

We pay our respects to Ngarrindjeri Ancestors, Elders, leaders and young people.

We pay our respects to Elders, leaders and young people of all First Nations in what is now known as South Australia.

We acknowledge the sovereignty of First Nations peoples in Australia and pay respects to their unwavering commitments to Caring for/as Country.

May their Spirits find rest and peace as part of their lands and waters.

We draw attention to the following acknowledgement in the recent *Nature Positive* Report.

Acknowledgement in the Commonwealth 2023 *Nature Positive Report*

We acknowledge the Traditional Owners of Country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present. We are committed to working respectfully with Aboriginal and Torres Strait Islander peoples and give particular acknowledgement to their use, knowledge and custodianship of Australia's native plants and animals over countless generations. We support Aboriginal and Torres Strait Islander peoples and their aspirations to maintain, protect and manage their culture, language, land and sea Country and heritage.

Framing Statements

We start this report with some framing excerpts from reports, discussion papers and international instruments. There are many more, but this brief selection underpins the importance for South Australia to prioritise the development of a respectful process for the inclusion of Indigenous knowledge, expertise and values in State of the Environment reporting. The importance of this absence is noted in the Foreword of the 2018 State of the Environment report. In this report we recommend the Kunming-Montreal Global Biodiversity Framework and the United Nations Declaration of the Rights of Indigenous Peoples as the guiding international instruments.

The words of Ngarrindjeri elder Tom Trevorrow (deceased) have been included in many environmental reports, policy and key documents. His words from 2002 are well known across the Murray-Darling Basin (see below) and he is quoted in the *Murray-Darling Basin Plan 2014*.

South Australian State of the Environment Report 2018

We acknowledge that the report does not explicitly reflect the perspectives of Aboriginal people as the original custodians of the land and who retain a strong cultural and spiritual connection to Country. A report on the state of the environment would be more complete with this perspective, and this will be addressed in the next report.

(Foreword, 2018 SA *State of the Environment Report*)

The Murray Mouth: Exploring the implications of closure or restricted flow

The lands and waters is a living body.
We the Ngarrindjeri people are part of its existence.
The land and waters must be healthy for the
Ngarrindjeri people to be healthy.
We are hurting for our country.
The Land is dying,
The River is dying. The Kurangk (Coorong) is dying
and the Murray Mouth is closing.
What does the future hold for us?

(Tom Trevorrow, Ngarrindjeri leader, Goodwin & Bennett 2002, inside front cover)

Australian Government 2022 Nature Positive Plan: *better for the environment, better for business*

When we reform our environmental laws, we will take them from being nature negative, where we oversee an overall decline in our environment, to nature positive, where we protect our land and leave it in a better state than we found it.

(The Hon Tanya Plibersek, *Nature Positive Plan 2023*, p. iii)

Australian Government 2022 Nature Positive Plan: *better for the environment, better for business*

The government is committed to working in partnership with First Nations in line with commitments agreed by all jurisdictions through the National Agreement on Closing the Gap. The role of the EPBC Act's Indigenous Advisory Committee will be enhanced to give First Nations a stronger voice in our system of environmental protection.

(*Nature Positive Plan 2023*, p. 2)

Convention for Biological Diversity - Kunming-Montreal Biodiversity Framework, adopted in December 2022

Contributions and rights of indigenous peoples and local communities

(a) The framework acknowledges the important roles and contributions of indigenous peoples and local communities as custodians of biodiversity and partners in the conservation, restoration and sustainable use. The Framework's implementation must ensure that the rights, knowledge, including traditional knowledge associated with biodiversity, innovations, worldviews, values and practices of indigenous peoples and local communities are respected, and documented and preserved with their free, prior and informed consent, including through their full and effective participation in decision-making, in accordance with

relevant national legislation, international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples, and human rights law. In this regard, nothing in this framework may be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in the future;

(Kunming-Montreal Biodiversity Framework 2022)

Statement from Coalition of Peaks – key partner in the National Agreement on Closing the Gap

As Aboriginal and Torres Strait Islander people, we have been saying for a long time that we need to have a much greater say in how programs and services are delivered to our people, in our own places, and on our own country. The *Australia State of the Environment Report 2021*, released last week, reiterates the importance of this.

Among the confronting findings, the report found that governments need to embrace Indigenous knowledge and Caring for Country principles, and that Indigenous people need to be more empowered to share knowledge on our terms.

(Coalition of Peaks, 27 September 2021)

First Nations Clean Energy Strategy

First Nations people must be able to have a say and participate in clean energy projects. Our people are critical to sustaining country and culture, making us best placed to determine or manage lands that could host clean energy resources.

(First Nations Clean Energy Strategy Discussion Paper, 2023)

Executive Summary

South Australia's State of the Environment Reporting does not include Indigenous content. This absence has been identified as a significant gap by the Environment Protection Authority (EPA) and this report was sought to provide advice on appropriate ways to address this gap. This is a snapshot report making recommendations for a process to bring South Australia into line with national and international State of the Environment best practice and reporting and best practice requirements.

This report adopts an Indigenous 'Country' approach to *Nature Positive* planning and management. It is authored by Indigenous (Ngarrindjeri citizen) and non-Indigenous scholars with extensive experience in natural resource management (NRM) in South Australian and other contexts. In 2015 they played a leading role in the first Indigenous-led Australian Riverprize win. This win was in partnership with the South Australian Government's Department of Environment and Water (DEW), and it celebrated best practice in integrated river management during the Millennium Drought in the Murray-Darling Basin. The recommendations in this report are informed by co-developed, evidence-based policy initiatives in the NRM and water management contexts.

What is clear in South Australia is the absence of a formal, structured and resourced process for ensuring the respectful inclusion of Indigenous knowledges, expertise and values into State of the Environment (SoE) reporting. A new process would provide a coordinating mechanism that would enhance Indigenous co-management of the environment or Country in South Australia. At present elements of this approach exist, but without an overarching State Government commitment to coordination and resourcing. To address this gap, we recommend the establishment of an Indigenous Expert Country (Environment) Committee to co-develop a SoE Indigenous Protocol. A new Indigenous Protocol would identify shared principles, values, goals and capacity requirements to ensure respectful inclusion of Indigenous content in SoE reporting. It should include a new Indigenous understanding of Country and a recognition of the fundamental connection between all things. It would also include recognition of unique Indigenous responsibilities, rights and things of value. Importantly, this will identify the supporting structures, resources and processes required for working together respectfully. We argue that this approach would enable nationally and internationally aligned SoE reporting, along with the fundamental risk assessment capacity, and ongoing monitoring, research, and environmental co-management. This approach can be understood as the development of a new Theory of Change for environmental management and sustainable development in South Australia.

A new approach in South Australia would highlight international recognition that Indigenous peoples have an essential role in safeguarding Australia and the world's biodiversity. Indigenous and local communities protect approximately 80% of the Earth's biodiversity across ecosystems such as forests, deserts, grasslands, and marine environments (IPES Global Assessment 2019). We agree with the weight of national and international research and sustainable policy settings that recognizing and supporting Indigenous rights and responsibilities is crucial for maintaining biodiversity and promoting the well-being of Indigenous and non-Indigenous communities.

Background and Discussion

The South Australian government produces a State of the Environment (SoE) Report every five years. Perhaps surprisingly, these reports have not included Indigenous knowledges, expertise and values. In 2018 the EPA drew attention to this important gap in their foreword to the 2018 Report. They made the following points:

We acknowledge that the report does not explicitly reflect the perspectives of Aboriginal people as the original custodians of the land who retain a strong cultural and spiritual connection to Country. A report on the state of the environment would be more complete with this perspective, and this will be addressed in the next report.

(SoE Report 2018, p.)

In using the phrase ‘does not explicitly reflect’ we understand that the EPA recognise that Indigenous people had been contributing to the research, policy development and practices of South Australian natural resource management (NRM) for several decades. This Indigenous engagement with NRM has, for example, impacted non-Indigenous scientific practice, and the NRM work of relevant government departments, landscape boards (and their predecessors) and other non-Indigenous agencies. This engagement has also taken the form of important collaborations in settings such as co-managed national parks, Indigenous Protected Areas and major NRM projects. What is clear, however, is that South Australia needs to establish better legislative and policy triggers to ensure that Indigenous people have the resources to develop the content required to properly contribute to SA State of the Environment Reports. This also requires embedding new mechanisms in NRM research, monitoring and reporting, to respectfully incorporate Indigenous expertise, knowledges, interests and experiences. This should include the development of key values shared or otherwise, that can be used for assessment of the health of South Australia’s environment or from an Indigenous perspective interconnected ‘Countries’.

Indigenous people’s deep understandings of climate change, unique relationship to the ‘environment’, and traumatic experiences of colonisation, provide an opportunity for adding a crucial dimension to the ecologies of repair that have come into being in South Australia over the last few decades. The growing partnership between non-Indigenous authorities and First Nations has included: major agreements such as the Kungun Ngarrindjeri Yunnan and Buthera; co-managed National Parks; the Landscape Boards’ Statement of Commitment; negotiations regarding treaties; the development of a South Australian First Nations Voice to Parliament; and ongoing Reconciliation Action Plans in multiple settings. What is clear is the absence of the required legislative and policy settings produces the continuing exclusion of these positive developments in South Australia’s key environmental reporting context – State of the Environment reporting. International and nationally agreed legal instruments and policy frameworks require South Australia to include First Nation expertise, knowledges and values in research, monitoring, risk assessment, planning and reporting. Given the rapid innovations in the application of new technologies to improvements in all aspects of environmental management and sustainable development, South Australia will require a new integrated framework for the inclusion of First Nation expertise, knowledges and values.

The new Kunming-Montreal Biodiversity Framework (GBF) was formerly adopted by Parties to the Convention for Biological Diversity (CBD) in December 2022. As detailed on the Australian Government’s Department of Climate Change, Energy, the Environment and Water (DCCEEW) website, the GBF consists of 4 global 2050 goals and 23 global 2030 targets, aligned with 4 broad topics. As identified earlier in this report it includes the following commitments and acknowledgements:

Contributions and rights of indigenous peoples and local communities

(a)The framework acknowledges the important roles and contributions of indigenous peoples and local communities as custodians of biodiversity and partners in the conservation, restoration and sustainable use. The Framework’s implementation must ensure that the rights, knowledge, including traditional knowledge associated with biodiversity, innovations, worldviews, values and practices of indigenous peoples and local communities are respected, and documented and preserved with their free, prior and informed consent, including through their full and effective participation in decision-making, in accordance with relevant national legislation, international instruments, including the United Nations Declaration on the Rights of Indigenous Peoples, and human rights law. In this regard, nothing in this framework may be construed as diminishing or extinguishing the rights that indigenous peoples currently have or may acquire in the future;

(Kunming-Montreal Biodiversity Framework 2022)

The DCCEEW website emphasises the importance of Australia as a biodiversity hotspot and ‘actively engaged in the negotiations that led to the adoption of the GBF’. We recommend that the South Australian Government use the GBF to frame its approach to legislative and policy changes that ensure First Nations peoples are central to environmental management and sustainable development. The GBF is an international agreement that sets an urgent global biodiversity agenda. It emphasizes the need for

countries to work together to address the causes of biodiversity loss and promote sustainable development. The Framework includes a strong acknowledgment of First Nations peoples' unique relationship with the environment and reliance on biodiversity for cultural, spiritual, and physical well-being. The Framework recognizes the rights of Indigenous peoples to their traditional lands, territories, and resources, and calls for their full and effective participation in decision-making processes related to biodiversity conservation. Overall, it is a critical development in international efforts to protect biodiversity, and its inclusion of Indigenous perspectives and knowledge is essential to its success.

We recognise the importance of ongoing reconciliation and collaborative work in South Australia such as the Landscape Boards' Aboriginal and Torres Strait Islander *Statement of Commitment* and the SA Department of Primary Industries and Regions *Innovate Reconciliation Action Plan 2022-2024* and SA Water's *Stretch Reconciliation Action Plan 2020-2023*. Importantly, for example, PIRSA identifies the need for staff to be educated in the importance of the UNDRIP so that it can be implemented in policy and practice. These initiatives need to be incorporated and valued within a broader SA Government policy mechanism that coordinates, supports and contributes to SA's reporting requirements.

The authors of this report worked on a major Goyder Institute research project designed to translate Indigenous risk assessment processes into water planning risk assessment (Hemming & Rigney 2021). The project recommended changes to the DEW's Risk Management Framework for Water Planning and Management and contributed to drafting a First Nations Engagement Guideline. We note the inclusion of this Guideline in the SA Government's Annual Closing the Gap Report 2021 (p. 98). This Guideline would support the development and application of an Indigenous SOE Protocol. In Australia, the Organization for Economic Co-operation and Development's (OECD) 'pressure-state-response' model provides the framework for SoE reports. Risk assessment modelling such as this drives all government policy and investment in environmental management. Including First Nations in foundational risk assessment is critical to ongoing SoE reporting.

South Australia at the time of British colonisation and First Nations continuing Caring for/as Country

In 1836 King William IV made the following promises in the Colony of South Australia's founding document the Letters Patent:

...Provided Always that nothing in those our Letters Patent contained shall affect or be construed to affect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own Persons or in the Persons of their Descendants of any Lands therein now actually occupied or enjoyed by such Natives...

South Australia's 2013 SoE includes early watercolours of South Australia, including a scene from the Lower River Murray in South Australia. It appears to be George French Angas showing the state of the lower River Murray in the very early days of the colony. It shows a small wisp of smoke rising from the enormous reed beds that once covered this area of now drained wetlands along the River. There is no mention in the report of Indigenous knowledges, expertise and values associated with the environment and no mention that this smoke rose from the fires of Ngarrindjeri people using the resources of these wetlands for their wellbeing. In recent times the work of scholars such as Bill Gamage and Bruce Pascoe raising the consciousness of these issues in the general population. Loss of species, degradation of soils, land clearing, water ways degraded and dammed,

Include the change of legislation that allowed people to begin participating in the wider community. Establishment of councils on former missions with Indigenous chairpersons. The 1988 The Aboriginal Heritage Act brought in a system where Indigenous interests could be potentially protected under a regime of sites and predominately archaeological in form.

Gradually scientists and farmers are changing practices – use the reference to the new framework for agriculture that Australian farmers connecting with. Also mention Indigenous agriculture and biodiversity hotspots associated with Indigenous struggle around the world. Non-Indigenous human climate change is a major factor driving change – the non-Indigenous aspect must be recognised.

Identify new drivers, the framework they use drivers, etc and our response in RAMSAR and water planning risk assessment. Goyder invested in research, and we published it. This didn't get into SoE reporting. The process and the frameworks need a full review with recommendations for change.

The following quote appears on the dust jacket of Bill Gamage's *Greatest estate on earth*

Across Australia, early Europeans commented again and again that the land looked like a park. With extensive grassy patches and pathways, open woodlands and abundant wildlife, it evoked a country estate in England. Bill Gammage has discovered this was because Aboriginal people managed the land in a far more systematic and scientific fashion than we have ever realised. For over a decade he has examined written and visual records of the Australian landscape. He has uncovered an extraordinarily complex system of land management using fire, the life cycles of native plants, and the natural flow of water to ensure plentiful wildlife and plant foods throughout the year. We know Aboriginal people spent far less time and effort than Europeans in securing food and shelter With details of land-management strategies from around Australia, the biggest estate on earth rewrites the history of this continent, with huge implications for us today."--Dust cover.

Gamage argues that his 'book rests on three facts about 1788':

1. *Unlike the Britain of most early observers, about 70 per cent of Australia's plants need or tolerate fire (ch.3.). Knowing which plants welcome fire, and when and how much, was critical to managing land. Plants could then be burnt in patterns, so that post-fire regeneration could situate and move grazing animals predictably by selectively locating the feed and shelter they prefer.*
2. *Grazing animals could be shepherded in this way because apart from humans they had no serious predators. Only in Australia was this so.*
3. *There was no wilderness. The Lay – an ecological philosophy enforced by religious sanction – compelled people to care for all their country. People lived and died to ensure this (ch. 4)*

Recent developments in State of the Environment reporting at the national and state levels

The Commonwealth Government's State of the Environment Report was the first national example to attempt of significant collaboration with Indigenous experts to produce Indigenous knowledge, expertise and experience across all sections of the report. This has also meant that the South Australian Parliament and the broader South Australian public have not benefited from the wisdom that Indigenous peoples could provide from about the health of their various, interconnected 'Countries'. Indigenous understandings of the concept of Country are becoming better understood in recent times and feature strongly in environmental management literature, policy and practice. This brings into stark relief the absence of Indigenous 'voice' in the SA State of the Environment Reports. As authors with long-term experience of working and researching in what is broadly known as natural resource management (NRM).

The Victoria Government made the following statement in its 'response' to the 2018 State of the Environment 2018 Report:

The Government recognises the importance of Traditional Owners' knowledge and expertise, and the importance of strong engagement with Traditional Owners based on the principles of self-determination, as outlined in the Government's Aboriginal Affairs Framework 2018-2023. The Government has existing relationships with Traditional Owners for environmental and cultural management purposes and will continue to work with the Aboriginal community to drive reforms and initiatives which promote the rights and cultures of, and improve outcomes for, Aboriginal Victorians. This includes strengthening Aboriginal cultural heritage management and protection, and stronger protections for intangible heritage such as stories, songs and languages.

(Victorian Government 2020, p. 7)

The Victorian Government provided support in principle to the following recommendation (no.1):

That the Victorian Government, in consultation with Traditional Owners and relevant agencies, develop contemporary cultural indicators to inform future environmental reporting. These indicators must reflect the priorities of Traditional Owners, have practical and cost-effective data-collection methods, be meaningful, and demonstrate change within a five-year reporting period.

(Victorian Government 2020, p. 8)

This section of text follows the recommendation – it is useful as an overview of the idea of structural change and capacity building to support self-determination.

The Victorian Government is committed to supporting Aboriginal self-determination and Traditional Owner aspirations for culture and Country. The Government will support Traditional Owners to identify cultural indicators for biocultural landscape health within the principles of self-determination, as outlined in the Victorian Government's Aboriginal Affairs Framework 2018-2023. Responding to the Government's new Self-Determination Reform Framework, the Department of Environment, Land, Water and Planning (DELWP) is developing a strategy for transforming its systems and structures to support self-determination.

Discussion of relevant International frameworks

- Australia's international commitments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Kunming-Montreal Biodiversity Framework should be a baseline for an appropriate approach to South Australia's State of the Environment Reporting.
- This approach will also align South Australia with the emerging research, monitoring and reporting frameworks at the national level. This includes the Federal Government's Nature Positive Report and Australia's 2021 State of the Environment Report.
- In developing this approach, we consider other key policy settings such as the Closing the Gap Agreement, the Murray Darling Basin Plan, SA's new Indigenous Voice to Parliament, State-based treaty developments, Clean Energy Initiatives and Climate Change planning.
- We also draw on our experience with Indigenous engagement in natural resource management, water management, fisheries management and nation-state commitments to international treaties and conventions. The Canadian example is a valuable and comparable example.

The application of UNDRIP and its connection to Sustainable... indicators are one way of framing the assessment. Bringing in frameworks from ICUN and recommendations from Ramsar. Canada has one of the best approaches to commitments to the UNDRIP but this has also been picked up in Australia. It has been the subject of a commonwealth senate enquiry, a substantial report from the peak legal Australian body and recommended in PIRSA's RAP that staff are educated in what this commitment is about. The development of legal personalities for river systems has also been an international and Australian strategy. This approach has advantages and disadvantages explored in the literature.

Linking Biological and cultural diversity – UNESCO-SCBD Programme

International instruments are brought together under this programme as a recognition that there is an increasing recognition of the importance of cultural diversity when dealing with biological diversity. 'The calls for enhanced synergies and better coordination in the implementation of existing biodiversity and cultural diversity international agreements.' UNESCO-SCBD Programme

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) includes several articles that relate to environmental protection. Article 29 of UNDRIP states that indigenous peoples have the right to the conservation and protection of the environment and their territories. Additionally, Article 25 of UNDRIP emphasizes the importance of maintaining spiritual relationships with the environment. The declaration also recognizes indigenous peoples' right to self-determination and autonomy in matters relating to their environment. UNDRIP is considered the most comprehensive international framework for the survival, respect, and dignity of indigenous peoples.

How does Canada implement UNDRIP in relation to broad concept of the environment?

Recently, there has been a focus on the relationship between the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and environmental policies in Canada as per Article 25 of UNDRIP, Indigenous peoples have the right to maintain and strengthen their relationship with their traditionally owned lands, territories, waters, coastal seas, and other resources. UNDRIP affirms the right of Indigenous peoples to their territories and lands, and the right to protect them, making caretaking of the environment a priority. In Canada, there have been efforts to indigenize climate policies and incorporate UNDRIP principles into environmental solutions. The recent implementation of the UN Declaration on the Rights of Indigenous Peoples Act in Canada aims to provide a roadmap for the government to work with Indigenous peoples to implement UNDRIP. Overall, UNDRIP is seen as an important framework for decolonizing Canadian water governance and recognizing the rights of Indigenous peoples in member countries [[8]](<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10292649/>).

Indigenous peoples and non-Indigenous peoples in South Australia should aspire to the best examples of 'just' relations. The recent Action Plan launched by the Canadian Government is an example that along with the approaches being taken in Australian States such as Victoria provides a benchmark for South Australian policy and practice. This requires legislative amendments.

From Canadian Government website on the 2023-2028 Action plan -

The 2023-2028 Action Plan is the result of two years of working in consultation and cooperation with First Nations, Inuit and Métis from across Canada.

In keeping with the UN Declaration Act and the spirit of the UN Declaration, the Government of Canada worked in consultation and cooperation with First Nations, Inuit and Métis to develop an Action Plan to achieve the objectives of the UN Declaration, and to identify measures needed to ensure federal laws are consistent with the UN Declaration.

This Action Plan provides a roadmap of actions Canada needs to take in partnership with Indigenous peoples to implement the principles and rights set out in the UN Declaration and to further advance reconciliation in a tangible way.

The Action Plan includes 181 important measures that:

- reflect priorities and proposals identified by First Nations, Inuit and Métis
- contribute to achieving the objectives of the [UN Declaration](#)
- align with specific topics covered by the [UN Declaration Act](#)

The Action Plan is another step along our collective journey of reconciliation together; it is not an end point. The plan is not a static document, but must continue to evolve in partnership with First Nations, Inuit and Métis. The Action Plan is evergreen and the Government of Canada will remain committed to the work in consultation and cooperation with Indigenous peoples to ensure it meets their priorities.

Progress made in implementing each of the action plan measures will help to break down barriers, combat systemic racism and discrimination, close socio-economic gaps, and promote greater equality and prosperity for Indigenous peoples. Through the implementation of the UN Declaration Act, we will build a better, more equitable future for Indigenous peoples and, in doing so, a more inclusive Canada for this and future generations.

Together with First Nations, Inuit and Métis, we are charting a new way forward in building renewed, nation-to-nation, Inuit-Crown, government-to-government relationships based on the affirmation of rights, respect, co-operation and partnership.

There are relevant and specific recommendation in the Action plan relating to territories, resources and environment that could form the basis of equivalent ones in SA.

Landscape Boards need to be reviewed so that Indigenous nations, communities and collectives can be recognised and supported for their responsibilities to Country and their roles required to manage these Countries – this has not been considered in Landscape Boards nor in Local Councils in any structured way. The approach taken by the NRA and the KNYA taskforce was moving to a collaboration between entities where that was possible to that Landscape Boards and Local Council could contribute to Indigenous County Boards with resources to collaborate, develop joint partnerships and to do things only relevant to Indigenous people.

This kind of model was being developed in the Lower Murray Ngarrindjeri region along the River Murray, the uniqueness and value of this approach was entirely absent from the SOE 2018 report.

Excerpts from the Sea Country plan could also be crucial – the idea of Indigenous Country plans has been circulating but they haven't progressed – this could be a major recommendation. Resource the development of these and support their updating and articulation into practice and policy – this is the kind of framework required to make the changes needed to produce real input from Indigenous perspectives.

The Landscape Legislation is an example of intent without understanding – the aims of legislation include a short sub sentence in about para 3

Review of Landscape Act completed with basic gaps and problems identified – this was required to even start to think about the development of a paper re SoE report and Indigenous interests, values and understandings.

From UN website

As a result of indigenous peoples' strong engagement in the [process towards the 2030 Agenda](#), the final resolution "Transforming Our World: the 2030 Agenda for Sustainable Development" ([A/RES/70/1](#)) refers to [indigenous peoples 6 times](#), three times in the political declaration; two in the targets under Goal 2 on Zero Hunger (target 2.3) and Goal 4 on education (target 4.5) – and one in the section on follow up and review that calls for indigenous peoples' participation. See this overview of references to indigenous peoples: [Indigenous Peoples and the 2030 Agenda Infographics](#)

Apart from the direct references, many of the Sustainable Development Goals and associated targets are relevant for indigenous peoples. Moreover, the overarching framework of the 2030 Agenda contains numerous elements that can go towards articulating the development concerns of indigenous peoples.

The global indicator framework that will measure progress of implementation of the 17 sustainable development goals (SDGs) includes two indicators that refers directly to indigenous peoples (Indicator 2.3.2 and 4.5.1) and several other indicators that are relevant for indigenous peoples, particularly indicator 1.4.2 and 5.a.1 on land rights. Moreover, there has been much focus on the need of disaggregation of data which the UN Permanent Forum on Indigenous Issues among others have been advocating for.

The Sustainable Development Goals (SDGs) are a universal policy agenda aimed at addressing various issues related to Indigenous Peoples [1]. The SDGs include 17 goals and 169 targets, which are integrated and cover areas such as ending poverty, ensuring human rights and inclusion for all, ensuring good governance, preventing conflict, and ensuring environmental sustainability [2] [3]. The SDGs provide a historic opportunity to address issues faced by Indigenous Peoples and ensure that they are not left behind [4] [5]. An Indigenous lens on the SDGs emphasizes the importance of regenerating and sustainably managing the environment to ensure sufficient food for the whole community [6]. The SDGs represent an unprecedented opportunity to promote the recognition, protection, and realization of Indigenous Peoples' rights, wellbeing, and dignity [5] [7].

The Sustainable Development Goals (SDGs) are a set of targets or indicators that aim to promote sustainable development worldwide. However, according to Yap and Watene (2019), the SDGs do not make specific reference to indigenous peoples, which may result in missing their views and priorities. Yap (2019) explores how the SDGs have reframed policy relating to indigenous peoples by using a framework informed by UNDRIP and indigenous knowledge.

Include the recommendations of the international River symposium 2022 – these have key principles that are import and link to the work we have done in the past.

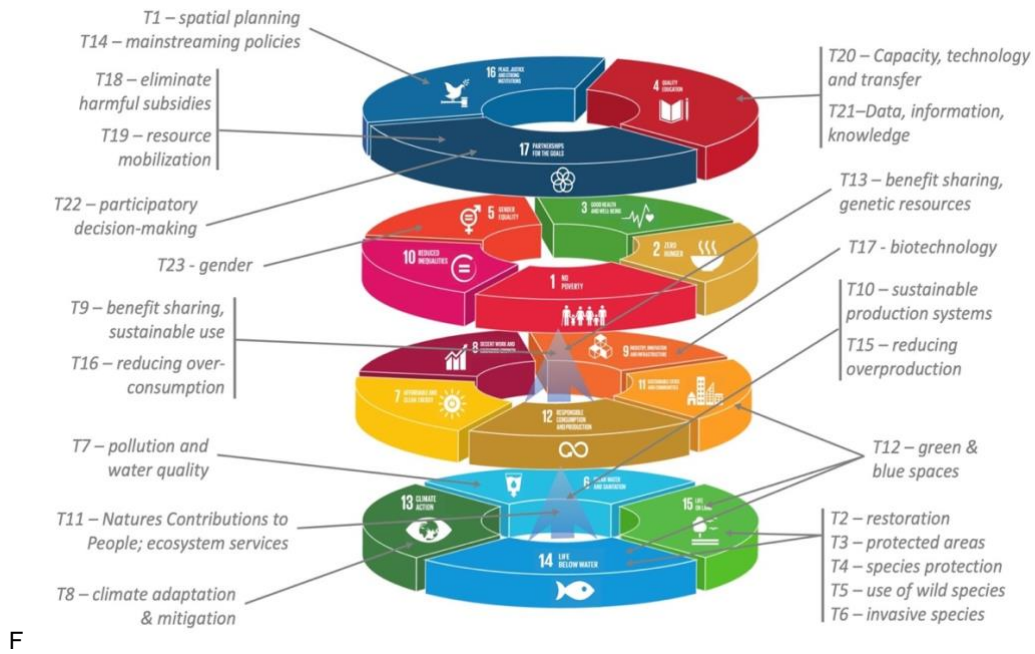
- IUCN most recent Indigenous commitment Global Indigenous Agenda
- Global Indigenous Agenda for the Governance of Indigenous Lands, Territories, Waters, Coastal Seas and Natural Resources as an outcomes document for the World Summit of Indigenous Peoples and Nature at the IUCN World Conservation Congress 2021.
- The call to action in this document is very clear and the SA Government's lack of process for ensuring Indigenous people have a proper say in the SoE reporting is out of step with international process and practice.
- UN Convention to Combat Desertification
- Land degradation neutrality principles

International instruments recognise the importance of Indigenous knowledges and the need for justice for Indigenous peoples.

Environment social and governance principles in farming /agriculture

ESG farming refers to a farming approach that incorporates environmental, social, and governance (ESG) principles. It is a holistic and sustainable approach to agriculture that considers the impact of farming practices on the environment, the well-being of farmers and workers, and the overall governance and transparency of the agricultural system. ESG farming is gaining traction as consumers and investors increasingly value sustainable and socially responsible practices. It aligns with the broader ESG movement seen across various industries, where companies and organizations are encouraged to consider environmental, social, and governance factors in their decision-making processes.

Kunming-Montreal Global Biological Diversity



F

r

Developing a new Indigenous Framework for State of the Environment Reporting

This section of the report responds to the conditions reported in 2018. Comment is also made regarding the absence of reference to Indigenous interests as expressed in the River Murray Act. In 2015 the Ngarrindjeri Regional Authority working in partnership with the South Australian Government on what was known as the Murray Futures Programme. The work conducted under the banner Ngarrindjeri Partnerships Project won the Australian Riverprize for best practice in integrated management.

This section can include a theory of change approach or process for aligning the SA SoE report with national and international frameworks. What is required and why it needs to be resourced, mapped and commitments made by the Government. The K-M framework would be a valuable framework to use as a key theory of change.

Source and mechanisms for Indigenous reporting for SA SoEs and other instruments

- SA Government needs to do the following to bring to the table with a South Australian First Nation expert group to consider the pathways forwards.
- It may also be necessary for formal recognitions to be inserted into previous reporting spaces to acknowledge the failures of the State system and to make apologies (truth telling). These sources are still used and are an active part of the present.
- SA Government should identify all the ways that SA reports on the health of 'the environment' – at the local, state, national and international levels. This includes the key instruments SA reports under. This should be available on one interactive flow diagram. This diagram could include a real-time report card on engagement mechanisms and content compliance. This could be a specific project with key expertise included on a working group.
- SA Government should outline the existing mechanisms for ensuring that First Nations expertise, knowledge and values are included in NRM and environment reporting monitoring etc.
- A system of compliance with national and international frameworks needs to be developed. The new Kunming-Montreal framework provides a best practice starting point. As recommended in the EPBC Act review report the UNDRIP, Convention on Biodiversity; ACHI targets, and the Nagoya Protocol are all highlighted.
- Could be sent to international Indigenous peak bodies for comment. If they have the time and resources. Would they make any suggestions? Send to the Indigenous Committee under the new EPBC Act for comment.
- This work needs to be budgeted in various settings for that expert Indigenous group can do the research and development required. Negotiations and consulting structure with SA First Nations and regional collectives can be developed. Further mechanism for Indigenous peoples not engaged in these areas to make comments.

Process

- We recommend that a formal Protocol be co-developed to provide a framework for respectfully bringing Indigenous expertise, knowledges and values into the South Australian State of Environment Reporting. This Protocol would act as a co-developed Theory of Change for SoE reporting and as a consequence a form of co-management between the State and Indigenous people. The SA DEW First Nations Guideline – as we worked on it was a good starting point for articulating the principles in the Protocol into actions in a variety of areas that will be essential for producing the work that will be required to research, manage, monitor, report and restore. This combination of words is critical. The DEW Cultural Knowledge agreement with DEW forms a good format for First Nations to engage in these activities in a 'culturally safe' way – it is a formal protection. All of these processes are also risk management plans and tools – co-developed. This is the KNYA framework.
- SA should have input into the development of National Environmental Standards under the EPBC Act review. In particular, in relation to Indigenous engagement and cultural heritage. The Indigenous Environment Protocol should inform the national standards and explain its alignment.
- We recommend that the South Australian Government support the development of an Indigenous Expert Environment (Countries) Committee to take a leading role in the development of mechanisms

that produce respectful engagement. This Committee should be properly resourced to contribute to this work and ongoing resourcing will be required.

- The Indigenous Committee's terms of reference should align with SA's newly developed Indigenous Environmental Reporting Protocol. The National Standard
- The Indigenous Protocol creates a mechanism for alignment with SA Reporting with national and international best practice. As a protocol it could receive formal support from parties in South Australia, Australia and internationally.
- Given the fact that many Indigenous nations in South Australia have Countries that cross into other States or Territories, this Protocol will provide these external authorities will an alignment mechanism.
- It is possible that a SA Protocol could assist the Commonwealth Government with policy ideas for better coordination Federally. Alignment, reporting to international bodies and national entities. The SA protocol could act as a template for thinking about a similar instrument at the national level.
- The SA Government should establish a working group after discussion with Indigenous leaders in 'Environmental Management' (with representation from across First Nations in SA) to begin the work of drafting a Protocol, establishing and resourcing an Indigenous Expert Committee, and developing a new researching, monitoring and reporting framework in line with national and international best practice.
- This joint working committee could be established via a Statement of Commitment between the SA Government and Indigenous leaders in Environmental Management. It could flow from existing commitments such as the RAPs in Departments and the MOU for Landscape Boards. It can also be seen as a proactive move to prepare to provide infrastructure and capacity to given Indigenous people and Indigenous nations in South Australia a Voice to Parliament.
- Indigenous 'cultural heritage' is named in the Nature Positive Report and the requirement to report on the State of the Indigenous 'cultural heritage' of SA has not been happening in recent reports. The complexity of understanding the concept of Country, sensitive Indigenous places, and not to divide people from nature and environment from people – cultural heritage tends to do this. This needs to be further examined and the approach taken under the KNYA strategy be closely considered.
- The Nature repair market recommended in the federal Nature Positive Report connects the health of nature with health and wellbeing of people. This connection has been strongly made in Ngarrindjeri approaches and argued in reports such as CSIRO Water for Healthy Country Project Report. The Lowitja Foundation report on political determinants of health also makes important points and gives examples in this area.
- The Indigenous protocol could set the basis for researching, monitoring and reporting using a framework that centres reporting on key national and international goals and targets.
- Data, databases and AI will mean that dashboards will be developed that are structured by compliance frameworks and will provide real-time reporting and management capacity. Biodata development in SA needs to engage with an Indigenous Expert Group, a working group established under a SOC/Protocol, to ensure that State systems are structured from the base (which data, how described) through to the actions so that they consider Indigenous knowledges, interests and expertise.
- Our risk assessment methodologies produced recommendations in water planning risk assessment that provide the methods for translating Indigenous interest into risk assessments that sit at the base of planning, policy and practice. The state has a draft set of guidelines for indigenous engagement in water planning risk assessment and environment in general. DEWs risk management framework for water planning and management – included changes with a new multi-layered category of "risks to First Nations". A first Nations engagement guideline was developed supporting the implementation of the modified risk management framework.
- During a Ngarrindjeri Yannerumi risk assessment process, compliance with these positively oriented and relational risk management tools is a fundamental indicator that Ngarrindjeri values and interests are being considered (see Appendices 3, 5, 6, and 10). This project ensured that these 'risk management tools' articulate with water risk assessment, bringing the relationship principles committed to under KNYAs and other agreements into this crucial area of water planning. A key project outcome directly addressing this fundamental gap in understanding and articulation was the development and introduction of a new category of risk to 'First Nations' in water planning that specifically includes valuing the relationship between First Nations and the Australian settler- state. From report page 4.

The SA Govt is creating a new Biodata system with its 'partners' eg SA Museum and Herbarium. What data will this include, how will it be classified, what ownership issues are there, has there been a critical analysis of the knowledge systems being used to structure the data, how do Indigenous knowledges, information, living things etc fit into this space and should there be an Indigenous biodata system developed as part of the ongoing work of State of the Environment Report – which require an infrastructure behind it to report.

Ideas for inclusion in a new Indigenous Framework – Nature Positive – Healthy Flows – Healthy People and Country:

- Indigenous law and practice; Indigenous community/family cohesion; spiritual connection; interconnection with Country and all things; Speak as Country (self-determination); recognizing Indigenous peak bodies/governance; respectful relations
- Reciprocal Interconnected benefit – Caring as Country – includes Indigenous economies
- This approach does not separate social, cultural, political and economic into separate domains. It also does not separated humans from 'nature'. The Nature Positive report makes the case for this interconnection.
- Countries based approach to Nature Positive management. The Sea Country Plan was an early example and further whole of country planning is taking place in SA. This approach is critical in a better approach to caring for country rather than disconnected 'heritage' management. These two approaches need to be connected and support each other be interlinked.

Acknowledgement in Nature Positive Report

We acknowledge the Traditional Owners of Country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present. We are committed to working respectfully with Aboriginal and Torres Strait Islander peoples and give particular acknowledgement to their use, knowledge and custodianship of Australia's native plants and animals over countless generations. We support Aboriginal and Torres Strait Islander peoples and their aspirations to maintain, protect and manage their culture, language, land and sea Country and heritage.

This may be a good acknowledgement to use – this aligns South Australia with the Commonwealth form of acknowledgement. These words are valuable in setting a basis for the development of a South Australian Protocol.

Case study –Ngarrindjeri Yarluwar-Ruwe: Negotiating and monitoring respectful spaces for First Nation engagement with settler colonial natural resource management¹

Looking back at the past year as the Chair of the Ngarrindjeri Regional Authority, I am pleased to be able to say that the Kungun Ngarrindjeri Yunnan Agreement (KNYA) has been a success. The KNYA has provided opportunities for the Ngarrindjeri people to extend the work that we are doing as a Nation that otherwise would not have been possible. The negotiation of the KNYA between the NRA and the Government [South Australian Government] assisted us to address the terrible effects of the drought on our Ruwe Ruwar [Country], which had caused great stress to the Ngarrindjeri people. We have achieved a number of positive outcomes through the KNYA that have helped to heal our Country and our people.

Another of the positive outcomes has been the opportunity to get to know Government people and to begin the process of creating a respectful relationship between them and the Ngarrindjeri people. My hope is that we can extend the KNYAs and respectful relationships we have begun with the current members of the Taskforce to all areas of Government.²

Introduction

For the Ngarrindjeri First Nation in South Australia, Ngarrindjeri means belonging to Yarluwar-Ruwe (Sea Country) – the Lower Murray River, the Lakes and Coorong region (see Figure 1). In 1836 the British established the Colony of South Australia heralding a period of violent invasion, murder, dispossession, oppression, and the ongoing colonisation of Ngarrindjeri Yarluwar-Ruwe. Elders describe living through colonisation as being in a perpetual state of longing for wellbeing – ‘parpun miwi’.³ In the face of this intense colonisation Ngarrindjeri have not ceded sovereignty, nor fundamental responsibility to speak lawfully as Country – as Yarluwar-Ruwe.⁴ Ngarrindjeri maintain fundamental interconnection with Country under extremely difficult circumstances. Non-Indigenous, ‘human’ induced climate change has brought with it huge flows of resources into remedial natural resource management (NRM), and with these flows, opportunities for strategic Ngarrindjeri transformation and re-direction.⁵ For several decades some of these flows of resources and energy have been re-directed by nation leaders to support the work of Ngarrindjeri nation (re)building. Former chair of the Ngarrindjeri Regional Authority (NRA), Tom Trevor, emphasised the success of this approach in his statement at the beginning of this paper. He attributed success to the development and negotiation of a new form of relationship agreement – the Kungun Ngarrindjeri Yunnan Agreement (Listen to Ngarrindjeri Speaking). These contract law agreements are treaty-like in form, establish nation-to-nation relations and begin a new respectful dialogue between the parties.⁶ They stand in stark contrast problematic subject position of the consulted ‘stakeholder’, inserting, instead, an authoritative Ngarrindjeri speaking position on Ngarrindjeri terms.

Ngarrindjeri Yarluwar-Ruwe is part of the living body of Murrundi or what is described by the Australian settler state as Australia’s longest river – the Murray River. The Murray is the longest river in the Murray-Darling Basin (M-DB) - Australia’s food bowl or the ‘life-blood’ of the nation. For several decades the M-DB has been in crisis due to human induced climate change and unsustainable, extractive management practices. In the early decades of the twenty first century the ‘Millennium Drought’ witnessed the Murray

¹ We acknowledge the support and leadership of the Ngarrindjeri Regional Authority – the peak body of the Ngarrindjeri Nation. This research has been supported by funds from the Australian Research Council (ARC), the Goyder Institute for Water Research and the Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS): ARC: DP1094869, DP190102060, DP2001102850, LE170100017, LP130100131, LP1040100376; Goyder Institute: E.1.7, E.1.17, & HE-17-03; and (AIATSIS) IRE_OR0004; We also thank all our colleagues for their support including: Larissa Behrendt, Simone Bignall, Stephen Cornell, Cressida Fforde, Robert Hattam, Sam Muller, Miriam Jorgensen, Grant Rigney, Amy Della-Sale, Laurie Rankine Jnr., Darrell Sumner, Lachlan Sutherland, Ellen Trevor, Luke Trevor, and Alison Vivian.

² Ngarrindjeri Regional Authority (NRA), Chair, Tom Trevor (deceased) highlighted the success of Ngarrindjeri Kungun Ngarrindjeri Yunnan Agreements (KNYA) in the inaugural KNYA Taskforce Annual Report. Department of Environment, Water and Natural Resources (DEWNR) and NRA *Kungun Ngarrindjeri Yunnan Agreement, Listen to Ngarrindjeri People Talking. KNYA Taskforce Report 2010–2011*, (DEWNR, Adelaide, 2012), 6.

³ Steve Hemming *et al.* *Translating Ngarrindjeri Yannerumi into water resource risk assessments*, Goyder Institute for Water Research Technical Report Series No. 20/09 (Adelaide: Goyder Institute, 2020), 7.

⁴ Ngarrindjeri Tendi, Ngarrindjeri Heritage Committee and Ngarrindjeri Native Title Management Committee, *Ngarrindjeri Nation Yarluwar-Ruwe Plan. Caring for Sea Country and Culture* (Meningie: Ngarrindjeri Lands and Progress Association, 2007), 52–55.

⁵ This is non-Indigenous, human induced climate change.

⁶ Steve Hemming, Daryle Rigney and Shaun Berg, “Ngarrindjeri futures: Negotiation, governance and environmental management,” in *Unsettling the Settler State: Creativity and Resistance in Indigenous-settler State Governance*, ed. Sarah Maddison and Morgan Brigg (Annandale, NSW: Federation Press, 2011), 98–115.

mouth closing, major restrictions to potable water for regional cities, interruptions to water diversion for irrigation, the exposure of acid sulphate soils, and other ecological catastrophes. This 'environmental crisis' brought with it intense flows of complex non-Indigenous interests and significant resources intended by non-Indigenous governments to improve ecological conditions.⁷ Ngarrindjeri diplomatic, political, and legal strategies required a complex understanding of the force, characteristics and interconnectedness of these changing conditions. In response, Ngarrindjeri leaders and advisors developed strategies designed to change the quality, speed and intensity of these flows towards an overarching goal of securing Ngarrindjeri wellbeing through nation (re)building.⁸ The authors of this paper have contributed to this decades-long work and this discussion draws on these experiences. Our case study focusses on the legal, political, diplomatic and policy work required to successfully form a long-term working relationship between an Australian First Nation and one of the settler state's most powerful 'colonising' technologies - natural resource management (NRM).⁹

At the start of the new millennium South Australia's River Murray region was plunged into a major drought (the Millennium Drought) that severely restricted the flow of fresh water through Ngarrindjeri Yarluwar-Ruwe. Human-induced climate change and over-allocation of water by industry and non-Indigenous governments, led to massive degradation of Ngarrindjeri County. Under the banner of the *Murray Futures Program*, the state and federal government began major plans for large-scale environmental restoration, engineering works and supporting ecological research. These plans appeared to Ngarrindjeri leaders like a rapid intensification of colonisation, exhibiting no evidence of understandings of Ngarrindjeri interconnections with Yarluwar-Ruwe, recognition of the ongoing injustice of colonisation or an indication that there was a need to negotiate with the Ngarrindjeri nation.

During this period Ngarrindjeri leaders had been working towards the establishment of the NRA as a new peak nation body to lead political negotiations with the settler state. One of the first things this body did, after its inauguration in 2007, was to adopt the *Ngarrindjeri Nation Yarluwar-Ruwe (Sea Country) Plan* as a whole-of-nation foundational document. The *Yarluwar-Ruwe Plan* is a key part Ngarrindjeri nation (re)building giving voice to Ngarrindjeri authority, prioritising the displacement of racist and archaic representations of Ngarrindjeri, and designed to tame the destructive power of the Foucauldian 'colonial archive'.¹⁰ The Plan makes plain the 'pain and suffering' caused by ongoing colonisation:

Since European arrival, terrible crimes have been committed against the lands, the waters and all living things, and against the Ngarrindjeri People. Ngarrindjeri are living with the pain and suffering from the acts of terror and violence that were inflicted upon our Old People. This pain has been passed down to us through the generations. Our lands and waters were stolen, our children were stolen and our Old People's bodies were stolen from our burial grounds.¹¹

The Yarluwar-Ruwe Plan also includes an explanation of key elements of Ngarrindjeri ways of being, a Ngarrindjeri account of the impacts of colonisation, and centres the KNYA strategy as the appropriate mechanism for non-Indigenous engagement with the Ngarrindjeri nation. The South Australian Minister of Environment, Jay Wetherill, formally launched the Plan in March 2007 – an important publicly respectful step made by the South Australian Labor Government. Despite the South Australian government's formal acknowledgement of the Yarluwar-Ruwe Plan, difficult and lengthy negotiations began between Ngarrindjeri leaders and the South Australian government in relation to the proposed Murray Futures Program. Eventually mid-way through 2009 a whole-of-government KNYA was negotiated beginning the radical re-shaping of the colonising relationship Ngarrindjeri had with the settler state. This agreement framed the introduction of a radically different form of Indigenous engagement in NRM, one that transformed the Murray Futures Program towards a co-managed, environmental strategy for Ngarrindjeri Country. By 2015, the Ngarrindjeri Nation, in partnership with the South Australian government, had won the Australian Riverprize for best practice in river management.¹²

Changing colonising flows: new spaces of diplomacy, negotiation and creativity

To provide force to Ngarrindjeri nation (re)building, Ngarrindjeri require flows of fresh water to come with justice, respect, recognition and resources. Positive force can be understood as a 'just' realignment of relations supporting the flow or movement of resources, energy, and human effort into activities that

⁷ Department for Environment and Heritage (DEH), *Securing the Future: Long-Term Plan for the Coorong, Lower Lakes and Murray Mouth*, (Adelaide: South Australian Government, 2010). 1-4.

⁸ Hemming *et al.*, *Translating Ngarrindjeri Yannerumi*.

⁹ Steve Hemming and Daryle Rigney, "Unsettling sustainability: Ngarrindjeri political literacies, strategies of engagement and transformation," *Continuum: Journal of Media and Cultural Studies* 22, no. 6 (2008): 767-768. <https://doi.org/10.1080/10304310802452438>.

¹⁰ Ann Laura Stoler, "Colonial Archives and the Arts of Governance," *Archival Science* 2 (2002): 87-88.

¹¹ Ngarrindjeri Tendi *et al.*, *Ngarrindjeri Yarluwar-Ruwe Plan*, 14.

¹² Steve Hemming *et al.*, 2016. Speaking as Country: A Ngarrindjeri methodology of transformative engagement. *Ngija: Talk the Law* 5 (2016): 45.

nourish Ngarrindjeri nation goals. A Ngarrindjeri-led program of research has been integral to securing these changed flows, developing and refining methods for identifying 'risks' to Ngarrindjeri wellbeing that combine theoretically informed political literacy and long-standing Ngarrindjeri decision-making processes – this decision-making methodology is called Ngarrindjeri Yannarumi (Ngarrindjeri speaking lawful as Country).¹³ Through Ngarrindjeri nation (re)building, KNYAs, and Yannarumi assessments, unhealthy and unjust 'intra-actions' can be monitored, challenged and transformed.¹⁴ This form of politically literate Indigenous nation building was significantly refined during the NRA's, KNYA-framed engagement in the South Australian broader *Murray Futures Program* (2009-2017).¹⁵ For example, the Yannarumi methodology was tested and further developed in settings such as small-scale wetland planning, Ramsar wetland planning, water planning risk assessment, educational policy and business development. This work required complex translation and connection methodologies specific to often very different contexts.

Ngarrindjeri leaders' decisions addressing non-Indigenous invasion have always identified risks to Ngarrindjeri Yarluwar-Ruwe based on Ngarrindjeri lawful ways of being. These decisions have sought to minimise risks to core aspects of Ngarrindjeri ways of being, and create ways to resist potential damage, or transform incursions into positive opportunities. Ngarrindjeri authority, however, has been severely impaired by British invasion from the earliest times through to the first KNYAs.¹⁶ More recently, Ngarrindjeri nation (re)building has been invigorated by an evolving Yannarumi methodology, sharpened by growing Ngarrindjeri political literacy. This theoretically informed, political and legal policy work supports Ngarrindjeri leadership in complex contact zone intra-actions requiring translation, negotiation, and articulation. The aim is to resist, understand and transform risks to Ngarrindjeri wellbeing emerging from sectors such as mainstream NRM. This enables Ngarrindjeri to generate new relationships with the settler state, monitor them in a range of settings, and articulate the principles of these relationship into projects, everyday practices, policies and new ways of living together with Ngarrindjeri Yarluwar-Ruwe.

From a Ngarrindjeri nation (re)building perspective the consequences of an active and a healthier Ngarrindjeri nation also creates beneficial flows towards the agencies of the settler state. The mixing of these flows, channelled through respectful relations (such KNYAs or a treaties) has the potential to create healthier outcomes and restore 'interconnected benefit' for Ngarrindjeri Yarluwar-Ruwe (the lands, waters, all people and all living things). Ngarrindjeri attempted to embed this relational thinking into a new Ecological Character Description (ECD) associated with the management of major Ramsar listed wetlands on Ngarrindjeri Country.¹⁷ A Ngarrindjeri-led team conducted a Yannarumi wellbeing assessment centred around healthy flows and relationships reproducing beneficial consequences. The Ngarrindjeri assessment included the identification of Ngarrindjeri qualities of such as ngroi (pleased, disposed towards wellbeing) and katjeri (beautiful, healthy, lawful, reproductive).¹⁸ This Ngarrindjeri policy and planning work with the South Australian government on projects such as re-writing a Ramsar site management plan required the production of new, less violent spaces of engagement produced by the foundational KNYAs.

Through targeted Ngarrindjeri-led research projects, focussed on understanding the complexities of settler state NRM, Ngarrindjeri identified KNYAs, along with associated agreements and protocols, as a suite of negotiated risk management tools that establish the basis for what counts as respectful relations between Ngarrindjeri and the settler state. This research produced a new relational language of translation and the development of specific connection methodologies in contexts such as water planning risk management. When discussing KNYAs in NRM contexts they can also be understood as a form of regulator or weir. At the height of the Millennium Drought, for example, Ngarrindjeri negotiated the final form of environmental engineering proposals through a KNYA with the South Australian Government. This KNYA included an agreement to disagree in a respectful manner, and through a compromise, the construction of a set of regulators that temporarily blocked River flows into the Lower Lakes, Coorong and Murray Mouth Region.¹⁹ If colonisation for Ngarrindjeri Yarluwar-Ruwe is conceptualised as a flow of energy and resources towards ever-increasing non-Indigenous naming, control, management and exploitation, then KNYAs are an attempt to redirect these flows, stopping settler colonial 'speaking into being', providing time/space to think, negotiate and create differently. In this way the concept of estoppel in British law takes form in KNYAs in the service of diplomacy, peace-making and the disconnection of continuities in settler speaking and acting that have produced a white South Australian space.

¹³ Steve Hemming *et al.* *Translating Ngarrindjeri Yannarumi*, 9-11.

¹⁴ We borrow the term 'intra-act' from the work of Karen Barad. See Karen Barad *Meeting the University Halfway: Quantum Physics and the Entanglement of Matter and Meaning*, (Durham, NC: Duke University Press, 2007).

¹⁵ Steve Hemming *et al.* *Translating Ngarrindjeri Yannarumi*, 5-11.

¹⁶ It was not until the 1967 Australian Referendum that Australians voted to change the Australia Constitution to finally include Aboriginal and Torres Strait Islander peoples in census counts and for the Commonwealth Government to have the power to make relevant laws. It was still illegal in many Australian States for Indigenous and non-Indigenous people to even associate with each other.

¹⁷ Steve Hemming *et al.*, "Ngarrindjeri Vision for the Ecological Character Description of the Coorong and Lower Lakes," in *Natural History of the Coorong, Lower Lakes, and Murray Mouth Region (Yarluwar-Ruwe)*, eds. Luke Mosely, *et al.*, Natural History Series, Royal Society of South Australia (Adelaide: Adelaide University Press, 2019), 495-500.

¹⁸ Steve Hemming *et al.* *Translating Ngarrindjeri Yannarumi*, 27.

¹⁹ Hemming, Rigney and Berg, "Ngarrindjeri Futures", 108.

A summary of the risk management tools that NRA developed with the SA Government in the context of NRM and water management, in the River Murray, Lakes and Coorong area of SA.

The following provides a basic summary of key elements of the NRA's nation building strategy for 'Caring as Country' – a strategy that has at its core the importance a holistic approach that does not separate environmental water management from NRM, CHM and Ngarrindjeri wellbeing:

- Ngarrindjeri nation have not ceded sovereignty and continue to hold the South Australian government accountable to the original promises contained in the 1836 Letters Patent;
- KNYA Strategy – contract law used to make formal agreements and frameworks for engagement;
- Ngarrindjeri Regional Authority – peak body for interactions with non-indigenous governments and agencies – strategic goals for Ngarrindjeri wellbeing
- NRA Yarlumar-Ruwe Program – Caring as Country and building Ngarrindjeri capacity;
- Cultural knowledge protection regime – using clauses in contract law agreements;
- Ngarrindjeri Ruwe/Ruwar philosophy of all things connected - integrated Natural and Cultural 'Resource' Management and community development;
- Statement of Commitments – using formal SOCs to create frameworks for engagement that operationalise the KNYA strategy;
- Co-management – working with all interested parties in the development of a KNYA approach to respectful co-management of Ngarrindjeri lands and waters and all living things;
- Policy and Management Planning Renewal – re-writing policies and management plans to reflect the commitments made in the KNYA 2009 and an integrated approach based on Ngarrindjeri Ruwe/Ruwar;
- Ngarrindjeri Yannarumi (Speaking as Country) risk assessment framework – using Ngarrindjeri values to assess the reproduction of wellbeing in projects, plans, policies, engagements and activities;
- Indigenous research – Ngarrindjeri to develop and conduct research and to be partners in research related to Ngarrindjeri Ruwe/Ruwar;
- Native title claims development and negotiation – this process is moving into a consent determination/negotiation phase;

(Hemming & Rigney 2016 , pp. 19-20)

Conclusions

- Nothing included before; the State of the Environment reflects non-Indigenous change; lack of alignment with conditions; there have been changes and the Landscape Boards SOC is a start; Indigenous people have made huge efforts to be a part of this via land rights, native title, Caring as Country; sharing knowledge; co-management; this includes a 2015 Indigenous-led Australian Riverprize; there has been no mention of Treaty negotiations.
- Limitations re: time, resources, structure, data, context, commitments
- We recommend a series of things that need to be put in place by the SA Government to support Indigenous development of a State of the Environment Report and engagement process to develop an integrated approach – might mean that an indigenous document remains.
- The International and national frameworks that should inform the development of this process and the form of the reporting and assessment; RAMSAR; Convention on Biodiversity; UNDRIP; Nagoya Protocol; SDGs; new sustainable agriculture framework; indigenous data sovereignty framework (see Stephanie Cs work); the new Biodiversity Framework that Canada is implementing and so are Costa Rica and Columbia
- The approach taken in the 2021 Australia State of Environment report and SA inputs that made it in – make these point really strongly; why none in SA version?
- The gaps in 2018 raise the questions for us about why could this be so given River Murray reporting requirements and the Murray Futures work.
- The recommendations for the approach to addressing the Gap in the State's Reporting mechanisms is the focus of this paper. A more extensive analysis rests in the published reports and academic work that we have produced and the work of other Indigenous scholars, leaders and non-Indigenous researchers and public employees etc in SA. This large body of work needs to be articulated into a process for research, monitoring and reporting SOE from Indigenous perspectives.

Recommendations

Recommendation 1: Establish a South Australian Indigenous Expert Environment Committee with an initial Terms of Reference designed to provide expert advice to government on environmental management. A key role of this committee would be to lead the development of appropriate mechanisms to ensure that First Nations knowledges, expertise and values are respectfully included in SA State of the Environment reporting.

Recommendation 2: Establish a South Australian Indigenous State of the Environment reporting joint working party. The terms of reference of this working party could take the form of a Statement of Commitment (SOC). This SOC could be co-developed by the State Government and the Indigenous Expert Environment Committee. Resourcing the operations of this working group will be essential.

Recommendation 3: As a matter of priority co-develop an Indigenous State of the Environment Reporting Protocol – a new Theory of Change. The development of this Protocol could be co-led by the SA Government and the Indigenous Expert Environmental Committee through the work of the joint working party described in Recommendation no. 2. A new Indigenous Protocol would identify shared principles, values, goals and capacity requirements to ensure respectful inclusion of Indigenous content in SoE reporting. It should include a new Indigenous understanding of Country and a recognition of the fundamental connection between all things. It would also include recognition of unique Indigenous responsibilities, rights and things of value. Importantly, this will identify the supporting structures, resources and processes required for working together respectfully.

Recommendation 4: The Indigenous SoE Reporting Protocol should align with the United Nations Declaration of the Rights of Indigenous People and the Kunming-Montreal Global Biodiversity framework. International best practice nationally and internationally in alignment with these instruments should inform the SA Indigenous Protocol.

Recommendation 5: The Indigenous SoE Reporting Protocol will facilitate the co-development of a new framework for environmental research, monitoring, risk assessment, management and reporting is required. This framework must connect with SA's national and international reporting requirements such as the National Closing the Gap Agreement and the broad sweep of Australian environmental and sustainable development reporting requirements. This framework will be translatable into real-time AI driven solutions.

Recommendation 6: Ensure the new Indigenous SoE framework is included in any relevant State plans and RAPs and the allocation of resources are allocated to support ongoing Indigenous research, monitoring and reporting.

Recommendation 7: Support the development of a program for relevant educational development in primary, secondary and tertiary settings to ensure that improved understanding of the importance and value of Indigenous understandings of Country to environmental research and management, and sustainable development.

Recommendation 8: Resource and support research into SoE reporting in Australian and internationally to support the work of the Indigenous Expert Environment Committee to provide expert input into SA process. This also requires research into Indigenous management of Country in SA.

Recommendation 8: Enact the recommendations in the Goyder Report on translating risk assessment into water planning risk assessment. The new working party should develop a new a risk assessment framework to support SoE reporting and broader SA Environmental management. This will require the co-development of environmental values.

Recommendation 9: That the Government appoint an Indigenous environmental expert (Indigenous person) to the SA Environmental Protection Agency.

Recommendation 10: That the Indigenous Expert Environment Committee provide advice to the new SA First Nations Voice to Parliament. This should include an annual report.

Recommendations 11: The SA Government will be required to resource broader negotiations and consultations in relation to new approaches with the First Nations and First Nations peoples in South Australia to ensure that full, prior and informed consent is conducted.

References

- Barad, Karen. *Meeting the University Halfway: Quantum Physics and the Entanglement of Matter and Meaning*. Durham, NC: Duke University Press, 2007.
- Bell, Diane. *Ngarrindjeri Wurrurarrin: A World That Is, Was and Will Be*. Melbourne: Spinifex Press, 2014.
- Department of Environment, Water and Natural Resources (DEWNR) and Ngarrindjeri Regional Authority (NRA). *Kungun Ngarrindjeri Yunnan Agreement. Listening to Ngarrindjeri People Talking*. KNYA Taskforce Report 2010–2011, June 2012. Adelaide: DEWNR, 2012.
- Hemming, Steve and Daryle Rigney. “Unsettling sustainability: Ngarrindjeri political literacies, strategies of engagement and transformation Continuum, *Journal of Media and Cultural Studies* 22, no. 6 (2008): 757–775. <https://doi.org/10.1080/10304310802452438>.
- Hemming Steve & Rigney Daryle, 2016. *Restoring Murray Futures: Incorporating Indigenous knowledge, values and interests into environmental water planning in the Coorong and Lakes Alexandrina and Albert Ramsar Wetland*, Goyder Institute for Water Research Technical Report Series No. 16/8, Adelaide, South Australia.
- Hemming, Steve, Daryle Rigney and S. Berg. “Ngarrindjeri futures: Negotiation, governance and environmental management.” in *Unsettling the Settler State: Creativity and Resistance in Indigenous-settler State Governance*, edited by Sarah Maddison and Morgan Brigg, 98-115. Annandale, NSW: Federation Press, 2011.
- Hemming, Steve, Daryle Rigney, Simone Bignall, Shaun Berg, and Grant Rigney. “Indigenous nation building for environmental futures: Murrundi flows through Ngarrindjeri country.” *Australasian Journal of Environmental Management* 26, no. 3 (2019): 216-235. <https://doi.org/10.1080/14486563.2019.1651227>.
- Hemming, Steve, Daryle Rigney and Shaun Berg. “Ngarrindjeri Nation Building: Securing a Future as Ngarrindjeri Ruwe/Ruwar (Lands, Waters and All Living Things).” in *Reclaiming Indigenous Governance: Reflections and Insights from Australia, Canada, New Zealand, and the United States*, edited by William Nikolakis, Stephen Cornell and Harry Nelson. 71- 104, Tucson, USA: University of Arizona Press, 2019.
- Hemming, Steve, Daryle Rigney, Shaun Berg, Clyde Rigney Jr., Grant Rigney and Luke Trevorrow. “Speaking as Country: A Ngarrindjeri methodology of transformative engagement.” *Ngiya: Talk the Law* 5 ((2016): 22–46.
- Hemming, Steve, Daryle Rigney, Grant Rigney, Luke Trevorrow, Samantha Muller and Amy Della-Sale. “Ngarrindjeri Vision for the Ecological Character Description of the Coorong and Lower Lakes,” in *Natural History of the Coorong, Lower Lakes, and Murray Mouth Region (Yarluwar-Ruwe)*, edited by Luke Mosely, Qifeng Ye, Scoresby Shepherd, Steve Hemming and Ron Fitzpatrick. Natural History Series, Royal Society of South Australia, 495-500. Adelaide: Adelaide University Press, 2019.
- Hemming, Steve, Daryle Rigney, Sam Muller, Grant Rigney and Isobelle Campbell. “Indigenous nation building. A new direction for water planning?” *Journal of Ecology and Society* 22, no. 2 (2017):13. <https://doi.org/10.5751/ES-08982-220213>.
- Hemming, Steve, Daryle, Rigney, Grant, Rigney, Lachlan Sutherland, Hugh Wilson, Noelle Overdeest, Amy Della-Sale and Sally Maxwell, S. *Translating Ngarrindjeri Yannarumi into water resource risk assessments*. Goyder Institute for Water Research Technical Report Series No. 20/09, Adelaide, Goyder Institute for Water Research, 2020.
- http://www.goyderinstitute.org/_r3687/media/system/attrib/file/712/Goyder%20TRS%2020-09%20Yannarumi_Final_v2_with%20appendices.pdf
- Kungun Ngarrindjeri Yunnan Agreement (KNYA), 2009. Ngarrindjeri Tendi, Ngarrindjeri Heritage Committee and Ngarrindjeri Native Title Management Committee for and on behalf of the Ngarrindjeri people and The Crown in Right of the State of South Australia, 5th June 2009. <https://www.environment.sa.gov.au/files/99a78c73-2602-463a-a5c3-9f9e00b2d40b/cllmm-gen-kungunngarrindjeriyunnanagreement.pdf>.
- Luke Mosely, Qifeng Ye, Scoresby Shepherd, Steve Hemming and Ron Fitzpatrick, eds. *Natural History of the Coorong, Lower Lakes, and Murray Mouth Region (Yarluwar-Ruwe)*. Natural History Series, Royal Society of South Australia, 495-500. Adelaide: Adelaide University Press, 2019.
- Ngarrindjeri Tendi, Ngarrindjeri Heritage Committee and Ngarrindjeri Native Title Management Committee. *Ngarrindjeri Nation Yarluwar-Ruwe Plan. Caring for Sea Country and Culture*. Meningie: Ngarrindjeri Lands and Progress Association, 2007.

<https://www.mdba.gov.au/sites/default/files/pubs/sa-ngarrindjeri-nation-yarluwar-ruwe-plan-2006-rs.PDF>

Rigney, Daryle, Steve Hemming and Shaun Berg. "Letters Patent, Native Title and the Crown in South Australia." in *Indigenous Australians and the Law*. In Martin Hinton, Daryle Rigney and Elliott Johnston, 2nd Edition, 161-178. London & New York: Routledge-Cavendish, 2008.

Rigney, Daryle, Alison Vivian, Steve Hemming, Shaun Berg, Simone Bignall and Damien Bell. "Treaty as a Technology for Indigenous Nation Building." in *Developing Governance and Governing Development: International Case Studies of Indigenous Futures*, edited by Diane Smith, Alice Wighton, Stephen Cornell, Adam Vai Delany, 119-140. New York: Rowman and Littlefield, 2021.

Kyle Powys Whyte, Chris Caldwell and Marie Schaefer. "Indigenous lessons about sustainability are not just for 'all humanity'." in *Sustainability: Approaches to Environmental Justice and Social Power*, edited by Johnathon Sze, 149-179. New York: New York University Press, 2018.

Appendices

Goyder Ngarrindjeri Yannarumi report – excerpts – Risk assessment model and the recommendations for new categories of risk in water planning risk assessment