

Submission to the Murray-Darling Basin Royal Commission (MDBRC)

Narwie Partners - March 2018

Background to Narwie Partners

Narwie Partners is the farming operation of the Connellan family at Narwie (3,237 hectares) and Geraki (7,891 hectares), on the Murrumbidgee River, and the Ivanhoe Road, 25 kilometres north of Balranald, NSW. The Connellan family have operated their farming business at Narwie and Geraki for 94 years since our grandfather, Thomas Connellan, purchased the properties in 1924. The two properties are approximately 10 kilometres apart, with the historic Homebush Hotel roughly midway between the boundaries of the two properties. Narwie comprises an extensive River Red Gum floodplain forest and a smaller area of open Black and Grey Box forest (both form part of the **Lowbidgee Floodplain**), and a smaller area of Mallee Forest bordering on the floodplain. Geraki is predominately comprised of tree-less Salt Bush plains with a smaller area of dry lakebeds, with Black and Grey Box open forest on parts of the lakebeds and a creek, Geraki Creek, connecting two lakebeds. During a period of 30 years the farming operation also included 400 acres of licensed irrigation used predominately for cereal cropping. The partners determined to sell most of the irrigation licence as part of the government buy back during the millennium drought and in recognition of the reality climate change will have for the viability of irrigation operations in northern, central and western NSW.

The Lowbidgee Floodplain

To appreciate the impact of the Murray-Darling Basin Plan (**MDBP**) on the Lowbidgee Floodplain it is necessary to recognise the historical and current nature of the Lowbidgee Flood Control and Irrigation District (**LFC&ID**). The LFC&ID is substantially different from the rest of the Murrumbidgee Valley water users and needs to be treated substantially differently to the other water users to prevent unintended and disastrous impacts on this area. In particular:

- LFC&ID is a natural floodplain. The words 'and Irrigation' in the name have always been somewhat of an aberration as very little traditional irrigation takes place and has reduced over the last 20 years;
- Historically the construction of dams for the purpose of irrigation, hydro-electricity and town water supplies has severely curtailed the natural operation of the Lowbidgee Floodplain;

- Maude and Redbank Weirs were built as compensation structures under the *River Murray Act 1919* for the loss of flooding caused by river regulation and major storage construction. These weirs serviced what is now called the LFC&ID, which was declared in 1945. The LFC&ID is a significant part of the larger Lowbidgee Floodplain;
- The operation of the Maude and Redbank weirs and the water diversions into the LFC&ID was under NSW Ministerial discretion from 1945 to 2013. There was no licence or allocation. This District is prohibited from accessing water from the major storages under this Ministerial Discretion. Supply was derived from what is now called supplementary water: that is rainfall feed events running into the river from areas downstream of the major storages. The District was, and still is, managed and operated by Water NSW and area based charges funded the District's operation prior to 2013;
- In 2013 Licences were issued to the LFC&ID. Three licences, the Lowbidgee Supplementary Water Licences (**Lowbidgee SWL**), were issued (1) Nimmie Ciara [owned by the Commonwealth Government via the Commonwealth Environmental Water Holder] (2) Redbank South [owned by the NSW State Government via Yanga National Park] and (3) Redbank North [owned by a collection of landholders, including Narwie Partners, and now divided into separate sub-licences based largely on the property holdings of the landholders]. These licences are quarantined to the LFC&ID and cannot be traded outside this area. Under the *Water Management Act 2000* and the *Water Sharing Plan 2003* the Crown still has ultimate control including responsibilities for the environment;
- The Lowbidgee SWL were issued consistent with the methodology used to issue all Murrumbidgee Supplementary Licences. That is, the entitlement was issued on the year of greatest usage. The entitlement of the three Lowbidgee Licences totaled 747,000 ML. However, under the *2003 Murrumbidgee Water Sharing Plan* the LFC&ID has an extraction limit of some 296,000 ML. This figure was derived from the Murray Darling Basin Cap on diversions of 1993, which listed Lowbidgee as 296,000 ML (as we note below this cap appears to have been further and significantly reduced). This was an average annual diversion rate prior to 1993 as LFC&ID had no allocation or licence. All other figures in the MDBC Cap, relating to water users, listed each user's entitlement or abstraction limit. This is an example of the failure of relevant authorities to recognise that the LFC&ID is substantially different from other water users and this failure leads to substantial and severe unintended impacts;
- The Lowbidgee Floodplain has been under going accelerated ecological degradation since the

1960's principally due to a decrease in flooding due to river regulation; ¹

- The optimum outcome for Lowbidgee Floodplain habitat is achieved under natural conditions, that is under the over bank flood conditions that existed prior to the implementation of river regulation for the purposes of irrigation in the 20th century. Environmental water has achieved tangible ecological benefits especially when the environmental water is delivered in the winter – spring season; ² Presently environmental water is solely delivered through the diversion works at Red Bank Weir. Environmental “piggy back flows” are kept out of the area by a series of artificial banks and levees constructed along the Murrumbidgee River between Red Bank Weir and Balranald. These structures are under the management and control of Water NSW.
- For almost 100 years landholders on the Lowbidgee floodplain have repeatedly sought proper recognition of this impact and rectification of the loss of the natural system;
- In its 2015 submission to the NSW water pricing authority (IPART) DPI Water (NSW) indicated the 3 year average actual water take for Lowbidgee SWL was 61,174 ML. On these figures the water going to the Lowbidgee floodplain has been reduced from an entitlement of 747,000 ML, to a cap of 296,000 ML with an actual average annual delivery of 61,174 ML. This is a staggering reduction in the water available to the Lowbidgee floodplain. It is no wonder the health of this iconic floodplain is in jeopardy;
- Lowbidgee SWL holders are only entitled to supplementary flows;
- Lowbidgee SWL landholders are expected to pay full cost recovery for infrastructure, and the related administrative costs, of a system that has disrupted the natural operation of the river systems to the point the Lowbidgee floodplain has been severely degraded and to effectively pay for the system that is supposed to rectify the damage done;
- Imposing cost recovery charges on Lowbidgee landholders is requiring those landholders to pay for the cost of compensating themselves and the cost to rectify systems developed to favour irrigation and other needs above the Lowbidgee environment;
- The full cost recovery charges by DPI Water/ Water NSW are not being met with full service delivery, some license holders have not received any of their water entitlement in the past 6 years, others only a small fraction of their entitlement. However, over the last 6 years it appears almost all the water entitlement has gone into one landholders cotton crops, whereas prior to 2012 all the

¹ See “*Linking wetland hydrology to ecological outcomes in Lowbidgee wetlands in Southern New South Wales*”, L. Wen, N. Marsh, C. MacKay, I Sable, N. Saintilan and J. Ling presented at 19th International Congress on Modelling and Simulation, Perth, Australia, 12 – 16 December 2011.

² Ibid

water entitlement was dedicated to the Red Gum Forest as its first priority. The lack of transparency means we are unable to ascertain with certainty what the actual position is. As already noted full cost recovery requires landholders to pay to partially compensate themselves for the damage inflicted to benefit others and to do so regardless of how much, if any, water is delivered;

- Cost recovery treats Lowbidgee SWL landholders as irrigators, which they are not and cannot be;
- The benefit to be derived from rectification and the consequent improvement in the ecology of the Lowbidgee floodplain extends far beyond the interests of Lowbidgee SWL landholders. *“(M)ost of Australia’s inland rivers (unlike the traditional view of rivers in the geologically younger and wetter areas of Europe and parts of the USA, for example) formed ‘chains of ponds’ in between and around wetlands. However, Andrews claimed that ninety per cent of these had disappeared since white settlement. The result of this naturally occurring pattern in our dry landscape was that much of the water stayed ‘in-ground’ Confirming Andrew’s observations are diaries of early white explorers such as Thomas Mitchell and John Oxley, in which the term ‘chain of ponds’ frequently appears. Others, such as Charles Sturt and Ludwig Leichhardt, gave excellent descriptions of chains of ponds and vast wetlands and reed beds. Of great relevance is that various Aboriginal artists (such as Tim Leura Tjapaltjarri), with their unique aerial view, beautifully capture the series of steps in valleys that appear as chains of ponds...”*³
- Responsibility for the Lowbidgee floodplain ultimately rests with the NSW State Government under the NSW Water Act, it is a national and state government responsibility, not the responsibility of Lowbidgee SWL landholders who have long borne some of the economic cost of the irrigation focused management of the river systems.

³ *“Call of the Reed Warbler”*, Charles Massy, University of Queensland Press, 2017 at pages 151 - 152. The reference is to Peter Andrews, proponent of Natural Sequence Farming, former operator of Tarwyn Park in the Bylong Valley NSW and author of *“Back from the Brink”*.
Narwie Partners – Submission to Murray-Darling Basin Royal Commission

Submissions

A. Introduction

Narwie Partners hold long-standing concerns for the integrity of the water management systems of successive NSW governments in relation to the Murray-Darling Basin (**MDB**). Those concerns have increased since the development of the MDBP and have extended to successive Queensland and National governments. The concerns of Narwie Partners include serious concerns of corrupt practices and highly inappropriate political interference and cover up and more recently of serious breaches of the MDBP. We are not in a position to identify specific incidents of corruption nor detail the processes of interference and cover up. The reality is that it is highly unlikely we would be able to do so given the necessarily secretive and covert nature of such behaviour and lack of resources and information available to organisations such as Narwie Partners. Needless to say various media reports, including the 4 Corners expose, have only heightened our level of concern. Narwie Partners has repeatedly raised concerns regarding the lack of high quality independently monitored and maintained metering of water extracted from the MDB system.

1. **Narwie Partners submit** such metering is a minimal requirement and not, of itself, sufficient.
2. **Narwie Partners submit** independent auditing of water buy backs, subsidies for on-farm water efficiency projects, on-farm water storage and irrigation projects and the use of environmental water are also fundamental to the integrity of the MDB.
3. **Narwie Partners submit** transparency is essential if public confidence in the integrity of the management of a critical public resource, the MDB, is to be restored. We share the fears Ken Matthews expressed in his recent Final Report that increasing pressure from certain key stakeholders will “*water down key reforms, including reforms to water metering and improving transparency of information about water usage*”.⁴ Whilst it is probably unnecessary to do so, **Narwie Partners** urge this Royal Commission to examine closely the Interim and Final reports of Ken Matthews. **Narwie Partners submit** it is absolutely necessary to ensure ready public access, from a single source, to all details of individuals’ water entitlements, licence conditions, meter readings, water account balances and trading activities.

⁴ ‘*Independent investigation into NSW water management and compliance – final report*’, December 2017, NSW Department of Industry, page 3.

Whilst we applaud the South Australian government for its initiative in appointing this Royal Commission into the MDB we do not accept it can be left to one of the MDBP partners to shine a light on the chronic inadequacies of the management of the MDB. The fact that South Australia, the state at the end of the system, the most vulnerable state and the state most powerless to prevent abuses taking place has appointed this Royal Commission in the face of opposition from the upstream states, NSW, Queensland and Victoria, and without any tangible support from the Commonwealth Government highlights the perennial problems of water management – the damage is done to those who are downstream of those who abuse the system. Those who benefit from the abuse of the system inevitably have the resources to put pressure on the politicians to entrench the distortion of the water management systems in favour of the abusers as a result of the economic gains they achieve from their abuse of the system. Once water is taken it is gone from the system and cannot be put back. When it comes to rehabilitating the damaged systems those who recklessly abused the system for profit have inevitably long gone, taking their ill-gotten gains with them, leaving their victims and the broader community to face the heart break and cost of trying to rectify the damage done.

4. **Narwie Partners submit** a Commonwealth judicial inquiry is necessary and will be the only mechanism capable of:
 - a. identifying the full extent of the problems that are increasingly apparent in state based management of the MDBP;
 - b. identifying the full extent of the problems that are increasingly apparent in the Commonwealths role in the management of the MDBP;
 - c. ensuring the recommendations of a judicial inquiry are fully and effectively implemented and audited post implementation; and
 - d. restoring confidence in the integrity of water management in the MDB.
5. **Narwie Partners submit** confidence in the integrity of water management in the MDB is a fundamental prerequisite if the MDBP is to achieve its objects and purposes. In our view the restoration of confidence can only be achieved if the Commonwealth government recognizes the states are collectively incapable of delivering environmentally and economically viable and sustainable communities and habitats in the MDB. Indeed that reality was the impetus for the development, at a point of crises, of the MDBP in the first place.

B. Specific Terms of Reference

ToR 5

If the Basin Plan is unlikely to achieve any of the objects and purposes of the Act and Basin Plan and/or the ‘enhanced environmental outcomes’ and the additional 450 GL referred to above, what amendments should be made to the Basin Plan or Act to achieve those objects and purposes, the ‘enhanced environmental outcomes’ and the additional 450 GL?

ToR 12

Whether the Basin Plan in its current form, its implementation, and any proposed amendments to the Plan, are adequate to achieve the objects and purposes of the Act and Basin Plan, the ‘enhanced environmental outcomes’ and the additional 450 GL referred to above, taking into account likely, future climate change.

ToR13

Any other related matters

In regard to ToR5, ToR12 & ToR13 Narwie Partners makes the following submissions:

1. **Narwie Partners submit** the MDBP is incapable of achieving the objects and purposes of the *Water Act 2007* (Cth) and the objects and purposes of that Act and the MDBP because it does not take account of climate change. Others have observed the one constant is change. Acknowledging this is of itself unhelpful. Value lies in the ability to predict the most likely direction of change and put measures in place to best accommodate the most likely change. It can no longer be doubted the most likely changes in the Murray-Darling Basin will be those brought on by climate change and that that will mean substantial decreases in the water in the river systems available for all use types.
2. **Narwie Partners submit** the MDBP must apply scientifically rigorous water management policies based on the evolving knowledge of the most likely impacts of climate change so as to ensure MDB river and wetland health as its highest priority. This is the best means of maximizing the economic and social health of river communities.
3. **Narwie Partners submit** it is high time environmental water requirements were restored to

levels that will ensure the sustainable health of the MDB. The river ecosystems, including the Lowbidgee Floodplain, are of national and international importance as wetland systems. The severely negative impact of the artificial system of river regulation imposed by the NSW government, as reflected by the Lowbidgee Floodplain being reduced from an entitlement 747,000 ML to a 3 year average actual water take of 61,174 ML, has caused long standing consequent environmental degradation. The so called **additional 450 GL** actually represents a substantial undermining of the water resources required, as identified by objective scientific analysis in the lead up to the passing of the *Water Act 2007* (Cth) and the formulation of the MDBP, to bring the river systems back to an acceptable level of health. The focus on the **additional 450 GL** is simply a representation of the political power of big irrigation and corporate farming over weak, some would suggest corrupt, politicians prepared to deny the realities of climate change for short term gain. Much more than the **additional 450 GL** is required to restore our river systems and wetlands to even a shadow of the pristine condition they were in prior to the advent of modern river management practices.

4. **Narwie Partners submit** the current process of water buy backs and related compensation paid to irrigators completely ignores that non-irrigation water users, particularly those who have sought to work in harmony with the natural river systems by designing their agricultural practices around the natural system without seeking to modify or disrupt it, have never been compensated for the water gradually taken from their land over the past 100 years for the benefit of irrigators. As already pointed out, using the Lowbidgee Floodplain as an example, the reduction in available water and the consequent environmental and economic damage has been nothing short of catastrophic. **Narwie Partners submit** unapologetically that the starting point for compensation should focus on the damage created by the system of artificially controlled river and wetlands management implemented to benefit irrigators, the cost of ameliorating that damage and restoring the river and wetland systems to health. **Narwie Partners further submit** compensation should be made for the reduction in water resources suffered by operators, such as Narwie Partners, over many years as a consequence of the reduction in entitlement, imposition of caps and subsequent reduction in the effective cap represented by the actual average water take for natural wetlands and floodplains such as the Lowbidgee Floodplain.

5. **Narwie Partners submit** the MDBRC give carefully consideration and appropriate respect

to the cultural needs and historical land rights of First Nations communities when it considers all of the evidence that is put before it and when it tests its proposed recommendations when drafting its final report.

“Given that Indigenous people depended on land for long-term survival, were obligated to care for it, and had deep ecological and spiritual knowledge of their country, unsurprisingly they developed intimate associations with the landscape and were deeply embedded within it”⁵

The traditional practices and knowledge of First Nations communities is a resource whose value cannot be under estimated when it comes to the complex and difficult task of returning the MBD to health and designing appropriate rules for its future management.

6. **Narwie Partners submit** the MDBRC make the impact of climate change the filter through which it considers all of the evidence that is put before it and the lens through which it tests its proposed recommendations when drafting its final report. The needs of those at the bottom end of the various river systems that make up the MDB, including Lowbidgee Floodplain, should not be relegated to an after thought if and when the needs of irrigators are satisfied. The indications are climate change will have a substantial impact on the available water supply and, as a consequence, irrigators will ultimately be forced to recognise many will not be able to continue with current irrigation practices. Ignoring this reality at the cost of severely degrading lower river systems and natural floodplains, such as the Lowbidgee Floodplain, will be to do a disservice to irrigators and farmers, such as ourselves, who have sought to work in harmony with the environment. We have no doubt the MDBRC will receive many submissions arguing the environment is receiving too much water already. The figures do not make this out. The entitlement, cap and average actual water take figures we refer to in our summary of the Lowbidgee Floodplain above make this abundantly clear. We urge the MDBRC to accept the reality of climate change. We note predictions of in excess of 30% reduction in rain and snow falls and a greater uptake of water by plants growing at an increased rate as a result of higher CO₂ levels in the atmosphere.⁶ We urge the MDBRC to support Australian farmers by identifying that

⁵ *“Call of the Reed Warbler”*, Charles Massy, University of Queensland Press, 2017 at page 27.

⁶ See *“River flows drop as carbon dioxide creates thirstier plants”*, by A Ukkola, Climate Change Research Centre, UNSW and A Van Dijk, Fenner School of Environment & Society, ANU, published 20 October 2015 at Narwie Partners – Submission to Murray-Darling Basin Royal Commission

governments need to develop effective reconstruction packages so farmers, and the communities they operate within, can make adjustments well in advance of the predicted severe impacts of climate change.