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We used to have deep rivers and expansive wetlands – now we've got a water crisis



Willow Aliento - Oxygen Files | 14 February 2019

Water has been a topic at the top of mind all summer, but beyond the headlines around mismanagement of the Murray Darling, threats to the Great Artesian Basin, dramatic flood photos and Sydney desalination plant being switched on are some issues that cut to the crux of how we live in this country.

Australia is the world's driest continent, but when Europeans first arrived, it also had deep flowing rivers, expansive wetlands, clear creeks and drinkable billabongs.

The Aboriginal nations who had been custodians of the life-giving water had management practices embedded in their culture and daily life.

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Among all the recent coverage of water, the voice of the traditional custodians has started to emerge – and there is every reason to listen.

Just this week three Traditional Owner peak bodies in the Murray Darling basin, the Murray Lower Darling Rivers Indigenous Nations, Northern Basin Aboriginal Nations, and Federation of Victorian Traditional Owner Corporations, called for a national Royal Commission into the management of the catchment.

“For 60,000 years, our knowledge and management maintained a sustainable, productive ecosystem. Now, catastrophic fish deaths, toxic blue-green algal blooms and unsafe drinking water are causing distress and hurting our communities,” MLDRIN chairperson Rene Woods says.

“First Nations across the Murray Darling Basin have borne the brunt of decades of declining river health and mismanagement. Sadly, despite billions poured into water reform, we can only see the situation getting worse.”

Acting chair of NBAN Michael Anderson (Eckford) says that only a full federal Royal Commission can “get to the bottom of serious questions about the determination of Sustainable Diversion Limits, use of taxpayer funding and the recognition of First Nations water rights.”

Lawyer Bruce Lindsay from Environmental Justice Australia has worked closely with MLDRIN, the peak body for Traditional Owners in the southern Murray Darling Basin, around water policy.



First Nations advocates in Canberra

Why caring for river country benefits all of us

He told *The Fifth Estate* that in the Murray Darling Basin, many Indigenous people still have a strong connection to country. They are “river people”, with rivers and waterways at the centre of traditional lore,



The river is at the heart of the Barkindji's culture, wellbeing and society, Lindsay explains.

The South Australian Royal Commission into the mismanagement of the MDB has recommended a stronger legal platform for the role of Aboriginal people in managing Basin water resources.

This is something the Murray and Lower Darling Rivers Indigenous Nations (MLDRIN) and Environmental Justice Australia have long been calling for.

It would include amendment of the Water Act to ensure higher standards of recognition for Traditional Owners and protection of Aboriginal rights in water – better aligning with international standards.

“The Commission has acknowledged the crucial role Traditional Owners have in management and restoration of the Basin,” Lindsay says.

“This now needs to be reflected in greater authority and status for Aboriginal organisations and Traditional Owners in Basin governance. When that is achieved we will know that a real paradigm shift in governance has occurred.”

He says the current management approach is “not consistent with” with a number of international covenants Australia is signatory to, including the Convention on Biological Diversity and the Ramsar Convention on protection of wetlands of international importance.

It also ignores the wide-ranging positives that could come from more prominent Indigenous involvement, including the economic, social and cultural gains that are possible if Indigenous people are at the “forefront of protection and restoration” of

the waterways.

There is also an “emerging discourse and practice” around cultural flows, that is, water that can contribute to the meanings and practices of Traditional Lore.

A greater emphasis on restoring and protecting cultural flows would be a “leading innovation” in water management, Lindsay says.

The Indigenous connection to waterscapes is not just about the water itself, he explains. It is about the whole landscape and country and the obligations up and down the rivers.

Embracing and supporting these perspectives and practices can



Bruce Lindsay, Environmental Justice Australia



It is a matter of creating “balanced remedies and justice” for Aboriginal people.

As Barkindji Elder Badger Bates has said, when the river is in a bad state, the kids are in a bad state – but when the river is healthy, the people are healthy.

In Victoria, new water policy approaches have engaged Traditional Owner groups in developing management plans for catchments and major waterways such as the Yarra River.

Lindsay says the Yarra model is solid but its implementation is still unfolding.

There are also limits to how far Victoria has progressed with engagement.

“Victoria has been quite good at bringing Traditional Owners into the discussion,” Lindsay says.

“But the big shift yet to occur is giving Indigenous people meaningful control where they are seeking it.”

For example, instituting a mechanism that gives effect to Native Title interests in relation to water.

“There is a way to go on that front,” Lindsay says.



Unlike Native Title and Aboriginal Heritage measures in relation to land-based sites, which often focus on what Lindsay calls an “archaeological approach” that is centred around the presence of artefacts, waterways are often centres of “intangible heritage”.

This type of traditional association with a place, and customs around that place is part of Victoria’s Aboriginal Heritage Laws but could be strengthened and deepened.

While there are strict controls to protect “tangible” heritage, there is now a need for mechanisms that can “give some teeth to” measures to protect intangible heritage and protect it from impacts such as



Lindsay points out that while there is a lot of talk about economic considerations and social considerations and values in terms of how water is allocated in the Murray Darling Basin, the preference given to the large agricultural corporations discounts the major economic and social impact the decisions are having on both Indigenous people and working class non-indigenous people downstream.

Putting Indigenous people and cultural flows in a position of importance within the decision-making framework would by contrast benefit not only Aboriginal people, but also other small water users in the catchment, and the environment including flora and fauna of the catchment.

“It would be a good starting point of achieving what the Water Act is meant to achieve,” Lindsay says.

Benefits in fact would “flow to non-indigenous people.”

“There would be concurrent benefits in terms of environmental health, social outcomes and better-long term outcomes for small communities [and the local economy].”

Overall, the way water is treated as a resource in terms of policy-making is “too detached from the environmental context in which it exists and the cultural context in which it exists.”

For the past two to three decades the focus has been on water markets and the use of economic instruments, Lindsay says.

“But maybe... that is not sufficient to achieve sustainable outcomes at the end of the day.

“Maybe what’s next is over-riding public trust doctrines.”

This is already the situation in the USA, where trust rules relating to water mandate the states and other jurisdictions manage it for the public good.

There may also be a need to flip the thinking about who gets what.

Lindsay says that currently, the strategy is to allocate water between users, and then “give a bit to the environment”.

Maybe it should be the other way around.

