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Recognising and protecting Indigenous values in water resource management

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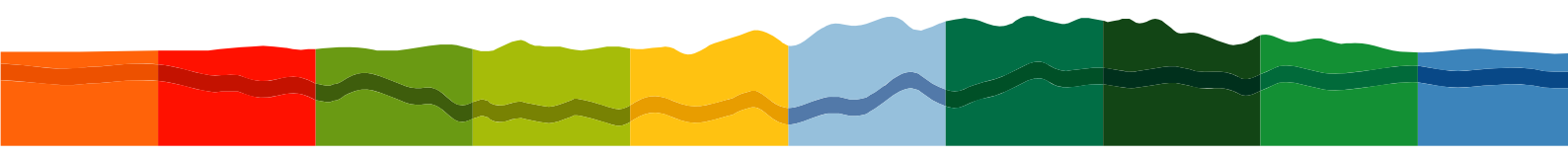

Recognising and protecting Indigenous values in water resource management

A report from a workshop held at CSIRO in Darwin, NT 5-6 April 2006

Edited by
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Aboriginal and Torres Strait Islander readers should be warned that this document may contain images of deceased persons.

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The workshop was organised by Sue Jackson, research scientist with CSIRO Sustainable Ecosystems, with assistance from Marc Wohling of the NLC who is the Coordinator of the Daly River Aboriginal Reference Group. Professor Marcia Langton, Foundation Chair of Australian Indigenous Studies at Melbourne University, facilitated the meeting. Logistical assistance was provided by Emma Woodward (recording, workshop logistics and catering) and Barbara McKaige of CSIRO (communications materials). The field-staff of the NLC's Darwin/Daly regional office were especially helpful, particularly Mo Motlop and Sue Cooke. Donna Jackson welcomed participants to the workshop which was held in Berrimah in Larrakia country.

I am particularly grateful to Jess Weir for her assistance in establishing a link to MLDRIN - the Murray Lower Darling Rivers Indigenous Nations, through their Chairman, Matt Rigney. With Jess and Matt present at the workshop, participants were able to reflect on the broader significance of water management issues to Aboriginal people across the continent. I thank Matt Rigney for his generosity in sparing so many days travelling to the workshop and for his patience, which was tested when we were forced to abandon a field trip to the Daly because of late wet-season flooding.

Financial support from Land and Water Australia's Tropical Rivers Program enabled people from numerous regions to come together for the first time in northern Australia to discuss Indigenous interests in water resource management.

A note on the workshop record of proceedings

This report was compiled by Sue Jackson based on the formal presentations and notes made during proceedings by Emma Woodward and Marcia Langton. Presenters were not required to prepare a paper prior to the workshop. In order to ensure that an accurate record was taken, draft presentations were sent to all workshop presenters for corrections and additions. Mona Liddy and Willie Hewitt of the Daly River ARG provided comments on a draft record, as did Peter Whitehead of the NT Department of Natural Resources, Environment and the Arts.

Questions and discussion put forward at the workshop are provided after each speaker. References cited in the introduction, as well as those recommended for further reading, are found at the end of the report before the Appendices.

Table of Contents

Indigenous cultural values and water resource management: workshop overview and introduction

Sue Jackson, Senior Research Scientist, CSIRO Sustainable Ecosystems and Marcia Langton, Foundation Chair of Australian Indigenous Studies, Melbourne University.

Introduction

A two-day workshop on Indigenous cultural values and water resource management was held at CSIRO in Darwin, NT in April 2006, with the aim of exploring what Indigenous managers of water resources in northern Australia could learn from other regions where water has been developed. The workshop attracted participants from the Northern Territory, Western Australia, Queensland, South Australia and the ACT. Several institutions were represented, including Aboriginal communities, Aboriginal land management bodies, conservation and natural resource management agencies, research organisations, the Northern Land Council, the Kimberley Land Council and the Aboriginal Areas Protection Authority of the NT. Case studies were presented from throughout Australia and these served to focus discussions on the implications for water policy and management. This report presents an overview of the workshop proceedings and its outcomes.

The idea to have a workshop to discuss Indigenous values and water was conceived in 2004 when there was much interest in Indigenous values in the Daly River region of the NT. In collaboration with the Northern Land Council, CSIRO received funds for the workshop from Land Water Australia's (LWA) tropical rivers program (Project code CSE26). The aim of the broader project, of which the workshop was one outcome, was to investigate the means of addressing Indigenous cultural requirements for water in planning processes underway in the Daly River region[1] (see map on following page). The project team (CSIRO and NLC) recognised that Indigenous people in the Daly River region had been previously disenfranchised from ecological research and environmental planning and that information exchange is essential if Indigenous people are to participate effectively in water planning.

In this report we discuss the following:

1. The workshop objectives
2. Why hold a workshop: what is the nature of the problem we discussed?
    - The significance of water to Aboriginal societies
    - The national water reforms and Indigenous interests
3. Key insights from the workshop

1 Prior to the workshop background information on water resource management in the Daly River region was circulated to all participants. A copy of this material can be found in Appendix A.

Workshop objectives

The workshop involved social researchers, NT Government resource managers, Northern Land Council staff and Aboriginal people in a dialogue about national water policy, water management and Indigenous rights and participation in management (see workshop program and attendance list in Appendices B and C). Invitations were made to the entire membership of the Daly River Aboriginal Reference Group[2], selected social researchers as well as water resource managers from the Northern Territory. The original project team considered Marcia Langton to be well-suited to the task of facilitator given her background in advising Indigenous community groups and Land Councils, and her academic interest in documenting the significance of water to Indigenous societies.

We were satisfied with the reasonable balance of people from various backgrounds. Aboriginal people were in the majority which, in our view, made a difference to the conduct and course of the meeting and the degree of attention given to issues of interest to the Indigenous participants. We tried to avoid holding a technical workshop based around formal presentations. Such formats may not appeal to participants less familiar with the associated style and content, and may limit the opportunities for participation and dialogue. We also hoped to create an opportunity for researchers and government policy officers to talk across the boundaries of their areas of particular interest, to stand back and reflect on the context, and communicate with participants less knowledgeable about the reach and detail of water policy reform, scientific hydrological knowledge, management practices, or the latest developments in government water business.

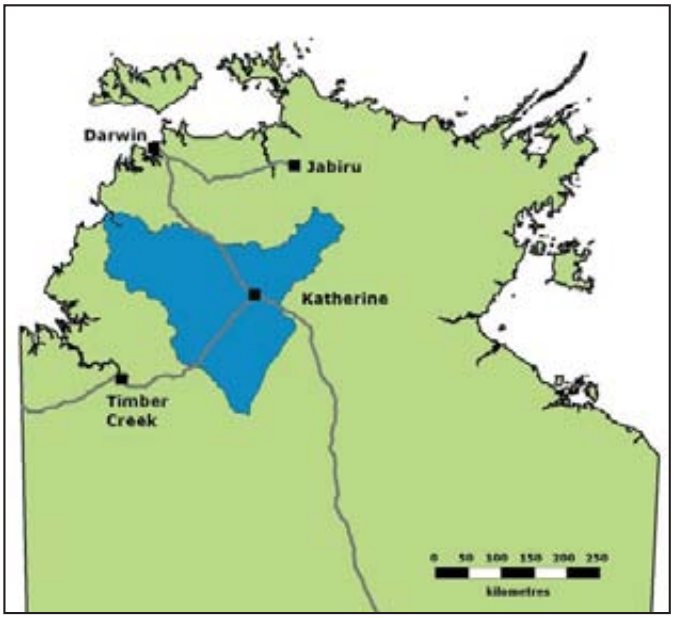

Figure 1 *Map of the Top End of the Northern Territory showing the Daly River region shaded. Map courtesy of NT NRETA*

2 This group, representing the eight Aboriginal language groups of the central Daly region, was formed in 2005 in response to government land and water planning initiatives (see Jackson 2005; 2006 and Appendix A).

A strong focus was placed on the Daly River situation, where water may be used in significant quantities for farming over the coming years, and many members of the Daly River Aboriginal Reference Group attended. However, as we were very interested in exploring what northern Australia can learn from other regions where water has been developed, invitations were extended to Indigenous groups further a field. With representatives from the Murray Lower Darling Indigenous Nations and the Miriwiung Gajerrong people of the east Kimberley attending, we were confident that there would be issues of interest to people examining development and environmental management options in the Daly River area, including NT government resource managers. Our interstate participants were keen to share their experiences, discuss ideas, and to form links with Indigenous groups interested in the management of land and water throughout Australia.

The following list of objectives was prepared for the workshop:

- *To have a good discussion about water issues*
- *For northern Australian Aboriginal groups, especially from the Daly River, to hear about the experiences of other groups, e.g. from the Murray Darling, and vice versa*
- *To think about environmental policy, especially water management, and how it can work for Indigenous people*
- *To talk about the words 'cultural values', how they are being used and whether they reflect Indigenous values*
- *To talk about rivers and water reforms: what worries people about the changes and are there opportunities, or good parts, to the changes*
- *To talk about ways Indigenous people can document their values, promote them and be involved with governments and other groups e.g. catchment management groups.*

Time was provided both to hear about case studies and to hold closer discussions in small groups on a number of themes decided during the first day of the workshop. Participants broke into two groups during the first afternoon to discuss in more detail options available and strategies for Aboriginal people seeking to influence water policy and/or water resource management strategies, especially the Daly River Aboriginal Reference Group. Input from participants such as Geoff Stead, Executive officer of the Aboriginal Areas Protection Authority, who has over twenty years experience in land claim processes, was valuable and the discussion generated many practical ideas for further action.

Discussion focused on the four following topics:

- Representative structures
- Framework and policy
- Economic development
- Future research

Figure 2 *Opening session on the first day. Image: CSIRO.*

Why hold a workshop: what is the nature of the problem discussed?

Increased pressure on rivers and water resources

In comparison to Australia's temperate river systems, our tropical river systems are poorly understood by the scientific community (Hamilton and Gehrke 2005). Tropical catchments contain greater biodiversity than found in southern Australia and many of the rivers continue to experience natural flow regimes. The estuaries in this region tend to be in near pristine condition in contrast to the relatively degraded estuaries of southern Australia (ibid). Many industries are dependent on the natural resources provided by these systems which are also highly valued for their part in the social and cultural life of residents and visitors. Tropical rivers flow through the customary estates of scores of Indigenous language groups resident in northern Australia (Langton 2002). Yu describes the cultural landscape of the lower Fitzroy River in the Kimberley region of north-western Australia, which is home to many language groups:

> Whilst each group has distinct cultural responsibilities and articulates their relationship in varying ways, the groups are united through a system of Law that weaves together complex narratives and rituals required for the sustenance of the river country and its complex ecosystems. There is no single name for the river except *marduwarra*, which is a generic word for river. Rather, the Fitzroy River is conceptualised as a series of linked narratives which arise from the many permanent pools along the riverbed and, which are subjected to the seasonal processes of flooding (*warramba*) and receding waters (2006: 135).

Concerns have been raised by scientists, non-government environment groups and some communities (e.g. Daly River Community Reference Group) about the limited ability of the current knowledge base to inform decisions and avoid the potential impacts of development (Hart 2004; Australian Tropical Rivers Group 2004; Storrs and Finlayson 1997). Certain tropical rivers have already been substantially altered (e.g. the Ord River in the Kimberley region of Western Australia and the Burdekin and Fitzroy Rivers of Queensland). There is the potential for detrimental effects from upstream activities such as dams, mining, agriculture and tourism to be felt on estuarine and inshore fisheries, particularly through their impact on nutrients and pollutants. In addition to large-scale development arising from increased water use for agriculture, water resources are subject to gradual deterioration under the influence of existing conditions, the spread of weeds, feral animals and global environmental change. Social pressures to provide regional development opportunities and economic pressures for agricultural enterprises seeking to expand or relocate from southern Australia are driving development of water resources in the north (Hamilton and Gehrke 2005). Under these kinds of development scenarios the relative abundance of northern freshwater resources is of considerable economic value:

> ... large scale development of water resources to support expansion of irrigated agriculture, or to provide increased security for water supplies to metropolitan centres outside the tropics, continues to be discussed as a development alternative (Hamilton and Gehrke 2005: 243).

Indigenous communities across north Australia are quick to identify numerous environmental threats and social problems associated with environmental change, increasing demand for water resources and changing environmental management systems (see Jackson and O'Leary 2006; Whitehead *et al* 1999). Loss of ecological and ritual knowledge amongst communities is a social change that confronts possibly every Indigenous language, clan or family group, compounding a sense of urgency for initiatives that assist people to care for river and wetland country.

Their strong and enduring interest in the diverse and relatively intact riverine and riparian systems motivates Indigenous communities to undertake management activities, thereby fulfilling cultural responsibilities. In addition, Indigenous communities express a desire to collaborate with government agencies and stakeholders; and to develop partnerships with researchers to exchange knowledge and solve identified problems.

The significance of water and rivers to Indigenous people

Indigenous people hold distinct cultural perspectives on water, relating to identity and attachment to place, environmental knowledge, resource security, and the exercise of custodial responsibilities to manage inter-related parts of customary estates (Langton 2002; Toussaint, Sullivan and Yu 2005; Jackson 2005; Jackson and O'Leary 2006). In the belief systems of Australian Aboriginal peoples, water is a sacred and elemental source and symbol of life (Langton 2006) and aquatic resources constitute a vital part of the non-market indigenous customary economy.

Northern catchments are characterised by a distinct spatial pattern where most Indigenous people are located in relatively small settlements, invariably remote, while the vast majority of the non-Indigenous population resides in larger urban centres or cities (see Taylor 2003). In some regions, Indigenous people comprise the majority of the population; for example, in the Kimberley they make around 50% of the population and 90% of all people living outside major Kimberley towns (Bergman 2006).

Following the High Court's *Mabo* judgement and the passage of the *Native Title Act* 1993 *(Cth)*, more land has been claimed by Indigenous Australians. It is now estimated that close to 20% of Australia is Indigenous owned, and a large proportion of that growing land base is found in the tropical rivers region (Pollack 2001). In the Northern Territory, for instance, approximately 85% of the coastline and 44% of the total land mass is held under Indigenous title. In the Kimberley, Indigenous people hold about one third of the total number of pastoral leases. Recently determined native title claims cover approximately 30% of the Kimberley land area (Bergman 2006).

As with other Australian regions, the nature and extent of native title rights and interests in northern rivers remains uncertain. The tenure of land holdings adjacent to a river system is likely to be an influential factor in a successful native title claim, although not necessarily determinative of the existence of native title rights and interests (Behrendt and Thompson 2004). Indigenous rights to hunt, fish, and gather living natural resources, such as crocodiles and turtles, may arise in association with a native title claim to particular lands and waters, or by virtue of customary practice independent from any association with native title claims to land (Meyers 1995).

Indigenous systems of customary law dictate that traditional land-owners have a substantive role in land and water management and resource regulation. Hence, Indigenous people expect to participate fully in management decisions. New water policy and funding arrangements arising from the Natural Heritage Trust and the National Water Initiative need to identify, acknowledge and incorporate the diverse interests of Indigenous people, as well as their distinct forms of social organisation (e.g. land tenure systems) and resource governance systems.

Neglect of Indigenous interests in water policy and management

Despite being major landowners and representing a large proportion of regional communities, particularly in northern Australia, Indigenous people have historically been marginalised from water resource decisions. Large scale water resource developments have overlooked the social and economic impacts on Indigenous communities (Barber and Rumley 2003) and few contemporary management processes adequately involve Indigenous people. In some instances, recent steps have been taken by water resource agencies to consider Indigenous interests in water allocation planning, for example, in the Ord River region of Western Australia, and the Daly River region of the Northern Territory. Many traditions relating to water can escape the attention of scientists and resource managers, who rely solely on measurable physical evidence. So too can Indigenous knowledge of the ecological properties and functions of water when environmental assessments are undertaken, yet this knowledge is valuable in understanding environmental change and adapting to environmental pressures.

In the early 1990s the Council of Australian Governments (COAG) introduced many changes to water management. These dramatic shifts in water policy and law brought about a redefinition of water resource values and management systems. Specifically, COAG reforms include general principles for the pricing of water services, a system of water allocations separated from land titles, allocations of water for the environment, trading of water entitlements and management guidelines for ensuring environmental quality.

For the first decade of the national water reform Indigenous interests in water were not acknowledged (see Lingiari Foundation 2002; Tan 1997; Lane 2000). Tan observed that the native title aspects of water law had been neglected:

> No mention has been made of the possible existence of Indigenous rights to water resources in various policy documents discussing the reform of the water industry. This is surprising given that Indian water rights in the United States of America have been the subject of much attention (1997: 178).

Clearly there will be implications for living resources management and water policy as governments examine to what degree native title rights may affect the right of the Crown, or governments, to manage the allocation, development and conservation of those resources (Meyers 1995). For example, Behrendt and Thompson's observation drawn from NSW has implications for water allocation in other regions:

> It is unlikely that Australian Courts will recognise Indigenous ownership of flowing water but that does not mean that native title rights and interests will not be affected by alterations to river flows and be therefore entitled to a remedy for that alteration... The process of translating Indigenous spiritual connections into legal rights and interests is in its formative stages and there remains a considerable amount of uncertainty as to what will be the complete range of rights and interests that will be recognised in those cases (2004: 78).

In 2001 the Aboriginal and Torres Strait Island Commission (ATSIC) tried to raise awareness of Indigenous interests, values and institutions relating to water use and management. A set of discussion papers was produced the following year by the Broome-based Lingiari Foundation (2002). These papers provide a valuable overview of the issues, especially from a legal perspective.

The separation of land and water titles and the creation of, and trade in, new property rights are key issues for Indigenous people (Altman and Cochrane 2003). It is possible that Indigenous people will be disadvantaged if customary property rights are lost or alienated through the introduction of new water property regimes. Altman warns that loss of Indigenous property rights has occurred before as new resources have been developed:

> All too often the alienation ... has occurred because an Indigenous voice has not been heard in newly-emerging debates about efficient and equitable allocation of property rights (Altman 2004: 29).

A further consideration in the water reform process relates to matters of procedural justice: the need for effective Indigenous participation in the newer land and water management activities, such as integrated catchment management and water resource planning (Jackson 2005). In the past few years a number of resource management mechanisms have been adapted to recognise cultural values. There is now the concept of an environmental value or beneficial use under the National Water Quality Management Strategy (see below). Others include the notion of a 'cultural flow' emerging from contributions to the Living Murray Initiative from the Murray Darling Basin's Indigenous Nations (Morgan 2003 *et al*) and New Zealand's Cultural Health Index designed to accommodate Maori measures of river health (Tipa and Teirney 2003). These

emerging initiatives need to be evaluated to ensure they are adequately addressing the needs of Indigenous people to pursue their own water use plans, to participate equitably in multi-stakeholder processes and derive benefits from changes to the water sector.

The National Water Initiative – a new opportunity?

In 2004, the Commonwealth Government, in agreement with the States, consolidated the water reform agenda and an agreement was reached – the National Water Initiative (NWI). A National Water Commission was established to oversee the reform process. This Initiative explicitly recognises Indigenous water rights and the need to address cultural requirements for water in water management. A number of provisions of the National Water Initiative relate to Indigenous access to water, particularly the requirement that water planning processes take account of the existence of native title rights to water. These issues are poorly understood in the water management arena, and Indigenous people have not had adequate opportunity to contribute to their resolution (Jackson and O'Leary 2006; Jackson 2006a). There is a pressing need to create the opportunities for Indigenous participation in water policy debates and the implementation of the National Water Initiative.

The research priorities arising from the recognition of Indigenous interests in water were discussed at a workshop of social scientists convened by Land & Water Australia in 2005. They are listed below:

- Defining and understanding Indigenous water values
- Defining and understanding rights, responsibilities and use, including
    - Ownership and custodial responsibility
    - Access to land and waterways
    - Use and enjoyment of natural resources
    - Hunting, fishing and foraging
    - Protection of cultural heritage and identity
- Defining and assessing economic and environmental versus subsistence and cultural values (Land and Water Australia 2006).

Key messages and insights from the workshop

The value of information exchange

The Darwin workshop reported here provided the opportunity for community groups, researchers, and land and water managers to hear from each other and exchange stories about water use and management. A number of Aboriginal people from the Daly region are aware of the damage done to southern river systems over the course of European occupation of this continent. For instance, when talking about the health of the Daly River, Biddy Lindsay, a Malak Malak elder, said that the Murray was 'dry'. Biddy said 'I've seen from TV from NSW, him dry' (Jackson 2004). Interest has been expressed in learning more about what has happened in NSW and elsewhere, and in particular, in talking to other Indigenous groups about how they have been affected and their responses.

There are significant differences in the institutional issues and environmental conditions facing Indigenous communities in the Murray Darling region of Australia and the northern tropics, not least the current rates of consumption of water resources. ANU student Jessica Weir highlighted one of the key contextual differences affecting environmental flow allocation decisions between northern and southern Australia:

> *It is very difficult to talk to Governments about returning water to the river. When traditional owners talk to government about cultural values down south it is different to up here in the north because in the Murray people are asking for their water back, whereas in the Daly the water is still there. The traditional owners in the Murray are very often talking what they have lost. They talk about getting water back.*

In the Murray Darling Basin, support has been provided to the Murray Lower Darling River Indigenous Nations (MLDRIN) in developing a coherent response to the challenges posed by decades of neglect of Indigenous interests and the strong competition for water resources. In that case, the notion of a 'cultural flow' has been developed to ensure a specific allocation is made to protect Indigenous priorities (Morgan, Strelein and Weir 2003). Under this proposal each Indigenous Nation may dedicate their allocation of water to the environmental flow or utilise it for economic development opportunities.

Matt Rigney, Chairman of the Murray Lower Darling River Indigenous Nations, and Jessica Weir, talked about the origins of MLDRIN, the history of the cultural flow idea, what Indigenous people hoped to gain from its implementation, and some of the problems they were experiencing in translating their notion of environmental and social well-being to a management context dominated by scientific language and philosophy, and increasingly geared towards market-based solutions. Matt and Jessica effectively and graphically portrayed a system severely damaged by the misuse of land and water.

Matt's presentation revealed how much had been lost or impaired in southern Australia, highlighting for the participants from north Australia what opportunities we have to learn from these lessons and act accordingly. Matt told of the extensive environmental impacts and the possible damage to burial grounds, for example:

> *We have burial grounds where the old people remain. If we don't look after our religious, spiritual and cultural values the water level in the Murray will be allowed to drop to such low flows that it will expose our old people's remains to the rain and sun. These burial grounds are vulnerable to damage and they need protection.*

A similar message was conveyed by John Gilmour, a director of the NT Department of Natural Resources, Environment and the Arts, who reminded the workshop of the differences between the north and south, and raised the challenge for northern resource managers and communities:

> *When I go to meetings down south they talk about how they need to give water back to the environment. All the water and land is allocated and the discussion is about how to return water to the environment. We're not in that position. In the Murray Darling it's too late – we don't want the same thing happening in the Daly. We need to know how much water can be used, how much is available?*

Participants at the workshop were able learn from each other and to access information that is not readily available to Aboriginal people living in remote areas. A small number of Daly River people have travelled to the Ord River region, many during their working life as stockmen, and have seen the Argyle Dam, for instance. They refer to this river system when discussing the likely effects of agricultural development in the Daly River region. Kim Barber, an anthropologist who has for many years worked in the East Kimberley, described the impacts of the Ord River scheme on the second day of the workshop:

> *In the 1950s there was a big change - black soil regions around Ephrem's country became the Ord River Scheme. There was a natural dam at the point where the lower dam was later built. People who had country around the Lake Argyle region were immediately impacted, especially people of the place of the cricket dreaming who were immediately displaced (when they constructed the dam). There was immediate displacement and loss of country in the area of the top dam. Formerly the river had pooled in the dry and flooded in the wet. Now the river flows all year around. This has changed the vegetation; it used to be clear with snappy gums, now there's jungle and jungle pockets. There is all this new vegetation and people don't have the detailed knowledge of this new vegetation and areas. Access to the river has also become more difficult with land being subdivided and vegetation closing in on the river.*

Fewer Aboriginal people, however, were aware that native title holders, the Miriwiung-Gajerrong people, have recently negotiated a comprehensive agreement with the Western Australian Government. At the workshop we heard from young men involved in the negotiations and learnt about the elements of the agreement and, importantly, local efforts to develop their negotiating strategy. Ephrem Kennedy, one of the Kimberley Land Council's representatives, told the workshop that, as a result of their efforts,

> *We got one of the best deals for Aboriginals in the country. We feel good about that.*

Philip Goodman, a Marranangu representative on the Daly River Aboriginal Reference Group, talked of being motivated by hearing Ephrem's story, and of his desire to continue to collaborate with other Indigenous groups with shared interests:

> *Hearing Ephrem made me want to be involved in more decision with government people, more involved in decision-making. We want to be involved in discussions with all those other associations as well, like the cattleman's association.*
>
> *We want to have another workshop like the "All Group" meetings[3] at Daly River with other mobs who have had past struggles, like Murray-Darling. We can learn from other groups.*

*The meaning of the term **cultural values***

Values are now being talked about in water policy throughout Australia. The determination of a community's preferred values and uses is an essential step in developing a water quality management program and in water allocation plans (Jackson 2006b). These values are referred to as 'environmental values' and described as 'what we want and need to protect' (Department of Heritage and Environment 2002). Environmental value categories include: agricultural, aquaculture, environment, public water supply and the most recent category, **cultural**. The National Water Quality Management Strategy Guidelines reveal a spiritual focus underlying the interpretation of 'cultural value':

> Indigenous cultural and spiritual values may relate to a range of uses and issues including spiritual relationships, sacred sites, customary use, the plants and animals associated with water, drinking water or recreational activities (ANZECC & ARMCANZ 2000: 2-7).

3 Throughout 2004-05, and prior to the formation of a Daly River Aboriginal Reference Group, large meetings of traditional owners were held in the Daly region to discuss land and water use issues and the best means to contribute to the catchment planning process underway. These meetings were refereed to as All Groups meetings were members of all the language groups could consider issues at a catchment scale.

Matt Rigney identified the need to talk further about what is meant by this term and how it translates across cultures:

> *We often talk about cultural values. What does 'cultural values' of water mean for Aboriginal people?*

There are no official water quality guidelines for cultural and spiritual values, unlike other environmental values (Jackson 2006b). The national framework is reflected in the Northern Territory's water law. Under the current NT *Water Act,* the definition of cultural value is 'water to meet aesthetic, recreational and cultural needs'. Nowhere else in the water resource regulatory or management framework is there guidance on what is meant by the cultural value concept, nor how to protect these values once they have been identified. The National Strategy recommends that managers, in full consultation and co-operation with Indigenous peoples, will need to decide how best to account for cultural values within their own management frameworks.

Peter Whitehead, a policy officer with the NT Department of Natural Resources, Environment and the Arts, was critical of the vague and circular definition of 'cultural value' in NT water legislation. Peter said:

> *I have looked at the definitions of these and related terms in the NT legislation*[4]*. Some of them are clear and measurable but some of the definitions seem to me to be rather muddled.*

Jessica Weir spoke about the limitation of key water management concepts, such as an environmental flow, from the perspective of Indigenous people in the Murray Darling region:

> *If you are a Mutti Mutti elder you can't rely on the environmental flow to look after your country - your values aren't behind those decisions... An environmental flow doesn't know whose country it is, what language group. A cultural flow is about the relationship between the traditional owners and their country. The environmental flow doesn't know those relationships.*

These matters of language, environmental philosophy, and classification within resource management were discussed throughout the workshop, revealing how important cultural and political processes are in influencing the way the world is conceived and acted upon. It reminds us of the need to reflect on how European or Western cultural ideas about nature, hunter-gatherer societies and economic development affect

4 In the NT Water Act the public can contribute to a decision that a water body will be managed for certain types of beneficial uses or environmental values.

Indigenous people's ability to express their needs and aspirations. Peter Whitehead and Jessica Weir addressed these issues directly in their presentations on cultural values. For example, Peter Whitehead asked:

> *How do groups like your Daly River Aboriginal Reference Group get your way of expressing your values or your language of valuation across, accepted and included in government policy?*

Marcia Langton and Peter Whitehead offered alternative ways of talking about cultural values. These alternatives could possibly frame the debate about Indigenous interests in water to better reflect their aspirations. According to Peter Whitehead:

> *In my view, 'cultural' literally means anything that people believe or do to cope with their world and each other and is transmitted from generation to generation through learning... It is necessary to present a view of what is important for your well being rather than try and determine or segregate your values and views into cultural or economic or environmental categories. Most bureaucrats like to put things in boxes. Your view could build on your existing concerns about water or it could be made more comprehensive. You could present a more complete view using whatever images and issues give the strongest and clearest picture. This broader and stronger statement becomes the core from which particular concerns, like water, are drawn.*

Marcia Langton suggested abandoning the adjective 'cultural' and referring instead to **Indigenous values**, a term which can embrace issues that many resource managers tend to exclude from the category of value called 'cultural':

> *When people talk like that about water they are implying their resource management rules and practices. If you are on the coast you can't take fresh water fish on the coast and gut them. A big cyclone will come if you break those rules. People share between salt and fresh water groups.*
>
> *Thinking about cultural values and the way this term is used it, may be better to call them Aboriginal values and not cultural values.*

Indigenous values are diverse and holisitic – economic values count too

The importance of water to Aboriginal people's identity as well as their economic well-being was often referred to during the workshop. For example, Philip Goodman said:

> *Our culture is really important to us. Our culture sits in the river system... We believe the river provides for us properly, and for birds and animals. If something did happen, it's our life: it provides bush tucker for us traditional owners.*

It is very common to hear of Indigenous people's environmental philosophy described as holistic. For example, the term 'country' encompasses land, water, sky, stars, ancestral pathways, minerals, people and social relations (Rose 1996). Yet in many resource management contexts, cultural values are very narrowly defined and many assumptions about Indigenous societies affect how the term is interpreted by resource managers and stakeholders. In the initial Daly River catchment planning process conducted in 2004, attention was given to sacred sites and cultural heritage when the range of values were being assessed, but no action was taken to incorporate Indigenous people's interests in, and potential contributions to, environmental research and economic activity (Jackson 2006b). The NT Government intends to now address Aboriginal people's desire to explore economic opportunities from water use and agricultural development in the Daly, according to Peter Whitehead of NTRETA.

Marcia Langton asked workshop participants to consider how defining key words like 'cultural values' can limit the terms of the debate:

> *The discussion needs to be wider than cultural values because of the way that economic values and cultural values are separated. In the non-indigenous world, economics and culture are treated differently, or separately. Should we be putting economies on the table within the 'cultural' values scope? What about cattle grazing, economic development, infrastructure for living? The rush to development doesn't seem to be taking into account that Aboriginal people want a* ***balance*** *– isn't that in itself an Aboriginal value?*
>
> *Cultural values doesn't mean that there's necessarily any conflict with economic values. They can be compatible like Margie's example shows. The technocratic thinkers don't see that. We have to find ways of point that out. Some scientists can't see that contemporary Aboriginal culture has an economic component. An Aboriginal value is that people live on their land and continue to do so with their children. The history of the Daly River people has been entangled with economic development.*

Margie Daiyi of the Northern Land Council's Executive explained that in her country of the Finniss River region, her family had to re-establish an economic foundation through pastoralism before being able to tackle the weed infestations devastating the wetlands. Margie sees no inherent conflict between the economic and cultural values held by her and her family:

> *When you talk about culture and economics. We had nothing. We had a big problem with mimosa. My uncles are from pastoral backgrounds. Their big dream was to own their own station. They needed to control mimosa. We've achieved land management and economic use. After we got our land back, we had a plan to run a*

station, but we needed money to build up the enterprise, to manage the land and to get rid of the mimosa. Now we have the land and our culture and stories.

Sacred sites were revealed after the mimosa was removed. You couldn't see these places and now you can get there. I take my son there and we can name these places again: before they were invisible. People can achieve it if they've got the commitment and dedication.

Similarly, economic opportunities were an important feature of the Miriwuing Gajerrong agreement with the State of Western Australia described by Kim Barber of the Northern Land Council and Ephrem Kennedy representing the Kimberley Land Council. In order to facilitate expansion of the Ord Irrigation Area (Stage 2), the State signed an agreement with the native title holders. Ephrem told the workshop about the content of the agreement:

We got farming land (freehold title) back. We asked to be on all the Committees. All Government agencies have got to have Aboriginal workers. There's opportunities for education. And money for investment. We are setting up investment trusts and a prescribed body corporate to hold native title. The Government will fund that.

The necessary conditions for effective Indigenous participation and co-management of water resources

As mentioned above, there are currently no national guidelines or prescription for reaching agreement with Indigenous people over water resource use and management. Notwithstanding national legal requirements under the *Native Title Act,* regional differences in history, land use, legislation, social organisation and capacity are likely to require that co-management and benefit-sharing arrangements are negotiated on a case-by-case basis. This can be expected to take some time as organisations and communities come together and map out a course for information exchange, relationship building and articulation of management goals and implementation strategies.

Environmental management systems are not sympathetic to Indigenous world views, according to many of the people present at the workshop. Kim Barber described how Aboriginal people in the East Kimberley have found these systems difficult to engage with and to influence. In his view, the negotiated agreement process provides a better framework for Aboriginal participation with clear pathways for Aboriginal people to contribute to decision-making:

There are many committees, about twenty, and some allowed traditional owner representation. Many have no power or control over the river or influence over

Government policy. In a way, the process doesn't help traditional owners. There isn't a single agency that they can talk to and each agency has their own ideas that they don't share across all agencies or with others. It's very confusing. The traditional owners get twenty different stories from different agencies and groups.

If you are a traditional owner, how do you manage the river, how do you make decisions? People were asked to make decisions about only small parts of the problem like where to place a gauging station. Many, many little decisions were asked of them all the time. They feel like they are giving away a lot - bit by bit giving away their land. What will be left for them in fifty years and how do they make plans for the long term, for the next generations?

A good outcome is that they have negotiated a structure with rules for land and water use and management. Pat Dodson helped the traditional owners to make a plan; they made rules. Have to have rules so you have an idea about what will happen in the future.

Taking account of Indigenous modes of decision-making and forms of political representation takes time and requires expertise within the non-Indigenous sectors or parties to a process. The workshop learnt of the efforts of the many Indigenous Nations in the Murray Darling Basin to form their own representative structure (MLDRIN) through which they would engage and negotiate with the Murray Darling Basin Commission and Ministerial Council. The mechanism or framework to guide future relationships between indigenous and non-Indigenous resource managers and governments is the recently signed Memorandum of Understanding. Matt Rigney said:

On the 23rd March 2006, a Memorandum of Understanding (MOU) was signed with the Murray-Darling Basin Commission. It is a small platform for us to open the door a little wider.

Jessica Weir has described the role of MLDRIN in her PhD thesis:

If natural resource managers are interested in the longer-term sustainability of their agreements with traditional owners, then those agreements need to be accountable to the governance structures and processes that the traditional owners respect. Yet piecemeal representation of Indigenous peoples on NRM boards is played out again and again in the creation of new NRM structures, as was the case, for example, with the local water management committees in New South Wales, which had two positions allocated for Indigenous representation.

Initiatives such as MLDRIN seek to avoid the problems of this limited form of engagement by providing an organised and effective representation which can

operate at a broader scale, and is still responsible to the governance structures of the Nation groups (Weir 2006: 3).

A number of workshop participants from the Daly River region were especially interested in how much time these inclusive processes take to develop and how they can be adequately resourced.

The need for a slow and inclusive process was highlighted by Eddie Shields of the Daly River Aboriginal Reference Group who reminded the workshop participants that over two years ago he and many other traditional owners had walked out of a catchment planning process being run in the Daly that was then considered too hasty. At that time, the Northern Land Council, on behalf of traditional owners, was recommending that a five year planning framework be adopted in order to allow people more time to talk about their concerns about the river and plan for their own land and water use.

Marcia Langton referred to the political imperative of 'catch-up' as Aboriginal groups document and articulate their concerns amongst groups competing for water resources. Government support for Indigenous groups during this time of catch-up and development of co-management models is vital. After the first stage of planning in the Daly River region, the NT environment department acknowledged they needed to know more about Aboriginal values and interests in water, according to John Gilmour.

Indigenous organisational development, frameworks that structure the terms of engagement with governments and other stakeholders, and policies that reflect Indigenous aspirations are all necessary conditions for co-management of water resources, as Marcia Langton told the workshop:

> *Self-determination means Aboriginal involvement in decision-making. We've heard that environmental flows don't distribute water to Aboriginal nations fairly or accurately and equally. There is a need for Aboriginal policies and frameworks.*

In the Northern Territory, the newly formed Daly River Aboriginal Reference Group is being funded to prepare positions, to meet and develop strategies and ensure their input to catchment processes has the support of other traditional owners. Like MLDRIN, the ARG will receive funds from the State/Territory environment agency. Philip Goodman of the ARG, referred to the outcome from this locally-driven process as a 'package':

> *We're trying to make a package for us so we don't get hurt in the future. I'm dressed like a European man here, I go home, take my shirt off and I'm a Traditional Owner. Two lives, English is my second language. We don't want to be hurried up by that whitefella. We want to make that package right for our children.*

Conclusion

Northern Australia has the world's most significant concentration of river catchments of high ecological integrity. Nearly all the rivers in the region maintain connections between their groundwater aquifers, floodplains, estuaries and the coastal zone. The connections Indigenous people have with these riverscapes and water bodies are also of global significance given their longevity, continuity and diversity. They are of course also of vital significance to many aspects of Indigenous people's way of life: their art and other material culture, economic well-being, identity, environmental philosophy and heritage. Many Indigenous people in the tropical rivers region continue to live on their land and to engage in customary activities that rely on interactions with riparian environments and extensive use of aquatic resources (see Jackson and O'Leary 2006; Langton 1998; 2002; 2006).

Indigenous landholders continue to manage many of the region's river catchments using Indigenous knowledge systems and wish to pass this knowledge, capability and responsibility on to their children. A number of customary practices contribute to the achievement of natural and cultural resource management goals, not least the obligations to care for country. Some may be unrecognised by the formal resource management sector. These practices include:

- living on country at outstations and moving throughout the country to exploit resources
- hunting and gathering
- conducting ritual and ceremony
- fire management, and
- obtaining and distributing resources according to local rules.

As environmental pressures have increased, the range of resource management activities being tackled by Indigenous groups has grown to include weed and feral animal control, water quality monitoring and collaboration in ecological research.

This workshop represented the first step in a dialogue that Indigenous groups in northern Australia need to have with each other, and with other sectors of Australian society, in order to overcome the neglect of their interests from the national water reform agenda. For the first time in the context of national changes to the use, regulation and management of water, a number of Indigenous people came together to discuss common issues and progress regional priorities. A firm recommendation arising from the workshop was for more such meetings and discussions, preferably in the bush,

where groups can learn about each other's experiences, particularly groups who have struggled with colonial resource governance arrangements and exclusive knowledge systems. Workshop discussions generated ideas that may be further considered by the Daly River Aboriginal Reference group in coming months. There was strong interest from all present at the workshop to continue to collaborate, learn and forge partnerships across cultures, catchment boundaries and political jurisdictions; to enable northern communities to benefit from southern experiences in water resource management; and, for our northern rivers and water places to continue to 'provide for us properly', in the words of one workshop participant, Phillip Goodman.

Further work is being undertaken by a number of north Australia institutions to progress the general aims of the workshop. The Northern Land Council plans to continue to assist Daly River groups to articulate their water use plans and to participate in the newly formed Daly River Management Advisory Committee. A north Australian Indigenous Water Policy Group has been recently established by the North Australian Indigenous Land and Sea Management Alliance (NAILSMA) to improve Indigenous groups' capacity to influence national water policy and its application to the catchments of the north. Research organisations such as the newly developed Tropical Rivers and Coastal Knowledge Consortium (TRACK), which includes CSIRO, Charles Darwin University, NAILSMA, and the University of Western Australia among others, also plans to focus attention on the needs of Indigenous people in collaborative research endeavours to create sustainable enterprises and interactions with tropical rivers.

Day 1: Wednesday 5th April

The role of the Murray Lower Darling Rivers Indigenous Nations (MLDRIN) in protecting cultural values in the Murray Darling Rivers

Matt Rigney, Chairperson, Murray Lower Darling Rivers Indigenous Nations (MLDRIN)

The Murray Darling Basin crosses many state borders. MLDRIN was formed in 1999 after the Yorta Yorta Native Title claim for part of the region was unsuccessful. The Yorta Yorta decided to meet with all the Aboriginal Nations from along the Murray River. We now have ten Nations of Aboriginal people in the Confederacy that we call MLDRIN[5]. In the future, Aboriginal Nations in the upper catchment may form their own group in the north and work together with MLDRIN. On the 23rd March 2006, a Memorandum of Understanding (MOU) was signed with the Murray-Darling Basin Commission. It is a small platform for us to open the door a little wider.

Figure 3 *Map of the Murray Darling Basin, Source: Murray Darling Association.*

5 These are the Wiradjuri, Yorta Yorta, Taungurung, Wamba Wamba, Barapa Barapa, Mutti Mutti, Wadi Wadi, Latji Latji, Weragaia, and Ngarrindjeri (Weir 2006).

We often talk about cultural values. What does 'cultural values' of water mean for Aboriginal people? Maybe the paradigm needs to be changed a little, so that religious and spiritual aspects are included within cultural values. We have to talk more about our spiritual and religious values. We as Aboriginal people don't have policies on land and water - we are following those of the governments. So we said 'we are going to develop our own charter, policies and programs and see where the government can then fit in with us'.

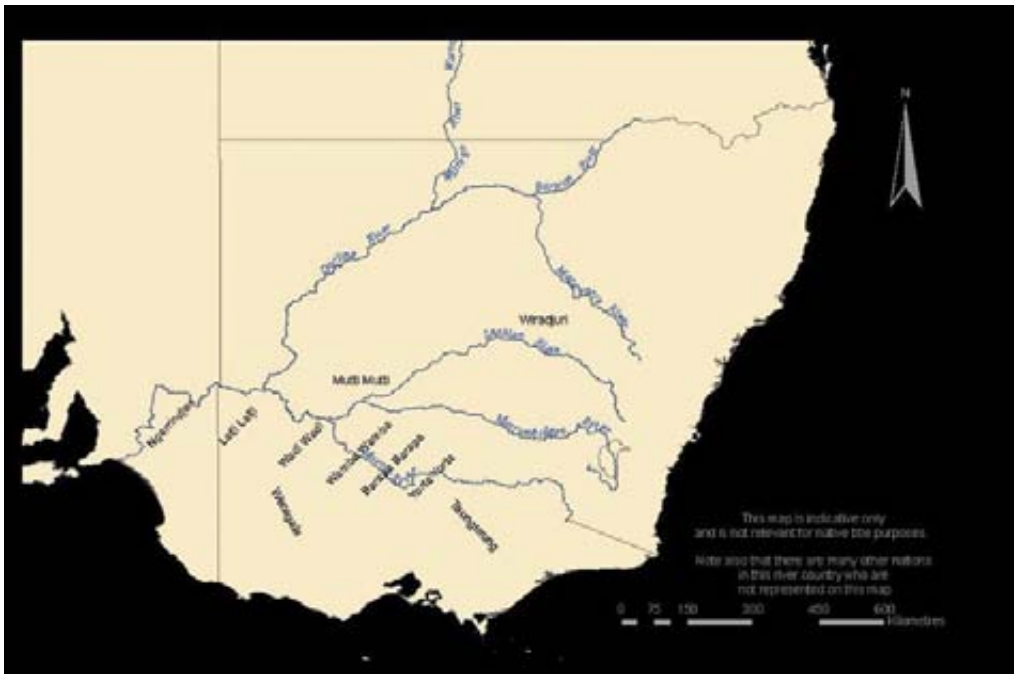

Figure 5 *Indigenous Nations (shown in black type) that form MLDRIN.*
Source: J. Weir forthcoming[6]. Copyright J. Weir.

The MOU gives us a small opportunity to look at six ecological assets identified by the Living Murray program[7]. There are the six significant areas identified by the Murray Darling Basin Commission including the Barmah forest. This forest is dying because of

6 J. Weir, Forthcoming, Cultural Flows, PhD Thesis, Australian National University.

7 The Living Murray is a Murray-Darling Basin Ministerial Council initiative established in 2002 to return more water to the Murray River (see www.thelivingmurray.mdbc.gov.au/homeww.mdbc.gov.au).

In August 2003, the southern jurisdictions committed $500 million over five years to support the main focus of The Living Murray which was to achieve environmental benefits at the following six Significant Ecological Assets (SEAs) along the Murray:

1. Barmah-Millewa Forest;
2. Gunbower and Koondrook-Perricoota Forests;
3. Hattah Lakes;
4. Chowilla Floodplain (including Lindsay-Wallpolla);
5. The Murray Mouth, Coorong and Lower Lakes; and
6. The River Murray channel.

damage to major wetlands. We don't want to call them 'wetlands'; that's a white fella word. We want to call them 'nurseries'. We need to change the thinking.

We have burial grounds where the old people remain. If we don't look after our religious, spiritual and cultural values the water level in the Murray will be allowed to drop to such low flows that it will expose our old people's remains to the rain and sun. These burial grounds are vulnerable to damage and they need protection.

Figure 5 *Map showing the location of the six significant ecological assets for the Living Murray. Source: MDBMC 2003.*

In 1981 the Murray River mouth closed up for the first time. No water flowed out to the sea. There was no estuary; mixing of salt water and fresh water, no water coming down.

A flagship project with CSIRO[8] is researching Indigenous values of water with the Ngarrindjeri down at the Coorong. There are intellectual property rights over reports, as we are providing the information on these sacred sites and other areas and we have the intellectual property over that information. We say 'you can't use this information unless traditional owners give their permission'.

There is also the National Water Initiative that will impact on people all across Australia. MLDRIN thinks it is a God-given right to have air and water; it's a basic part of human rights. Water rights are now a tradeable commodity; so water is now a major money-spinner for landowners. The government has turned water into a money-spinner. It's become so expensive that Aboriginal people are missing out on the opportunities from water. Aboriginal people are missing out on generating income and health.

8 The flagship is called Water for a Health Country

That's why we are looking to MOUs and legally binding agreements with catchment management committees. MOUs are a first step with a view to an agreement which is formal and binding with water catchment authorities. We hope to get resources out of these agreements and arrangements to manage our country.

Figure 6 *Jessica Weir and Matt Rigney addressing the workshop. Image: CSIRO.*

They don't know anything about managing the country. Salt water levels are rising in the lakes. The Coorong, which is at the mouth of the Murray, has salt levels four times higher than the sea and blue-green algae is common.

We need resources for:

- Revegetation programs around the lakes including re-growing native trees and grasses – these lakes feed us and sustain our lives, and
- Greater recognition of the scientific skills of our own Aboriginal people in managing water. These skills should be recognised by scientific bodies.

The management of water is not taken care of well in the Murray. They have dammed up our rivers in the system with locks and weirs. These become polluted. There are

- stagnant waters
- weirs and irrigation locks
- crop dumping of oranges; a lot of water has gone into their growth, then they are dumped if prices are low.

Under The Living Murray document, in August 2003, the state governments committed $500 million to buy back 500 gigalitres[9] of water. To date, they haven't bought back one litre but there's a lot of water trading going on.

It is outrageous what has happened to our waterways in this country.

Nine species of fish have been lost in the last 10 years and two-thirds of the Coorong, which is an internationally known Ramsar site[10], are irreparably damaged. Six million dollars is spent on dredging the Murray River mouth every year.

The birdlife is suffering too. For example, pelicans are moving to Lake Eyre to breed because the Coorong is too salty.

Figure 7 *Pelicans in the Coorong, South Australia. Image: Jessica Weir.*

We have some small Aboriginal licences to water and some Aboriginal people are considering whether they should lease out water licenses to farmers.

What we need is capacity building. There is a need for capacity building and management skills amongst our people.

We also want to work with all out brothers and sisters across the country. You have so much to give. We have to maintain rock-solid that our value of water is totally different to that of the white fellows. Water for us is for religion, and spiritual and cultural values.

9 A gigalitre is one thousand million litres.

10 Ramsar is the name of an international treaty signed to protect wetlands.

Questions and Discussion

John Gilmour (NT Department of Natural Resource, Environment and the Arts): How do you interact with the Murray-Darling Basin Commission?

Matt Rigney (MLDRIN): The Murray-Darling Basin Commission has a Chief Executive Officer. Underneath that person is a Community Advisory Council, then there is a Community Reference Group. MLDRIN is on the Community Reference Group and has been nominated to be on the Community Advisory Council.

MLDRIN is made up of elected members from each nation. There are two from each nation, making 20 representatives in total.

John Gilmour: Is there funding to enable MLDRIN to do its job?

Matt Rigney: Originally, no. Then, the NSW Department of Infrastructure and Natural Resources[11] provided some resources to establish a coordinator and for travel costs. Now, the Murray-Darling Basin Commission has funded a coordinator and travel costs for three years.

Marc Wohling (Northern Land Council): How many years has this whole process taken? It sounds frustrating.

Matt Rigney: We have only a handful of people to do all the work; it is difficult to do everything. We have a think-tank helping out, with people from Flinders University in South Australia and the Australian National University in Canberra. We are now incorporated so we can approach philanthropic trusts for funding and other support.

MLDRIN's planning is far ahead of the Murray-Darling Basin Commission's. They took two and a half years to debate the word 'Nation' – they didn't want it in our name. We told them to go and jump. It held up negotiations.

If we can help you out, there is no doubt in our minds that you can help us out. We want to form alliances right across Australia. We are the science people, we know where the bush tucker is, where the medicine is, and when to hunt. We know the cycle of most of the things that happen in our country; fish breeding times, crustaceans, where the swan eggs are.

If there's not enough water coming down the river the swans don't lay their eggs. They need the water in the season when they lay.

What the government has been doing is all about money. It's not about maintaining the people.

11 Now the Department of Natural Resources.

Cultural flows in the Murray-Darling Basin

Jessica Weir[12], Centre for Resource and Environmental Studies, ANU

I am a PhD student and have been attending MLDRIN meetings for three years.

It is very difficult to talk to Governments about returning water to the river. When traditional owners talk to government about cultural values down south it is different to up here in the north because in the Murray people are asking for their water back, whereas in the Daly the water is still there. The traditional owners in the Murray are very often talking about what they have lost. They talk about getting water back.

Annual diversions from the Murray are over 10 000 gigalitres from a total storage capacity of around 35 000 gigalitres. Only 27% of the Murray's river flow gets to the mouth nowadays. There are now two cranes working 24 hours a day to remove sand from the mouth of the Murray and prevent it from closing up.

Figure 8 *Barkinji Country, New South Wales. Image: Jessica Weir.*

This photo is from Barkinji country about one kilometre from the Murray River. The floodplain no longer floods and nothing lives there any more. There is not enough water coming down the river to flood the plains.

12 Jessica is currently completing her PhD at the Centre for Resource and Environmental Studies at the Australian National University. For the past three years she has been working with MLDRIN under a research agreement. Jessica has also worked for the Native Title Research Unit at the Australian Institute of Aboriginal and Torres Strait Islander Studies.

The changes that have occurred have been seen and felt in the past fifty years. Dams were built in the 1930s. Matt Rigney can no longer drink the water that he drank as a child. Water quality has dropped with high sediment loads making the water cloudy, you are not able to see into the water. You can't spear fish. There are now only 10% of native fish left and it is very difficult to see them because the water is so muddy. This river system used to be like your Daly – there were yabbies, turtles and fish.

Monica Morgan[13] has told me how her elders taught her that when the duck weed comes down the river it's time to go up to the lakes to collect the swan eggs. Now the duck weed doesn't come down. Water comes in the summer now not the winter because farmers need the water in the summer. The water use for irrigation is a reverse of how the water used to flow. This has all happened in a short time. People now can't pass on their experiences and their knowledge to their children.

Jessica showed a series of pictures which showed the effects of water extraction on the Murray-Darling system.

Figure 9 *Lake Mulwala. Image: Jessica Weir.*

This photo shows how the now permanently flooded area kills the river red gums.

13 Monica Morgan is a Yorta Yorta woman who helped establish MLDRIN.

Figure 10 *Darling River Anabranch in far west New South Wales. Image: Jessica Weir.*

This photo of the Darling River shows how sediment loads in the rivers have muddied the river water.

It is current government policy to return water to the rivers. This is to be done by setting environmental flows. To get the government to listen MLDRIN speaks about a *cultural flow*. Environmental flow is about plants, animals, water quality – the health of the river. The environmental flow is what the Government is trying to buy back from the farmers. Compared to the amount of water used for irrigation, it is only a small amount.

Why would you need to argue for a cultural flow? Why would you need a separate flow of water when the government is already working to return water as environmental flows? Why is the cultural flow important? The differences between environmental flows and cultural flows are shown in the following table.

Environmental Flows	*Cultural Flows*
- Environmental health – e.g. reducing salt loads in rivers - Caring for animals and plants - Smaller than the river's flow	- Dreaming - Language groups - Economies - Animals and Plants - River Health - Personal Health - Teaching children - Respecting ancestors, and more

There are 2 key elements of cultural flows and these relate to:

- Identity, and
- Self-determination

MLDRIN has experienced the discussion and implementation of environmental flows down south. They have found that there are problems with the adequacy of these flows, as well as the assumption that they will protect Indigenous interests.

Environmental flows are about looking after river health, however in reality there have been problems with the environmental flows, such as:

- Water is released from dams into rivers but the water is too cold or polluted for species that live and breed in the river. This causes fish kills and yabbies to crawl up tree trunks out of the water because they can't live in the river anymore.
- The environmental flow is trying to replicate the natural flow but there is a lot of competition for water from all the industry groups. There is not enough water to sustain flood levels for birds breeding in rivers, for example.

If the scientists and the governments were able to get more water for environmental flows, and to improve how the water is released back to the river water, there would still be shortcomings with the environmental flows in relation to how the traditional owners wish to look after the country. For instance:

- Environmental flows don't distribute water to countries sensibly or fairly. One country may get water but another doesn't. An environmental flow doesn't know whose country it is, what language group. A cultural flow is about the relationship between the traditional owners and their country. The environmental flow doesn't know those relationships.

For example, the six ecological assets that Matt showed on the map in his talk were chosen on ecological grounds. The scientists who chose them were not responsive to other language groups. If your group doesn't have an ecological asset in your country then you miss out on those restoration and rehabilitation programs.

Figure 11 *Jess presenting to the workshop. Image: CSIRO.*

Matt Rigney: Those areas that aren't part of the top six aren't seen as important, it's only those sites of scientific importance that matter to the government.

Jess Weir: If you are a Mutti Mutti elder you can't rely on the environmental flow to look after your country - your values aren't behind those decisions.

Now I want to talk about the problem with the word 'culture'. The government has a different meaning for the word culture than the traditional owners. For 400 years in many western countries we have developed intellectual traditions that separate 'nature' and 'culture' or 'nature' and 'humans'. With this understanding, the Government will think that environmental flows and cultural flows are separate, whereas traditional owners are thinking about a holistic world where country, life and water are connected. The problem is that the Government is likely to place their understanding of culture in a smaller box – it is dance and language, etc, not about the environment.

MLDRIN members have spoken to me about how at first they didn't realise these differences in their negotiations with government about 'natural resource management'. They thought 'natural resource management' meant 'caring for country'. Now, they talk about how the language used by government controls and regulates what they are trying to say. There are different intellectual traditions behind the same words, being spoken at the same negotiation tables about water management. This table shows a very brief summary:

Scientist/technicians	*Traditional owners*
- Divide environmental flows into 'scientific', 'measurable' and 'rigorous' often separate from cultural flows and dismiss cultural flows as insignificant	- Culture and nature are interconnected and not separated. Traditional owners will speak about these relationships, rather than amounts of water.

An understanding of the different assumptions made by the different intellectual traditions is needed at the water management negotiation table. The government needs to learn from the traditional owners about cultural flows, but they also need to learn about their own western knowledge traditions. The MLDRIN members argue that the current bad health of the Murray River is a failure of the western knowledge tradition which has separated 'nature' and 'culture' or 'nature' and 'humans'.

For the traditional owners, their arguments about the cultural flow require – as Matt Rigney has said – a paradigm shift in how the Murray River is understood. Otherwise the cultural flow will just become part of the western knowledge tradition, and will lose its meaning. Important to this, is the opportunity for the traditional owners to have more self-determination at the negotiation table. With more self-determination to care for country, the traditional owners do not have to always be interpreting their different knowledge traditions for government. Self-determination is important as it is part of their identity as traditional owners. As traditional owners, they have responsibilities to care for country.

Matt Rigney: It's all Western world values. They talk about ethnocentrism, but they don't take our world view as the basis. We need to develop structures and processes to get people to see culture as a living thing; we are not at the bottom rung of the social ladder, like social Darwinism thought.

You're doing this (all the management activities) yourself, your role, your authority under your law. If Government says they will do that, you'll transfer that role to the Government.

When MLDRIN argues for a cultural flow they want to take on the role of managing the country and relationships to country. It is about time Aboriginal people started developing our own policies and our own frameworks.

Questions and Discussion

Eddie Shields (Daly River Aboriginal Reference Group): Have you got any sacred sites on the river?

Matt Rigney: Heaps

Marcia Langton (Melbourne University): Tell people about Lake Victoria where there are masses of graves. A lot of water is going be taken out and its will expose those bodies to thieves. It's not a protected site.

Matt Rigney: There are hundreds and hundreds of sites. When they dammed Lake Victoria, the river rose and it went over the graves and burials. It was all under water. Farmers wanted to use the flooded land for cattle and they asked us to compensate them for trying to stop them from using so much. They don't see water as a life giving commodity – they see the money side. When we are talking about economies we are talking about where we get our food, where we get our songs, our dances ... cultural flows are about the economy of our cultures.

Marcia Langton: There is a need for a few devices that can reveal Indigenous hydrological knowledge. For example, you could develop an Aboriginal seasonal calendar that matches their knowledge of seasonal changes and events with the flow regime and other user's demand for water.

Figure 13a *Morning Tea Break. Image: CSIRO.*

Figure 13b *Morning Tea Break. Image: CSIRO.*

Figure 13c *Morning Tea Break. Image: CSIRO.*

Comments from John Gilmour

Senior Director, Natural Systems, NT Department of Natural Resources, Environment and the Arts (NRETA[14])

The NT's environment department looks after culture and the natural environment[15]. It is the only Australian government department to my knowledge that embraces both aspects. The CEO is David Ritchie, who some of you will know from his days at the Aboriginal Areas Protection Authority, and the Minister is Marion Scrymgour.

Our job is to assess and manage the natural resources in the NT including groundwater, surface water, land and soils and vegetation. When we discuss water, we can't forget about the land. It's not water in isolation and land is part of the water story too. Culture means different things to different people. One of my jobs is to hear Aboriginal people's views about water.

We measure water as well. You may have seen recorders on the river. We record the levels so that we can also forecast flood levels. The Daly is on watch at the moment and the road is cut.

In 2004 the Prime Minister signed the National Water Initiative[16] with the States and the NT. That provides $2 billion to in part buy-back water resources in Australia. Water resource management is one of the top 5 highest priorities for the national government.

As a result of this Initiative, the Federal Government will be funding studies of the northern rivers including the Roper River and the MacArthur River in the Gulf of Carpentaria. This funding will allow for studies of the groundwater as well as the rivers and the surface waters. There is also funding for the Daly.

The amount of water that flows down the Daly in one day (at this time of year) could supply all of Sydney's water requirements for a year. Alan Jones, the radio announcer from Sydney, said that all the Northern Territory's water was going to waste. We know it's not and we won't be sending water across the border.

When I go to meetings down south they talk about how they need to give water back to the environment. All the water and land is allocated and the discussion is about how to return water to the environment. We're not in that position. In the Murray Darling

14 John Gilmour was invited by Marcia Langton to make a few comments on behalf of his Department.

15 See www.nt.gov.au/nreta

16 See the National Water Commission's website for information on national water policy and water reforms www.nwc.gov.au

it's too late – we don't want the same thing happening in the Daly. We need to know how much water can be used, how much is available. That is the responsibility of the Department of Natural Resources, Environment and the Arts.

Groundwater and river flows in the Daly River are related and their relationship is to be studied over the next few years.

The Department has done water studies with Yolngu people in north-east Arnhem land learning about water, combining the scientist's knowledge and Yolngu knowledge. This was done with Ursula Zaar and others who have produced maps with language names and reports. Similar work was done for the Tiwi Islands.

The NT is at the planning stage – we are looking at future land and water allocation. The Daly River Community Reference Group found out that there is not enough information to plan. The NT government wants to plan water use carefully so that there is enough water for the environment and the economic uses of all our people.

Some years ago there was a view within the Department that the environmental flow would cover the cultural flow; some advisors were saying that the environmental flow would serve as a surrogate for cultural flows. That 'surrogate view' has been dispelled within Government. We found out that we didn't have enough information about the scientific and cultural side.

When the Daly land and water planning started many people were talking about changes to the river. I was surprised to learn from Aboriginal people in the Daly that the noise of the river was important for them. It makes a different sound when it is flowing at different levels. If you take water out of the river you change the noise it makes. That was really interesting to me. I hadn't heard about it or thought about it before.

Figure 13 *Margie Daiyi, Nancy Daiyi and Linda Ford. Image: CSIRO.*

Questions and Discussions

John Dymock: My question is about cane toads and why the government has been slow in talking to Aboriginal people about their arrival.

John Gilmour: The NT can't contain cane toads across the environment. Money is being spent at a national scale for biological control. Cane toads are just one threat out of many arising from feral animal and weed species. And you can see that the threats facing the NT are being addressed by the NT's Regional Plan under the National Heritage Trust. Control of cane toads is a long-term project that the CSIRO is working on. Maybe in 10-20 years we will be able to control them.

Marcia Langton: We have to work on the fact that it is now catch-up time in the Daly River; time to write up reports and to document baseline Indigenous knowledge. There is funding for the scientific studies but it's not clear how the information on the Indigenous interests is going to be collected or funded. We have to figure out a way to catch-up.

John Gilmour: The NT Government has supported the establishment of the Daly River Aboriginal Reference Group. They are being funded to develop their position on various environmental and economic issues in the region.

Cultural values and economic development: finding the balance

Margie Daiyi[17]*, Executive Member, Northern Land Council*

I would like to begin by acknowledging the Larrakia traditional owners of this region for allowing me to speak on their country. John Daly, the Chairman of the NLC, gives his apologies. He was unable to attend this workshop. I am a Marranungu woman whose country is in the Finnis River area.

Figure 14 *Margie Daiyi. Image: CSIRO.*

Agricultural development in the Northern Territory has a long and varied history. From central Australia and across the north of Australia, agriculture has been the life-blood for many. The Daly River region has been a source of many farming practices since 1879. These have varied from the growing of tobacco, rice, sugar cane and sorghum to mixed farms and the irrigated horticulture of the upper Daly and Katherine farms.

However, the history of agriculture in the Daly has been largely one of disappointment.

From the period spanning the first modest farm in 1879 to the NT Government's Community Reference Group report in 2003[18] there have been no less than 13 reports/blueprints/plans and working parties that have made recommendations on the requirements for successful agricultural development in the region.

17 Margie is the NLC Executive member for the Darwin Daly Wagait region. A Mak Mak Marrananggu woman from the Finnis River region, Margie has lived in the area all her life. Margi's family group, the Mak Mak Marrannungu people own and manage Twin Hill cattle station, a small economic business enterprise, which runs and exports up to 11,000 head during the dry season.

18 See www.nt.gov.au/nreta/naturalresources/plans/dalyregion/techreports.html

These can be summarised as follows:

- Railway
- Road networks
- Port facilities
- Identification of a site for a new urban centre
- Improved business and marketing
- 1 : 50 000 mapping
- Better knowledge of soils, climate and hydrology

These conditions have now largely been met.

Today, the region is largely utilised for pastoral activities, with the majority of agricultural pursuits being confined to NT government experimental farms and some freehold blocks.

There is little dispute that Aboriginal involvement in the development of the NT pastoral industry has been pivotal in that industry's growth. But, when talking about Aboriginal involvement in various other agricultural pursuits, our involvement has been minimal. With a number of large projects being proposed – I feel the time is right for change.

Possessing almost 50 percent of the Northern Territory's land mass means that Aboriginal people should be involved in matters of development in the NT. Aboriginal people have often called for inclusion in various capacities. That desire exists still today.

Which brings me to the situation as it exists in relation to the Daly River region, a region that is significant not only for Aboriginal people, but many others as well.

How do Aboriginal people find the balance between economic development and maintaining their cultural practice in the contemporary context?

Before I discuss this question in more detail I'd like to give a brief background to Aboriginal culture and society in the Daly region.

Currently, there are 11 language groups in the catchment; eight of these are in the focus area as outlined in the Community Reference Group report. (see map on following page)

Figure 15 *Language Groups, Daly River Development Proposal. Source: Northern Land Council.*

The impact upon these societies has been significant and long lasting:

- Changing people's perception of themselves
- Introduction of new ideas
- Material goods and labour patterns
- The reduction of land over which Aboriginal people had control
- Depopulation of some areas as a result of massacres (Woolwonga and Malak Malak)
- Reduction and displacement of population
- Displacement of one Aboriginal group by another
- Succession of one Aboriginal group by another because of depopulation
- Changes in settlement patterns and organisation
- Instability

So how have Aboriginal people fared in the face of such ongoing trauma?

In the past Aboriginal societies had their own vibrant economy. Land holding groups were linked through institutions that facilitated trade and exchange systems. These were both secular and sacred. The river was the focal point for all groups. Ongoing trade and exchange ensured that all groups had access to the river and its resources. Such complex social organisation was necessary so all groups could survive the sometimes harsh dry seasons no matter how far from the river.

Cultural practice has adapted to changing conditions but the Daly River landscape was and still is a living cultural landscape.

How do we define 'cultural landscape'? How do I as a traditional owner make you the non-indigenous, understand what this means?

Well, I think it's reasonably straightforward: it's like the suburbs, like Casuarina, Nakara and Malak in Darwin. All of these different places, similar but slightly different and interconnected by paths and roadways. Except, in the Aboriginal context these pathways are invisible unless you are from that society.

I am aware that in recent years much dialogue and planning has gone into the sustainable use of the region's many and diverse natural resources, particularly its water source.

Determining the *"How's"* and *"Why's"* and best practices to utilise these resources in a sustainable manner will no doubt be the significant factor in all discussions. We must always remember to not only think of today, but tomorrow as well.

The history of agriculture and development of the Daly region created a great deal of trauma for Aboriginal people, and in recent years they have been excluded from decision-making processes in the region.

Today, as we view it, there are three key questions to be answered in relation to the continued development and sustainable use of the Daly River region. These questions are;

- *How do we achieve an NRM management partnership for the catchment where Aboriginal people have real input and a real stake in management control?*
- *How do Aboriginal people participate in and benefit from any new development?*
- *How do Aboriginal people find a balance between economic development and their cultural values?*

The Daly Aboriginal Reference Group (the ARG) has considered these questions over the twelve months and drafted a management framework for the Daly region[19]. These are some of the key points:

- The matter of sustainability is a long term project. The involvement of the ARG will need to be ongoing, and not merely extended over a two-year period.
- Work with the government will need to continue to strengthen existing institutional arrangements and the functions of the ARG. And the ARG should be recognised as a decision making power, and not one existing merely for the 'rubber stamping' of programs.
- All development in the Daly River region should be based on Ecologically Sustainable Development principles and the principles set out in the ARG Management Framework.
- Moreover, equitable partnerships with government, business and research institutions will need to be developed, as will strict controls and compliance through on-ground enforcement and legislative review.
- Entrenched zoning systems will assist in the creation of adequate buffer zones, closed areas, and river bank access.
- Work will also need to be conducted at the high policy level with government to improve and strengthen any existing or new policy or legislation.

Aboriginal people will manage their own cultural practice and heritage – what is required is a management framework backed by legislative and on ground controls. This framework will set out how we relate to Government.

In the period 2002-2004, the Daly River region produced over $340 million in revenue.

With the region generating revenue such as this, it is vital that Aboriginal people are invited to participate, not only for the cultural knowledge they possess, but to also become participants in an activity that has a direct impact on their lives and their traditional lands.

As the largest land owning and effected group in the region, it makes sound practical and economical sense to involve Aboriginal people in all developments in the region.

Now I would like to provide some examples of how on my country, we are dealing with managing development and cultural values issues[20]. These I believe, provide insight into

19 This framework is currently in a draft form and is being discussed within the Aboriginal Reference Group.

20 Margie and her family have contributed to a book about her country, see Bird Rose, Deborah Bird (2002) *Country of the heart : an indigenous Australian homeland*, Canberra Aboriginal Studies Press for the Australian Institute of Aboriginal and Torres Strait Islander Studies.

the future because if we are not wary a number of these small site specific problems will add up into a catchment wide problem that may prove irreversible.

We've noticed changes over the past 20 years from Batchelor down to the mouth of the Finniss River. Heavy metals have been found in samples taken around an old uranium mine (mining in the 1960s). When Woodcutters mine opened up and rural blocks were subdivided, the Finniss River dried up and fish were killed. The river went stagnant. Our lives are based in and around the water - hunting, swimming, sacred sites ...whatever.

Where I am living near the mouth of the river, the salt-water channels are spreading everywhere. Deep saltwater channels from buffalo are growing fingers (other small channels). In the 1980s you could drive over the dry salt flats, there were no channels.

In the 1990s we put in salt-water barrages along the river, but after floods, when I walked down to the billabongs the water was flowing back up the hill. It was flowing back up to the nearest saltwater channel, back up around the hill. So we pulled them down. These are the things we look out for. We keep an eye out for how much water there is. The floodplains last year were the lowest ever. Springs stopped running after a bore was installed on the range. Mimosa is stopping the flushing; it's acting like a dam holding back the floating mats. We are losing three of our major water holes because of it and because of siltation. We're hoping that all this water we're having now will flush the billabongs out.

As people say, "From little things, big things grow" – small changes accumulate at a catchment wide level.

There is currently no water plan for the region but the Government is talking about a dam in 20 years time at Mt Bennett. We don't agree with a dam.

Questions and Discussion

Marc Wohling (Coordinator, Daly River Aboriginal Reference Group): The ARG has been working on a draft framework of principles. It's only a draft at present. It will be presented to Government.

Marcia Langton (Melbourne University): Is there an Aboriginal Reference Group for the Finniss River region?

Margie Daiyi: No there isn't.

Sue Jackson (CSIRO): There is an Aboriginal Reference Group for the Daly River region which arose out of the NT Government's response to a community planning process.

Peter Whitehead (NT Department of Natural Resources, Environment and the Arts and CRC for Tropical Savannas). There is $500,000 available this year then $1 million each year for two years for research and other work in the Daly. Much of that will be spent on monitoring and environmental research. Some money is available for setting up the Daly River ARG and also to set up an adaptive management group that Aboriginal people would be part of. The idea is to have a permanent committee to advise the NT Government on water management.

Marcia Langton: So you don't yet have a lot of information about the Aboriginal values in the region. Is that then the research priority? Is there money for that?

Peter Whitehead: The NT government is expecting this to be addressed by the ARG. It has funded them to prepare their position and to put it to the Government.

Marcia Langton: So the ARG is going to ask for money for a cultural heritage management plan?

Marc Wohling: It's broader than that. There are economic development considerations as well.

Marcia Langton: The discussion needs to be wider than cultural values because of the way that economic values and cultural values are separated. In the non-indigenous world, economics and culture are treated differently, or separately. Should we be putting economies on the table within the 'cultural' values scope? What about cattle grazing, economic development, infrastructure for living? The rush to development doesn't seem to be taking into account that Aboriginal people want a balance – isn't that in itself an Aboriginal value?

Marc Wohling: The ARG are interested in providing a future for their children. It's a question of how to do this.

Sue Jackson: Because the water and land use planning process that we've seen in the Daly was run by the NT environment department, economic development considerations weren't included in the original scope of work undertaken by the CRG, although Rick Farley did identify the need for Indigenous people to benefit from economic activities.

Figure 16 *Sue Jackson, Donna Jackson and Peter Whitehead. Image: CSIRO.*

Peter Whitehead: The Community Reference Group report[21] recommended that an Aboriginal economic development strategy be developed. The NT Government is going to set up a group (a Regional Development Committee for the Daly River) to address that need.

Matt Rigney: These are the sorts of things that we're looking at in the Murray. With the Memorandum of Understanding we want to get into the works and measures, the operational programs and activities to sustain our young people.

Margie Daiyi: When you talk about culture and economics, we had nothing. We had a big problem with mimosa. My uncles are from pastoral backgrounds. Their big dream was to own their own station. They needed to control mimosa. We've achieved land management and economic use. After we got our land back, we had a plan to run a station, but we needed money to build up the enterprise, to manage the land and to get rid of the mimosa. Now we have the land and our culture and stories.

21 Available from www.nt.gov.au

Sacred sites were revealed after the mimosa was removed. You couldn't see these places and now you can get there. I take my son there and we can name these places again: before they were invisible. People can achieve it if they've got the commitment and dedication.

Marcia Langton: Cultural values doesn't mean that there's necessarily any conflict with economic values. They can be compatible like Margie's example shows. The technocratic thinkers don't see that. We have to find ways to point that out. Some scientists can't see that contemporary Aboriginal culture has an economic component. An Aboriginal value is that people live on their land and continue to do so with their children. The history of the Daly River people has been entangled with economic development.

How can environmental policy accommodate Indigenous interests in the Daly?

Peter Whitehead[22], NT Department of Natural Resources, Environment and the Arts.

I was asked to address the topic *'How can environmental policy accommodate Indigenous interests in the Daly?,* which is a pretty broad question. I have focused on water allocation to help frame what might be effective ways of engaging with government. I have also considered the particular task that you are presently tackling, namely to describe the "cultural" uses of water in the Daly River.

If you look at the Northern Territory's Water Act you see the word 'control' and reference to a 'Water Controller' who determines who gets to use the water. Seeing those words caused me to think about the topic in terms of power. The questions you confront are all about power. Who has got the power to influence how you access water and use it, and how can you influence them to exercise their powers in ways that meet your needs?

Martinez-Alier describes the ways in which power influences the nature of conflict in many environmental disputes (2005)[23]. She says:

> *Power appears ... at two levels*
>
> - *ability to impose a decision on others*
> - *procedural power which is ... able to impose a language of valuation determining ... the bottom line in a ... conflict (2005: 271)*

I particularly concentrate on the second level. How do groups like your Daly River Aboriginal Reference Group get across your way of expressing your values, - your language of valuation - understood, accepted and included in government policy?

Situations like the Daly River are complex with many different perspectives and values requiring consideration. Martinez-Alier notes that:

> *Governance requires the integration into policy ... of scientific and lay opinions, sometimes contradictory among themselves, relevant to different scales and different levels of reality.*
>
> *Who then has the power to decide the procedure for such integrated analysis?*

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22 Peter is a Policy Officer with the NT Department of Natural Resources, Environment and the Arts. Peter was a member of the Expert Reference Group for the Daly River land use planning process. He is now working on changes to policy on a range of natural resource management issues. He also works with the Tropical Savannas CRC on regional planning for development and conservation.

23 Martinez-Alier, J. (2005). The environmentalism of the poor: a study of ecological conflicts and valuation. Edward Elgar, Cheltenham, UK.

Who has the power to simplify complexity, ruling some languages of valuation out of order? (2005: 271).

The Water Controller's power is potentially constrained because he or she must specify the beneficial uses to which any water body regulated under a Water Resource Strategy must be put. These uses are:

- Agriculture
- Aquaculture
- Public water supply
- Environment
- Cultural
- Industry
- Rural stock and domestic.

This list sets out the issues the Controller of Waters has to think about when he or she is considering the making of water allocation plans and issuing entitlements (licences) under this plans.

I have looked at the definitions of these and related terms in the NT legislation. Some of them are clear and measurable but some of the definitions seem to me to be rather muddled.

Figure 17 *Peter Whitehead talking to the group. Image: CSIRO.*

For example, the 'environment' beneficial use is described as 'water to maintain the health of the aquatic ecosystem'. But the Water Act also defines the environment as 'all aspects of the surroundings of man, including the physical, biological, economic, cultural and social aspects'. The 'cultural' beneficial use is defined as 'water to meet aesthetic, recreational and cultural needs'. So this definition circles back on itself: cultural is cultural. These sorts of words don't provide clear direction and certainly don't help you to decide what you should focus on when trying to tell Government about your particular needs and expectations.

Culture literally means anything that people believe or do to cope with their world and each other and that is transmitted from generation to generation through learning. Given the ambiguity of the definitions in the Act and this view of culture, the simplest plausible interpretation of a beneficial use is that anything that is thought important by any group over a reasonable period of time. But the many beneficial uses that could be described as cultural will be competing with other clearly defined and often historically favoured uses. It is particularly hard to compare a wide array of individual values or uses aggregated under a cultural catchall with competing single uses, like allocations to aquaculture, that can be readily measured and produce easily measurable economic benefits.

The ambiguity of the law here shows that there can be risks in using even a formal "language of valuation" specified in legislation. Your interpretation of what it means may be completely different from members of your audience with the decision-making power, so that communication never really gets going. To influence the decision-makers, you may have to adjust your language and your thoughts to increase the chances of your voice being heard. There are two situations to consider. First, you need to present your interests under existing law, regardless of its weaknesses.

Bureaucrats like to put things in categories (boxes) because it makes things simpler for them, but the boxes may not provide the best way of thinking about your interests and getting your message across. For example, trying to make everything fit in one box or another may cause you to leave out issues that later turn out to be important. In the absence of clarity, it is probably better to present a view of all of the matters that are important for your well being in the Daly River environment, rather than try to divide up your values and views into cultural, economic, environmental or other categories.

The view you put about influences on your well-being could build on your existing concerns about water management. Alternatively, you could put together a more comprehensive story. A more complete view, using whatever images and issues give the strongest and clearest picture, could become the source from which particular concerns, like the use and condition of water, are drawn and show how important the water issues are in the full range of your concerns.

I think you will best help both yourselves and government in its decision-making if you approach your role by thinking broadly about how your lives will improve if the river is managed well. Focus on those issues that are most important and how you will know whether conditions are improving or getting worse. And try to put these issues in language that the decision-makers in Government can react to, by:

- First, considering all the matters connected with the river that affect your well-being, not just matters connected with water;
- Identifying the most important matters;
- Thinking about how you will know whether the important things are being looked after or whether they are being damaged. What signals will you be looking for?
- Thinking about and making clear as many connections of the important issues to water as you can while accepting that some of the issues and signals will involve water indirectly or not at all but still be important for providing context;
- Engaging decision-makers in discussions about signals of unacceptable change and seeking to develop a language that they can understand and react to;
- Refining your statement of the important issues and the signals of change as issues are clarified by discussion;
- Treating the list of the important issues and signals of change as the centrepiece of your culturally-informed position on key issues in management of water
    - including impacts on economic, environmental, social, aesthetic or spiritual matters;
- Resisting clumsy or artificial pigeon-holing: let the decision-makers worry about how they categorise your concerns, rather than trying to guess what they need or want;
- Making positive use of all available channels to reach decision-makers
    - including formal consultative/advisory mechanisms
    - but also seeking arrangements that actively seek to identify and
    - document Indigenous views of values connected to environmental management;
- Offering solutions to problems as well as posing questions and identifying problems and
- Connecting arguments to political and agency statements of principle or intent and seeking delivery on rhetoric.

There are also some important steps to be taken when the law is being changed. The Northern Territory Government is committed to a review of the *Water Act*. To influence that process you should:

- take advantage of all opportunities to put well structured argument promoting your special interests, while avoiding constraints of narrow categorisation
- emphasise socio-economic implications, consistent with Government commitments to redress Indigenous disadvantage
- participate actively in forums connected to review of laws
- seek academic and other support to make formal and informal submissions

If you can provide a really strong view about what you want to do/where you want to go this will be very powerful. Submissions should emphasise the significance of decisions about water for your futures, but avoid being so general that Government decision-makers can't react sensibly. Governments need to hear a clearly articulated view of what you need and what will be necessary to meet those needs. And also how **you** will measure progress towards your goals (the signals).

Government wants the community to help in making complex decisions about competing values. There is a genuine commitment to looking after the Daly River and its surrounds, and to ensuring that Indigenous interests in the region are properly protected. If you have a good argument and you present it well in ways that are broadly compatible with key government policies, you will have an interested audience.

In closing, I think its worth repeating that one of the NT Government's core policy commitments is to address social and economic disadvantage. The way that critical natural resources like water are used will obviously influence success in meeting that goal. That's why I think it's so important that the messages you deliver also set out the broader social and economic context, within which issues like cultural values of water can be properly considered.

Questions and Discussion

Marcia Langton: Scientists speak in a language and talk in concepts that automatically exclude the kind of thinking that we are talking about here. Your average scientist can't take it on board – it's tunnel vision. They think the future is a white future and that there's no future for Aboriginal people.

Eddie Shields (Daly River Aboriginal Reference Group): We should talk to scientists in our language and see what they hear and understand.

Marcia Langton: The problem we've got is that some people think that if you can't measure it, it doesn't exist. So we need to highlight the things that are measurable, like the Aboriginal presence in the population. What is the collective economic worth of Aboriginal activities in the region? You own 30% of the land-base and you are a large part of the permanent population. If all this planning doesn't work for you, then what is the point of it?

Eddie Shields: We know what the river is like when it goes up and down, we know the floods, like the 1953 flood.

Phillip Goodman (Daly River Aboriginal Reference Group): We have to have a joint management solution, what about employment for us, as water testers? I've got a few ideas myself – I used to work as a Ranger – there's work in monitoring.

Figure 18 *Bill Noakes and Phillip Goodman from the Daly River Aboriginal Reference Group. Image: CSIRO.*

Peter Whitehead: There should be employment opportunities in monitoring.

Marc Wohling (Northern Land Council): There should be Aboriginal positions in water resource management and river rangers and training made available.

Marcia Langton: There needs to be scholarships for degrees so that people get a quality education, not just traineeships.

Marc Wohling: Is river rangers the right term? There should be enforcement powers and fisheries officers. Aboriginal people need the powers to enforce the law. We need to consider what is the best way for Aboriginal people to enforce compliance – whether they work as police aids or fisheries officers.

Bill Noakes (Daly River Aboriginal Reference Group): They should change the term 'traditional owner' – it should be just land owner or land ownership.

Matt Rigney (MLDRIN): Has any Aboriginal group got a licence to use water?

Sue Jackson (CSIRO): Not in the Daly, but it is proposed in the Ti Tree region where the Anmatyerre people are interested in participating in horticulture.

Matt Rigney: Water trading is a big thing in the Murray. Many communities have licences that they can trade.

Peter Whitehead: The National Water Initiative requires that governments introduce trading.

There was a general discussion about water trading principles, separation of titles and over allocation issues.

Margie Daiyi (NLC): If you have black land on one side and white land on the other, how do you trade water?

Marc Wohling: Land is being treated separately from water.

Jessica Weir (ANU): Many of the new catchment authorities will make those water allocation decisions. They are currently being made by governments.

Sue Jackson: In some cases companies are purchasing licences.

Peter Whitehead: Anyone with money can buy them. In the NT we are obliged to set up the arrangements that would allow for open water trading by 2006, although I think it's unlikely we'll achieve it by then.

Marcia Langton: Before they bring in a tradeable water scheme, traditional owners have to think about what they want.

Jeff Stead (Aboriginal Areas Protection Authority): Under the Aboriginal Land Rights Act there is the capacity to claim beds and banks of rivers. There are a number of claims that were lodged prior to the sunset clause coming in[24]. It may be possible to leverage a settlement on the outstanding claims. In such a settlement you might negotiate access to water licences.

Peter Whitehead: How the water is **used** is important. You have to use it and there may be some issues with Aboriginal people getting the rights to use water on their own terms rather than for conventional 'production' or 'commercial' purposes.

Jessica Weir: Down south there are now no new licences being given out. There is a cap on new licences.

Marcia Langton: There could be a rush on applying for licences if people are aware that water is to be traded.

Sue Jackson: The NT government is looking at what rules they should have for water trading and is considering how to prevent speculation, that is buying it and holding on to it to sell when the value increases. Another rule is that is to be no inter-catchment trading. You can only trade within the catchment. It is important to learn more about these rules that are under development.

Peter Whitehead: It is possible that local rules could be over-ruled by the Commonwealth. There is the capacity for the Commonwealth to with-hold payments to those jurisdictions that don't comply. This has been the case with some states who have failed to meet some of the NWI requirements. [Note that links of NWI to competition payments ceased to apply after the 2005 assessment].

Bart Kellett (North Australian Irrigation Futures Project): The dairy farmers are seeking to use their water entitlement to get themselves out of debt. Whole regions are being affected.

Matt Rigney: You need your own policies to respond. You don't need to have land to own water. Trying to find a balance – that is an Aboriginal value.

Marcia Langton: Self-determination means Aboriginal involvement in decision-making. We've heard that environmental flows don't distribute water to Aboriginal nations

24 The 'sunset clause' of the *Aboriginal Land Rights (Northern Territory) Act* sets a final date for lodging land claims. According to the Act, no claims could be heard after June 1997.

fairly or accurately and equally. There is a need for Aboriginal policies and frameworks. We have heard that here in the NT the environment department looks after nature and culture. The environment Minister is Aboriginal and so she of course understands Aboriginal worldviews. There also seems to be an issue of catching up in the Daly in terms of identifying and documenting Aboriginal cultural values, issues and interests.

We have also heard that the NT government wants to plan for water use carefully. There are plans for a permanent reference group committee for the Daly, a catchment management group. How can people keep up with economic development and change so that they can develop or obtain their fair share of the benefits. People on the Daly don't appear to have been informed about the changes that are coming with the National Water Initiative and the Council of Australian Government reforms.

There is the possibility that unless you make a claim for a particular amount of water you may miss out. Water will be allocated to other uses first. You need to put in a bid or a claim for water. And you need experts to assist you frame that request.

Sue Jackson: There have been discussions about an allocation to meet Indigenous cultural requirements. So far it has been expressed in blunt terms. For example, the Water Controller asked the Aboriginal members of the Community Reference Group 'How much water does culture need'? This is an extremely difficult, if not impossible, question to answer.

Peter Whitehead: People are beginning to question some of their own thinking in the National Water Initiative. Arguments from this group here today could help the NT government to adapt it to its own circumstances.

Jessica Weir: What is going to happen in the next few years will inform what will happen in the next twenty to fifty years. There is time to influence this process now.

Marcia Langton: And these issues are very important to Aboriginal groups across the north. In the Cape York region where I have worked, water has a part to play in fire management. On the Cape people decide to burn the grass when the water content tells them to. When a heavy dew falls people know to burn. They can better predict wind movements and they use water bodies as wind breaks in their fire management. Aboriginal values can be practical things in everyday life.

There are many sacred places in the wetlands of the Cape[25]. There is a need to map those places. Water bodies are also used as borders between groups and that is tremendously important to their identity.

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25 See Langton (2006).

When people talk like that about water they are implying their resource management rules and practices. If you are on the coast you can't take fresh water fish on the coast and gut them. A big cyclone will come if you break those rules. People share between salt and fresh water groups.

Thinking about cultural values and the way this term is used it, may be better to call them Aboriginal values and not cultural values.

In summary we've been discussing:

- Major economical development opportunities need to be based on ESD and ARG principles
- There are still gaps in knowledge of the Daly system, particularly ground water and river hydrology
- Sound baseline data required
- Seasonal calendars can be a valuable tool for each group as a means of communicating with scientists.
- There is also a question of how to manage areas where knowledge and culture have been absent for years.

Francis Storer (Daly River Aboriginal Reference Group): If they take the water, they take your spirit away.

Phillip Goodman (Daly River Aboriginal Reference Group): We have two lives in this place. Our own life, the Aboriginal way, and then we come to this place and talk like a white person. Have to come here and wear tall clothes; then we go home, take off this shirt and walk around and I'm Traditional Owner in my own country. I don't talk like this in my own country.

Afternoon Discussion

Following the lunch break a number of topics were agreed upon for more detailed discussion in smaller breakout groups. The suggested topics for discussion were:

1. **Representative Structure**s: Where do Aboriginal people fit into Daly River/NT Government/Commonwealth decision-making arrangements?
2. **Framework and Policy**: What do you want? Decision making, jobs, negotiations, fair share of water, water rights, economic development?
3. **Economic Development** for Aboriginal people in the Daly Region. What do you want the future to look like? How will you calculate your water allocation/needs?
4. **Future Research** and Aboriginal values. Documentation and explaining values – what other research needs does the ARG have?

The outcomes of group discussions

1. Representative Structures (reported by Marc Wohling)

- The NT Government (NTG) has economic development committees- should there be ARG representation?
- NTG should guarantee ongoing funding
- ARG to establish a separate identity from other organisations and institutions
- Examine the possibility of the ARG becoming an incorporated body
- ARG to work directly with government and be part of the decision making to try and get into higher policy level
- Examine the possibility of developing SRA[26] and RPA[27]
- ARG members to undertake training in governance, negotiating and media; how to deal with it and access it
- Monitoring partnerships or anything occurring on the ground: Water/ chemicals/biodiversity etc with scientists. Ensure Aboriginal people are working with government and getting training
- Stronger partnerships with other organisations: NT Cattleman's Association, Amateur Fisherman's Association of the NT, NT Agricultural Association. Work with these groups to foster ongoing dialogue, trust and break down miscommunication/negative perceptions

26 Shared Responsibility Agreement.

27 Regional Partnership Agreement.

- ARG to form a Water Policy Group: convene a meeting with all Daly groups
- Support from NTG for scenario planning for future predictions

Figure 19 *'Representative Structures' and 'Policy' breakout group. Image: CSIRO.*

2. Policy (reported by Marc Wohling)

- ARG to inform NT Government directly as well as the Daly catchment management group
- Policy of reserving commercial water licenses: identify a percentage of water to be allocated
- Draft an ARG charter/policy framework
- Each language group can negotiate with government independently
- ARG requires a secretariat
- Aboriginal people working more closely with government to set the agenda
- Undertake an analysis of current State/Territory/Commonwealth policy and then compare with Aboriginal policies; look at how policy can be influenced. Look for gaps
- Input into upcoming changes to laws
- Examine opportunities to utilise existing Acts such as Heritage Act/Aboriginal Areas Protection Authority to protect rights and interests
- Link economic development strategy with 'reserving' commercial water license strategies
- Develop an Aboriginal Water Allocation Plan?

- 'Work into' (ie lobbying) the government system to enshrine Aboriginal rights and interests
- Develop stronger relationships with local member (Daly River) and Environment Minister's Office

3. Future Research on Aboriginal values and interests (reported by Sue Jackson)

- Concentration of people at Nauiyu, Browns Creek and some at Kybrook
- Ethnobotanical report by Wightman, Malak Malak, Mathathiele
- Cultural landscape study started Sept 04. NLC commissioned John Dymock who has been documenting the cultural landscape of the whole river. The group thought this should continue, and working with all the groups along the Daly.
- His interim report was delivered to NLC – it mentioned the 'black water' runoff (burnt timber in the river, chemical poisons). People already have names for these changes in the landscape (contemporary change). Also discussed culture heroes, mining pollution (Copperfield Creek, Fergusson), how river flooding distributes water back and forth and concerns about damage to sacred sites from tourist boats in the river
- John Dymock has been learning about the history of the river. This is important to contemporary situation
- Need to understand the changes to the river-erosion, sedimentation
- There is a big gap with the other groups who John hasn't worked with. Big gap in the middle section of the river; knowledge gaps in the middle reaches where there are no roads
- Priority groups are the Wagiman, Wardaman, Kamu and all others down the river
- Basic knowledge of social structures and land tenure is all there
- Land claim transcripts will have info on relationships to the Daly (Sutton)
- Biernoff's story of Daly River area: some question about its quality
- Britte Duelke (in German)
- Deborah Bird Rose, Andrew McWilliam's work
- John Dymock's work needs to continue
- Information needed on how/where Aboriginal people fish, hunt and gather. Exactly where are people going to along the river (daily use)? Where are the ceremony places? Ceremonial life. How much use is made of all the places? This would give policy makers some strong information

Figure 20 *'Future Research on Aboriginal values and interests' breakout group. Image: CSIRO.*

- Recording of Indigenous place names- mapping of the river. Needs cooperation between Aboriginal Areas Protection Authority and the NLC. Then the job will be cheaper and quicker. This group should recommend this.
- Economic value on customary use of river and economic studies of value of traditional resources to contemporary economy.
- Documenting of place names; the history of the Daly and stories are of interest to tourists, Art centres etc. This is economically important information that can be used by local groups to promote the region and Indigenous knowledge and values. Interpretation signs are now up at Hot Springs. Historical information and cultural information for tourism businesses and art industry. Cultural mapping for local Indigenous enterprises
- Immediate impacts and downstream
    - Katherine farming and water use
    - Douglas/Daly farming and water use
- Land clearing is a threat to the river – its quality of water. What limits do Aboriginal people want to put on that?
- Demographic research. What is the population structure, where is it growing? Where will the changes be and income flows. Eg John Taylor's work at Thamurrurr, Pilbara. Need baseline data now so that you can monitor the changes. There are issues (planning) associated with Nauiyu and the possibility of moving the community back from the river
- Seasonal population changes esp. tourism season. In the dry season tourists everywhere. What is the impact on Aboriginal people?

- Need research that changes policy. Have to have impact, active process.
- Another all groups meeting to discuss all this – need another one especially for upstream groups
- Strategic angles for negotiation; native title rights to water; ALRA, test cases, rights to resource; involves lawyers to make strong case. What rights exist to banks? Need to get a good handle on politics; get people in to provide this information
- Commercial and economic analysis of the farming industry- how valuable is the land and water for farming and what employment opportunities are there?
- Rules for using water. What rules do traditional owners have, and think should be in place for water use and management. If some rules are changed what effect will this have on your rules?

Figure 21 *Breakout group. Image: CSIRO.*

Matt Rigney: Asked about intellectual property rights – how should they be addressed in these processes?

Marcia Langton: People aren't as preoccupied about it up here. It is owned by the people and IPR is shared. When people document their knowledge, such as in the plain English books that CSIRO has produced on the Daly, they are revealing their knowledge in the public domain. This process protects their knowledge. There is a need, however, to ensure that research ethics and protocols are practical, as well as to ensure that any benefits from research collaborations are shared.

Day 2: Thursday 6th April

Indigenous values and the Ord River

Kim Barber, Manager of Anthropology, Northern Land Council & Ephrem Kennedy, Member of KLC Committee, Aboriginal Social and Economic Impact Assessment of the Ord River Irrigation Project.

Kim Barber: It is near the border of WA and NT. Within this country there are stories of Barramundi, White Crane and Eagle that came up the river and travelled over the country creating names for different places as they went, as well as various formations like rocky bars. These beings created the river and other beings created the seasons (the wet and the dry), the vegetation, the soils (red and black) and birds. The whole ceremonial and cultural life is built on these beliefs and understandings.

Figure 22 *Kim drawing a mud map to show where Ephrem's country (Miriuwung) is. Image: CSIRO.*

In the 1950s there was a big change - black soil regions around Ephrem's country became the Ord River Scheme. There was a natural dam at the point where the lower dam was later built. People who had country around the Lake Argyle region were immediately impacted, especially people of the place of the cricket dreaming who were immediately displaced (when they constructed the dam). There was immediate displacement and loss of country in the area of the top dam. Formerly the river had pooled in the dry and flooded in the wet. Now the river flows all year around. This has changed the vegetation; it used to be clear with snappy gums, now there's jungle and

jungle pockets. There is all this new vegetation and people don't have the detailed knowledge of this new vegetation and areas. Access to the river has also become more difficult with land being subdivided and vegetation closing in on the river[28].

Intensive agriculture began in the 1960s. All the vegetation around Kununurra was laser levelled, channels built and a diversion dam was built. A floodplain was created where water was distributed from the dam through a channel system.

Aboriginal people were initially able to work as labourers but with mechanisation the number of jobs was reduced. They were no longer able to utilise the land; it was sold off to European farmers.

In the 1990s there was growing interest in Ord Stage II. Wesfarmers and Marubeni (Indonesian company) were interested in a broad acre sugar farming venture utilizing irrigation infrastructure. However, this did not go ahead for two reasons:

1. The cost of sugar was so low and the cost of the business set-up was too high.
2. Cultural reasons – there were sacred sites across the border in the NT side that the traditional owners were unwilling to compromise. They said 'no'.

The private companies pulled out, but in 2003/04 WA State Government decided to approve a proposal for expanded development and agriculture. They recommenced consultations with the traditional owners. Native title was a big issue for the traditional owners. WA Government started resumption order over land where Native Title was said to have been extinguished.

The Heritage Act was a key instrument. It can protect sites of important cultural value. So we started mapping the sacred sites in the area proposed for agricultural development. The traditional owners were looking for ways to accommodate agricultural plans (roads, infrastructures, land for farms) given the Government's intentions. The traditional owners were trying to incorporate cultural values in the decision-making/planning process. Traditional owners felt they had to compromise. People were forced to make a choice between what they could protect and what they would give up.

They then sat down altogether and decided which sites they should work toward protecting; they had to prioritise. They couldn't save them all, which ones were the

28 For more information on the social impacts of the Ord on the Miriuwung and Gajerrong traditional owners see the KLC study *Aboriginal Social and Economic Impact Assessment of the Ord River Irrigation* (2004) and Barber and Rumley (2003).

most important? The government was only interested in arable land and water; not hilly or rocky areas. Many of the important cultural places were the hills so sacred sites in these areas were safe – they weren't in conflict with Government plans. They asked for buffer zones to be created around certain areas. The traditional owners didn't have to give information about their sacred sites over to the Government or share it in their negotiations with Government.

This process didn't solve the water issue, nor the legacies from the dam. Water remained a problem. The question was: how do you protect your values including the health of the river in the face of a development you can't control?

There are many committees, about twenty, and some allowed traditional owner representation. Many have no power or control over the river or influence over Government policy. In a way, the process doesn't help traditional owners. There isn't a single agency that they can talk to and each agency has their own ideas that they don't share across all agencies or with others. It's very confusing. The traditional owners get twenty different stories from different agencies and groups.

If you are a traditional owner, how do you manage the river, how do you make decisions? People were asked to make decisions about only small parts of the problem like where to place a gauging station. Many, many little decisions were asked of them all the time. They feel like they are giving away a lot - bit by bit giving away their land. What will be left for them in fifty years and how do they make plans for the long term, for the next generations?

A good outcome is that they have negotiated a structure with rules for land and water use and management. Pat Dodson helped the traditional owners to make a plan; they made rules. Have to have rules so you have an idea about what will happen in the future.

The whole country has changed and no one quite knows the consequences. The Ord River is an altered system. No studies of the impacts were done before the dams were built. The traditional owners have a good idea; but it's difficult to convey or merge this knowledge with what scientists accept.

Ephrem Kennedy: We did a big report on the social and economic impacts of the dam. That report talks about the damage to the river from the dam and the impacts on Miriuwung and Gajerrong from the building of those dams. It was hard for us to negotiate because some people were not going to get their land back, it had been flooded. Some groups got their land back, some groups got some government compensation instead.

We got farming land (freehold title) back. We asked to be on all the Committees. All Government agencies have got to have Aboriginal workers. There are opportunities for education and money for investment. We are setting up investment trusts and a prescribed body corporate to hold native title. The Government will fund that.

Miriuwung-Gajerrong people ran two Native Title court cases. In their first one they were successful in claiming Native Title over one section of country (not over pastoral leases but unallocated Crown Land). They won just enough to get some leverage to negotiate with government over the second area without going to court.

They have agreed to have joint management over National Parks with CALM. They also constructed a 6 person committee in the management of the parks with three traditional owners. There is a mixture of titles granted over some national park areas and not on others. There are confidential portions of the agreement. Not all the details are available to read.

Figure 23 *Ephrem Kennedy addressing participants. Image: CSIRO.*

Kim Barber: Traditional owners were given intensive agriculture farmland and that comes with an allocation of water, giving Miriuwung and Gajerrong a say over management of water. For the native title claimants to get benefits the State Government has to sell the land unlike the Larrakia Development Corporation which sells land on behalf of Larrakia owners. The WA Government can compulsorily acquire pastoral leases and on-sell them to others; cattle stations such as Ivanhoe and Carlton Hills.

Ephrem Kennedy: On the NT side, the NT Gov has to go ahead with development and agreement like the one completed with the WA Government. The NT hasn't agreed to that side of the border.

I work with the WA Government on environmental issues surrounding farming and exposing the river to chemicals, causing fish kills. Fish, bush-tucker and some fruit is being tested for chemical levels, like DDT levels. We are also determining how much of different bush tucker you can eat before getting sick. e.g. one person can only eat three goannas before they get sick. It's a big thing. There are very high levels of DDT in the ground from 1970s mimosa eradication. Government handed out spray packs etc without masks or protective gear to Aboriginal people. .

Government people are untrustworthy. WA Government says something, but then they have to ask the Commonwealth Government, and then the WA Government comes back and says the Commonwealth won't let them. It all ends up falling through.

Questions and Discussion

Marc Wohling: (Northern Land Council): Do you feel you've achieved a lot?

Ephrem Kennedy: We got one of the best deals for Aboriginals in the country. We feel good about that. Managing gadiyas[29], that's the main thing, we've got to do it gadiya way. The old people say 'we don't know this place anymore... the flooding and all the water has changed the river'. They used to catch fish with their hands. You can't do that anymore.

We've got reports – a lot of good reports. It was a global negotiation. A lot of research went into it. Like the Aboriginal Social and Economic Impact Committee that we set up. We got money from the Government to look at all the issues. We wrote down all the problems. Health problems. We said we need a dialysis machine in Kununurra for the old people to keep them on country. They have to go to Perth and they die there. A renal unit in Kununurra is part of the agreement.

The WA Government only wanted to talk about the future. My family said 'Fix the past, to move to the future'. It is the motto of the committee. Sixteen families are represented on the committee: 2 people from each, one old person and one young person. Everyone had a say, all the communities from bottom of Lake Argyle to the Top (WA, NT border) were included. They're all connected by the water. Anyone affected by the water was invited to the committee. This committee will become the prescribed body corporate.

29 Term used by Aboriginal people in the Kimberley and western NT to refer to non-Aboriginal people.

The Government had to end up extending their time frame because they couldn't answer all the questions the traditional owners put to them. We wrote a good report to government. During negotiations the research continued.

In the negotiations we'd say 'that's not good enough'. Then the Government would say 'well we'll walk away'. You can't really trust them.

Figure 24 *Group discussion with Ephrem Kennedy and Kim Barber. Image: CSIRO.*

Jess Weir (ANU): In many countries Governments subsidise dam construction.

Sue Jackson (CSIRO): The COAG water reforms were meant to change the way that dams and water infrastructure are funded. Governments are no longer meant to subsidise these kinds of development, rather they should make these developments pay for themselves.

Marcia Langton: What was the secret to achieving what you have?

Ephrem Kennedy: The secret was having a good negotiating team and getting good advice. Pat Dodson (who has much experience) and a first class commercial lawyer from Sydney were engaged. One secret of their success was that they organised a set of traditional owners to work together. Families made a very generous decision that everyone who had been impacted upon (by the dams) from the beginning should be involved. This group stayed strong – they acted as one force.

Marcia Langton: It's important that the government see that the Aboriginal people behind the negotiators are strong and united.

Marc Wohling (speaking to the Daly River ARG members directly): How did Ephrem's story make you feel?

Phillip Goodman: We're just working through things. It's a slow process. We're getting into creating a framework for discussion at meetings.

Marc Wohling: It should include objectives, principles, terms of reference and areas of negotiability and non-negotiability. The ARG is sorting these out.

Mona Liddy (Daly River Aboriginal Reference Group): Main thing is protecting our lifestyle, protecting our country for future generations, our values. We are being **recognised** for our knowledge.

Phillip Goodman: Hearing Ephrem made me want to be involved in more decision with government people, more involved in decision-making. We want to be involved in discussions with all those other associations as well, like the cattlemen's association.

We want to have another workshop like the "All Group" meetings at Daly River with other mobs who have had past struggles, like Murray-Darling. We can learn from other groups.

Sue Jackson: Land and Water Australia are very interested in funding these kinds of interactions and exchanges between people. Perhaps you could apply for funding for a workshop at Daly, or go down to the Murray River and hear more about MLDRN.

Phillip Goodman: We believe the river provides for us properly, and for birds and animals. If something did happen, it's our life, it provides bush tucker for us traditional owners.

Eddie Shields: There needs to be employment opportunities in all aspects of any development that occurs.

Mona Liddy: This group, the ARG, is still behind the eight-ball since the CRG report came out 18 months ago. We've got our own identity and it's separate from the NLC. We've taken a big step, when you think about the amount of time that the Government gave us.

Marcia Langton: You probably need to work more quickly on the agreement side of things. Do you need more professional advice – good commercial lawyers, for example?

Eddie Shields: When they first started with Rick Farley[30] they went ahead too fast. I told them at the Carlton hotel where there was a meeting that we would give you an answer in five years.

Phillip Goodman: We are trying to make a package so that we can't get hurt in the future. It's taking us time. We're trying to look after our rights and we don't want to be hurried.

Francis Storer: We've got to get the best deal.

Phillip Goodman: Our culture is really important to us. Our culture sits in the river system.

Peter Whitehead: The Government hasn't presented a particular view of what developments should look like, nor what the boundaries are to any approaches that people might want to take.

Phillip Goodman: We are in the middle of a political combat over that river.

Mona Liddy: I never got full support from the NLC when I was on the Community Reference Group.

Marcia Langton: The Yolngu have the Dhimurru Association, Jawoyn have their association. There doesn't appear to be anything for the people along the Daly. What is the option for the future? To seek jobs, education, ranger programmes? What do you want to end up with?

Mona Liddy: A good, strong, binding agreement. We've discussed this – a negotiating body has been developed from representatives of the language groups. We were lucky to have a spot on the CRG. The ARG has come some way...

Marcia Langton: I'm concerned that listening as an observer... there's a gap I see. You may need to work a bit faster than you have been working. Probably need a crack professional to work with you to make it work a bit faster-get it moving.

Mona Liddy: It's been difficult to get everyone together during the wet season.

Marcia Langton: It seems that you need more money, some legal advice, professional commercial help...using leverage that you have as statutory land owner with rights to 30% of the region. Marcia: "More government services I presume?"

30 Rick Farley was appointed the Chair of the Daly River Community Reference Group in 2004. The short time allowed for the development of a land –use plan was criticised by Aboriginal people and others (see Jackson 2004 for example).

Francis Storer: They're talking about expanding the health services down there.

Phillip Goodman: We're trying to make a package for us so we don't get hurt in the future." "I'm dressed like a European man here, I go home, take my shirt off and I'm a Traditional Owner. Two lives, English is my second language. We don't want to be hurried up by that whitefella. We want to make that package right for our children"

Francis Storer: We have to make the right package.

Marcia Langton: Are you worried that the pastoralists and fishermen are going to get heard more?

Francis Storer: Of course! If we don't stand up, they're going to push us aside. We've got to stick together.

Phillip Goodman: We're having to set things up in their language; in their terms.

Sue Jackson: This has been a planning process for a while. Hard to get all of government to talk to the Daly mob about the whole range of issues as a package. Currently getting the environment section to talk about some development issues...

Peter Whitehead: Government policy is still undecided about what it should do. It has inherited these ideas about subdivision from the previous government.

Matt Rigney: Put what **you** want on the table and force government to make decisions. Have something on the table to compare against the fishermens' and the pastoralists'.

Marc Wohling: The NT Cattlemen's Association is starting to form a position. There are time frames if you read between the lines.

Peter Whitehead: The time-frame is potentially open-ended. Although the quicker you get in, the better. You'll be at an advantage (if your views are put before important decisions are made).

Marcia Langton: In addition to NLC you probably need some professional advice to get your position in order.

Mona Liddy: We always get the crumbs off the rich man's table. We are stuck in between the government and the NLC.

There was a short discussion about Nauiyu, the township at Daly River that was originally a Catholic Mission, and who made up the community government council;

- Catholic Mission council; Traditional Owners don't have a say.
- The mission is Catholic owned, Catholic education in schools.
- Mission leases land to the community government council.
- Malak Malak don't own the land.
- Meeting held recently to see if traditional owners can get ownership of land.
- 10 language groups.
- People opposed to relocation proposal of Nauiyu.

Also, Wagaman agreement from land/native title claim, they gave up Stray Creek in exchange for consultation over land use change and land clearing as well as two visits a year to see their sacred sites. This agreement has not been observed by the Government.

Figure 25 *Marcia Langton during discussion. Image: CSIRO.*

Marcia presented an overview of what people want for the Daly River

- Protecting indigenous lifestyle, cultural values, country
- Protecting cultural values to pass on to future generations
- Recognition of cultural knowledge
- Want more involvement in government decision making in all committees
- An all groups meeting in the dry season at the Daly River,
- A workshop with case studies, exchange of information. An example could be Ord River and Murray River, exchange visits. The river provides for us birds and animals, hunting, if something happens to the river it's our life at risk.
- More jobs for Aboriginal people

In relation to the negotiating process:

- Unlike WA and Ord River there is no admission by the NT Government that there are plans for the Daly River; major developments
- The planning is regarded as a land use planning process
- ARG sorting out negotiable and non-neg matters; Got a chance
- Need a strong agreement and a very clear Aboriginal position
- ARG developing an institutional framework/ corporation; it needs money, need professional advice, legal advice, leverage, research and negotiating
- Daly River people need TIME to understand the issues and develop a vision for the future
- There is an issue of getting the Government to listen to Aboriginal people
- We need to translate our ideas into language that Governments understand. There is a concern that Governments will listen more to non-Aboriginal cattlemen and recreational fishermen.
- The Government does not appear to have a cohesive position, time frames on development are not clear but there is a need to act quickly. Land clearing starts at end of 2007, water licenses may be granted through 2006/2007.

Marc Wohling outlined the next steps to be taken over the next few months with the Daly River Aboriginal Reference Group framework document[31] they are preparing:

1. Meetings to finalise report
2. NLC lawyers to check report
3. Work out negotiating strategy for agreement
4. Visit Ord to find out more about their agreement
5. Get a consultant and $$
6. Organise a meeting with the Minister (when available)
7. Present report to Minister
8. Also negotiating constitution for ARG; setting up office.
9. On-going consultation by ARG with Government departments and agencies.

Closing comments were made by Marcia Langton.

31 This draft report, titled *An Indigenous Management Framework for the Daly River Catchment* is now available from the Northern Land Council.

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Appendices

Appendix A

Background paper prepared for workshop participants

'Recognising and protecting Indigenous values in water resource management' by Sue Jackson, CSIRO.

Appendix B

Indigenous Values of Water: Workshop program

Wednesday 5th April

8.30am Tea and coffee on arrival

9.00am Welcome to country – Donna Jackson, Larrakia Nation

9.10am Introduction and overview- Marcia Langton, Chair of Indigenous Studies, University of Melbourne

- Overview of the issues
- Goals/objectives of the workshop
- How the workshop is structured
- Logistics/housekeeping

9.45am The role of the Murray Lower Darling Rivers Indigenous Nations (MLDRIN) in protecting cultural values and cultural flows in the Murray Darling Rivers- Matt Rigney and Jessica Weir.

Matt is Chairman of MLDRIN. Jessica is a PhD candidate at ANU's Centre for Resource and Environmental Studies

10.30am **Morning Tea Break**

11.00am Cultural values and economic development: finding the balance- Margie Daiyi, Executive Member, NLC

11.30am How can environmental policy accommodate Indigenous interests in the Daly? – Peter Whitehead, Policy Officer, Department of Natural Resources, Environment and the Arts

12.00pm What are the key issues we need to discuss?– Marcia Langton

General discussion and questions.

Agree on the topics to be discussed after lunch as either one group or in small groups. There is time in the afternoon for anyone to make presentations if they would like to.

12.30pm **Lunch**

1.30pm Group discussion

3.30pm **Afternoon Tea Break**

4.00 pm Report back to group and wrap up

5.00 pm Finish for the day

Thursday 6th April

8.30am Tea and coffee on arrival

9.00am Continuation of Wednesday's discussion

9.30am Indigenous values of the Ord River- Kim Barber, Manager of the Anthropological Section, NLC

10.00 am Discussion

10.30am **Morning Tea Break**

11.00am Discussion and reports back to group

12.00pm Workshop wrap-up-Marcia Langton

12.30pm Lunch

Appendix C

Workshop participants

Name	Affiliation/Organisation	Email contact
1. Marcia Langton	University of Melbourne, Chair of Indigenous Studies	marciall@unimelb.edu.au
2. Sue Jackson	Researcher, CSIRO	sue.jackson@csiro.au
3. Marc Wohling	Coordinator, Daly River Aboriginal Reference Group, NLC	wohlimarc@nlc.org.au
4. Matt Rigney	Chair, Murray Lower Darling Rivers Indigenous Nations (MLDRIN)	wilhelma@bigpond.com
5. Jessica Weir	PhD candidate, Centre for Resource and Environmental and Studies, ANU	jweir@cres.anu.edu.au
6. Ephrem Kennedy	Kimberley Land Council	c/o erica.spry@klc.org.au
7. Damien Kelly	Kimberley Land Council	c/o ercia.spry@klc.org.au
8. Kim Barber	Manager, Anthropology Branch, Northern Land Council	kim.barber@nlc.org.au
9. Peter Whitehead	Policy Officer, NT Department of Resources, Environment and the Arts	peter.whitehead@nt.gov.au
10. Jeffery Stead	Chief Executive Officer, Aboriginal Areas Protection Authority	jeff.stead@nt.gov.au
11. Bart Kellett	Researcher, CSIRO Land and Water and North Australian Irrigation Futures	bart.kellett@csiro.au
12. Donna Jackson	Researcher, Daly River oral history project, CSIRO	donna.jackson@csiro.au
13. John Dymock	Consultant anthropologist	
14. Emma Woodward	Research assistant, CSIRO	emma.woodward@csiro.au
15. Eddie Shields	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC
16. Philip Goodman	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC
17. Lorna Lippo		c/o Marc Wohling, NLC
18. Julianne Berrinjuk		c/o Marc Wohling, NLC
19. Willie Hewitt	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC
20. Keith Muggleton	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC
21.Bill Noakes	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC

Name	Affiliation/Organisation	Email contact
22. Frances Storer	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC
23. Seri Lippo	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC
24. Melissa Banderson	Wagiman	c/o Marc Wohling, NLC
25. Daphne Huddlestone	Wagiman	c/o Marc Wohling, NLC
26. John Gilmour	NT Department of Resources, Environment and the Arts	John.gilmour@nlc.org.au
27. Mona Liddy	Daly River Aboriginal Reference Group	c/o Marc Wohling, NLC
28. Linda Ford	Charles Darwin University	Linda.ford@cdu.edu.au
29. Nancy Daiyi	Mak Mak Marranungu	c/o Linda Ford, CDU
30. Mathew Shields	Malak Malak	c/o Marc Wohling, NLC
31. Mona Banderson	Wagiman	c/o Marc Wohling, NLC
32. Mona Liddy	Wagiman	c/o Marc Wohling, NLC
32. Clinton Hewitt	Wadjigan	c/o Marc Wohling, NLC

Daly River ARG members and their language group affiliations

ARG Member	Language Group
Seri Lippo	Wadjigan
William Hewitt	Wadjigan
Eddie Shields	Malak Malak
Valemina White	Malak Malak
Phillip Goodman	Maranunnggu
Bill Noakes	Maranunnggu
Michael Foster	Kamu
Francis Storer	Kamu
Terry Nimmett	Larbagunyan
Philapine Parlene	Larbagunyan
Kenny Liddy	Wagiman (South)
Keith Muggleton	Wagiman (South)
Mona Liddy	Wagiman (North)
Elizabeth Sullivan	Wagiman (North)
Julie Williams	Dagoman (Jorrolam): Edith/Fergusson River area
Marie Allen	Dagoman (Wujalawun): Florina
Hanna Brumby	Wardaman (Wungayatjawun)
May Rosas	Wardaman (Wungayatjawun)
Bill Harney	Wardaman (Yubulyawun)

Source: Northern Land Council, 2006.