

From: [Damian Crowe](#)
To: [Water Inquiry](#)
Subject: Damian Crowe response to ACCC Interim Report on Murray Darling Basin Water Markets. RE: What barriers, financial, regulatory or other, do First Nation and Traditional Owner groups currently face to acquiring permanent and temporary water in Basin water...
Date: Monday, 10 August 2020 4:08:11 PM
Attachments: [ACCC interim report - DC indigenous proposal.docx](#)
[20200320 - Wamba Wamba Swan Hill Summerfruit Development Association DRAFT MOU.docx](#)

Dear ACCC / Commissioner Mike Keelty,

Please find attached a submission made on behalf of indigenous Australians. I have received positive feedback on this submission from Uncle Col Williams, interim CEO of Wamba Wamba Aboriginal Land Corporation. And from Uncle Barry Judd, Professor of Indigenous Studies at University of Melbourne who provided positive feedback on the draft MOU (attached). I have also received approval from Michael Tripodi, President of the Swan Hill Summerfruit Development Association for this submission.


I am going to make a separate submission drawing upon my expertise as a PwC trained corporate treasury systems expert who has worked on these sorts of projects (Murray Darling Basin Markets IT Systems) all over the world. However, I don't want that to distract from this one on behalf of rural indigenous users and family farms.

Yours sincerely,

Damian

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Damian Crowe



ACCC Murray Darling Basin Water Markets Inquiry – Interim Report

Damian Crowe response Version 1 (Indigenous Australian water use)

10th August 2020

In a speech to the Aspen Institute delivered on Wednesday, 5th August 2020, Prime Minister Scott Morrison rightly called for Security and Trade policy to be much better integrated.

The ACCC interim report from our Water Markets inquiry did not consider Mr Morrison's call to arms, nor any of the lessons we learned from the COVID-19 pandemic. The Terms of Reference for the inquiry were published by Hon Josh Frydenberg MP on 7th August 2019. He asked the ACCC to examine markets for tradeable water rights in the Murray Darling Basin (the Basin). The ACCC was asked to recommend options to enhance markets for tradeable water rights, including options to enhance their operations, transparency, regulation, competitiveness and efficiency¹. Mr Frydenberg did not mention "security," "food security" or "resilience." Mr Frydenberg's direction had an exclusive trade policy focus which is also consistent with the trade only focus of the Productivity Commission and so does not reflect the PM's call for better integration between Security and Trade policy. The implication is that some of the most fundamental assumptions used in the ACCC Interim Report are wrong or only partly right. An example is the assumption used throughout the Report that "efficient markets" is a top priority. But "resilient supply chains" and "food security" are not. The implications for the report's interpretation are profound. Corporate agribusinesses may be more efficient (and that's debatable), but family farmers and indigenous users are far more secure.

The Murray Darling Basin water, its Rural Communities and their productivity are a national asset of enormous strategic importance to our nation's security. The ACCC was not asked, nor did it consider within its interim report into the Murray Darling Basin water markets the national security implications of water trading (Security and Trade policy).

The Terms of Reference for the ACCC Interim Report has an exclusive trade policy focus that is ignorant of security policy. It does not reflect what we have learned from the coronavirus pandemic about the importance of integrated Security and Trade policy. The implications of the facts revealed by the pandemic challenges the assumptions that were inherent within the ACCC's Terms of Reference and subsequent interim report into Australia's water markets are fundamental to the interpretation of the Report's findings.

Some of the high-level assumptions made by Mr Frydenberg in setting the Terms of Reference for the ACCC's inquiry and which underpin the subsequent conclusions that the ACCC has reached interim report are inconsistent with the lessons we have learned from the pandemic. We have learned from COVID-19 that it may be important to prioritise "resilience" over "efficiency". The Prime Minister's call for better integrated Security and Trade policy demonstrates that he now understands the priority we must give to resilience.

The ACCC's Interim Report reveals that "efficiency" has been prioritised and "security" has not been considered. It then demonstrates a bias against family owned farms and indigenous users on the basis that corporate agribusinesses are more efficient. And that bias against families on farms and

¹ ACCC Report, Page 6

indigenous water users and for large corporate agribusinesses is reflected elsewhere in Liberal National Party agriculture policies (e.g. Plant Breeders Rights, Modern Day Slavery Act). However, there is common ground in acknowledging the ACCC's detailed findings of internal control weaknesses and unmitigated risks and the need for comprehensive reform of the Basin water markets.

The ACCC goes on to state in its Interim Report:

*"In situations where adverse socio-economic consequences emerge from markets (including water markets), Governments may choose to implement policy measures to moderate these impacts via targeted policies that have specific distributional, equity and regional-development objectives. It is always preferable to use focused policy tools to achieve these objectives, rather than to use policies which undermine the efficient operations of markets, including water markets, to the disadvantage of all participants in those markets."*²

There has been a change in mindset among the general public following the COVID-19 pandemic and perception of risks and rewards from globalisation. Our previous assumptions including of win-win outcomes from globalisation that set the Terms of Reference for the ACCC inquiry became wrong when China revealed itself as a threat to our security. Already our government feels the need to ask our leading universities to confirm their commitment to the right to freedom of speech. Democracies throughout the world are thinking about these issues and about new standards for sharing and releasing value from data as an aid to recovery and to address the hidden facts that have emerged during the pandemic – the importance of integrated Trade and Security policies. When Federal and State Governments deliver better integrated Security and Trade policies, that may help moderate the adverse impacts on families and rural communities arising from the operation of the Murray Darling Basin water markets. A carefully considered digital replacement of the Murray Darling Basin current water trading systems that reflects integrated thinking about Security and Trade Policy could deliver global thought leadership for Australia and become a platform for the export of Australian digital supply chain technologies and for sharing of international best practices. The data architecture of the replacement solution for the Murray Darling Basin water markets should be consistent with other emerging opportunities for the digitisation of Australian agriculture.

I am an expert on corporate treasury management systems including in-house bank technology from 20 years providing global multinational corporations and banks with advice, including as a treasury systems expert with PwC UK. I am also an internationally recognised thought leader on FinTech as a supply chain transparency technology. My ideas are contributing to a current discussion between democracies on cooperation on standards for sharing of Liquidity and Data. I grew up on the Murray River in a horticulture and dairy producing region in Northern Victoria. I have unique, expert insights on the potential for a relationship between AgTech and FinTech and on the selection and implementation of upgrades to complex financial services systems. I would also like to provide expert insights into some of the other questions raised by the ACCC in its Interim Report for the purpose of supporting the ACCC's project. However, I don't want to distract attention from what I think is my most important contribution, which is my incomplete work for Indigenous Australians. So, I will share my expert insights on the overall ACCC project approach in a second submission.

² Page 9

The purpose of this first submission to the ACCC interim report is to address the following question from the ACCC

What barriers, financial, regulatory or other, do First Nation and Traditional Owner groups currently face to acquiring permanent and temporary water in Basin water markets? Please provide examples of these barriers, as well as evidence of their magnitude, frequency and impact.

[Insert Wamba Wamba & Swan Hill Summerfruit draft MOU]

[Consider this from a Security and Trade policy perspective]

I do not speak for any First Nations or a Traditional owner group. I supported the Wamba Wamba Aboriginal Land Council together with a farmer representing family owned farms in writing a response to the ACCC Inquiry. I ran several workshops and numerous one on one meetings with indigenous leaders and family farmers from the Swan Hill horticulture region. I also facilitated a site visit to a stonefruit farm and packing shed for an indigenous leader and a joint meeting between representatives of Wamba Wamba and the board of the Swan Hill Summerfruit Development Association. And then several meetings afterwards. I facilitated a meeting between a senior representative of Wamba Wamba and Leader of Victoria's National Party, Peter Walsh. I also facilitated meetings between senior representatives of Wamba Wamba and councillors and executives from Murray River Shire Council. I facilitated the drafting of requirements for Wamba Wamba and for the Swan Hill Summerfruit Development Association from the water markets inquiry. I also facilitated the drafting of a MOU for a cooperation agreement between First Nations and the local stonefruit growers' association which has been refined through several one on one face to face meetings and via numerous telephone calls. I also facilitated media interviews for Leena Sweeney and Michael Tripodi. The MOU is incomplete because it has not yet been reviewed, debated and signed off by the Wamba Wamba Aboriginal Land Council Board. However, it is also worth mentioning that Uncle Col Williams (the interim CEO of Wamba Wamba) told me that his objective for the partnership between Wamba Wamba and Swan Hill Summerfruit Development Association was to create a repeatable model partnership between rural indigenous people and rural farming families. If a MOU between family owned farms and indigenous users can be negotiated and projected benefits subsequently delivered (set up for success), then my view is that would be something valuable, including for various dimensions of Security and Trade policy. An opportunity for partnership and Reconciliation on issues that go to the heart of indigenous Australian priorities and their identity. I hereby request that if indigenous leaders and local grower associations see value in partnership that funding be provided so that the MOU can be completed and approvals obtained for moving forward with the project.

In my experience as the facilitator of the negotiation of the MOU, a key barrier faced by First Nations in acquiring permanent and temporary water in Basin water markets is a lack career opportunities that might lead to roles where water can be used for irrigation or environmental purposes. The Murray Darling Basin water markets' products are inaccessible to indigenous users because of a lack of capacity in terms of career pathways to becoming horticulturalists or professional water management experts. The Murray Darling Basin Plan has not fulfilled its responsibility for an indigenous voice at the table in managing water. Closing the gap targets were imposed from top down. There is now an opportunity for rural indigenous Australians to establish partnerships with family owned farms to achieve their goals in terms of capacity building and employment outcomes.

Based upon my research and what I have observed, the cost of acquiring permanent water entitlements is a barrier to indigenous stakeholders acquiring water entitlements. If local indigenous people could gain access to the permanent water rights that would enable them to trade short-term rights with local farmers in return for education and training in the use of those water rights and employment with businesses in the horticulture supply chain. Eventually that would lead to indigenous water users with the expert experience necessary to run their own horticulture businesses.



Here is Wamba Wamba Office Manager, Lena Sweeney together with President of the Swan Hill Summerfruit Development Association, Michael Tripodi, talking about their vision for partnership from the use of permanent and temporary water rights.

<https://www.abc.net.au/radio/programs/vic-country-hour/victorian-country-hour/12013168> (Lena and Michael start at 13 minutes into this radio segment)

Reconciliation and Truth telling process with Australia's First Nations that has just begun in some states. It will inevitably include a discussion about indigenous whether indigenous peoples have any sovereign rights to Murray Darling Basin water, including not just for cultural purposes but as part of the career opportunities at all levels that comes from professional and commercial water management. A mechanism to build partnership and teamwork between family owned farms and indigenous water users should be considered a crucial dimension of Australia's national and regional Security and Trade policies because it will strengthen communities with a role for a Social Contract and a profit motive. It may offer a pathway for indigenous and non-indigenous Australians to genuine Reconciliation.

When I spoke to the interim CEO of Wamba Wamba Aboriginal Land Council about family owned farms, he regularly referred to them as neighbours of local indigenous people. That is both an indigenous perspective and it is also a traditional non-indigenous perspective on the relationship between people and family owned businesses in rural communities. That's to say, "good neighbours" and "prosperous communities" are values shared by all Australians. And that could be one of the bases for a proper Reconciliation.

On a separate but related matter, all Australians understand the importance to the cultures of indigenous Australians of their traditional responsibilities as owners and custodians of the land and its waters. It is at the very heart of the indigenous identity. So, attempts at Reconciliation that do not deliver exciting career paths for indigenous people with a seat at the table in the management of water would be taking the piss. The context is that right at this moment, leaders all over the world are referring to our Social Contract as the moral and rational basis for necessary actions that are being taken at the moment to defend our communities from the pandemic. It is important that our Social Contract is more than political spin. If careers in water management is what indigenous Australians want then given that is so obviously the right thing to do (to make happen) given our Social Contract, then surely the only question is, how do we make it happen? Clearly we have an obligation to all Australians to defend food security for our nation and perhaps our neighbours in the region. So, the key is to define and implement a development process that allows for all the risks to be systematically identified and mitigated.

[insert: Wamba Wamba & Swan Hill Summerfruit Development Association draft MOU]

WAMBA WAMBA ABORIGINAL LAND COUNCIL & SWAN HILL SUMMERFRUIT DEVELOPMENT
ASSOCIATION
MEMORANDUM OF UNDERSTANDING (WAMBA WAMBA PERSPECTIVE)
DRAFT FOR DISCUSSION version 1, 20th March 2020

1. Governance structure
 - 1.1. Wamba Wamba owned from the start, (but indigenous run and operated only after young members to through agreed gates with have experience, which could mean apprenticeships and then subsequent relevant career development roles) – may require years' experience and accredited training before today's young members are ready to take over running the business. That's to say, a normal career path.
 - 1.2. Escalation path
2. Commercial / for profit (1st).
 - 2.1. Greenhouse to be run on a for-profit basis.
 - 2.2. Create a model for First Nations socio-economic development that can be replicated
 - 2.3. If it's a hot-house then it does not need to be run on a for profit basis.
3. Gated development opportunity for Wamba Wamba members (1st)
 - 3.1. Wamba Wamba Land Council youth members have priority in employment programs.
 - 3.2. Training and career path for Wamba Wamba members (1st). Apprenticeships. Access Rights. Career development. But no interference with horticulture expert operations driving sustainable "for profit" and a viable model for future prosperity of Wamba Wamba members.
 - 3.3. Need a funding model that delivers up front apprenticeships for Wamba Wamba members and which enables indigenous run and operated after Wamba Wamba members have the required experience (passed through the training gates)
4. Reasonably priced water to support its use by indigenous water users and family owned farms among Swan Hill Stonefruit's Growers
5. A sympathetic indigenous voice at the table managing water for conservation and possibly for irrigation purposes. [NOTE: SEE APPENDIX 1 FOR PROPOSED REQUIREMENTS FOR A "VOICE AT THE TABLE MANAGING WATER"]
6. Leave the past in the past so that we can focus on Reconciliation and partnership (including development of social and economic opportunities) for both now and the future (per Wamba Wamba's offer at its first meeting with SHSDA)
7. Options for the Greenhouse
 - 7.1. Small hothouse like existed before. It could provide good training and something for Wamba Wamba young members to do, but it is unlikely to be commercial and it suffers from the issue that the chemicals used (etc) will be close to Wamba Wamba housing.
 - 7.2. Commercial model (small)
 - 7.3. Commercial model (large)
 - 7.4. Commercial model (small at first but capable of growing to a large model)
8. Space required for the Greenhouse
 - 8.1. 5000 m² is available on stock route but that won't be enough
 - 8.2. May need 60,000 m² of land space so that there is room for growth
 - 8.3. May need land for workers' housing?
9. Location (options)

- 9.1. Wamba Wamba Aboriginal Land Council reserve is ruled out. It is not an option because the greenhouse may be an eyesore (Lena also thinks there may be an issue with use of chemicals).
- 9.2. Tooleybuc (note Wamba Wamba has two properties there – potentially one for the greenhouse and another)
- 9.3. Industrial estate on the stock route is an option
- 9.4. Lena would like to locate the greenhouse on Meneira Station. But advice from Col is that if for whatever reason Lena cannot make the Station an economic success, she would risk losing both the station AND the greenhouse. I believe it is important that the greenhouse is run separately and it should be easily accessible by the Swan Hill grower community, particularly if this is to be a successful “for profit” partnership.
10. Example of a possible gated capacity building process and timeline together with career paths for Wamba Wamba members
 - 10.1. 0 – 2 years
 - 10.1.1. Define requirements and strategy for addressing requirements
 - 10.1.2. Fundraising
 - 10.1.3. Identify location and construct the greenhouse
 - 10.1.4. Appoint an experienced horticulture industry CEO (paid via salary + profit share) who will drive the business to profit and deliver apprenticeships (etc) for Wamba Wamba members
 - 10.1.5. Identify opportunities for careers paths for Wamba Wamba membership.
 - 10.1.6. Apprenticeship opportunities for Wamba Wamba members (ASAP) for those wanting a career in horticulture or jobs during school holidays (for those wanting a professional career as consultants in water stewardship)
 - 10.1.7. Establish partnership and teamwork between Wamba Wamba and local growers
 - 10.1.8. Learning opportunities.
 - 10.1.9. Access rights for Wamba Wamba membership
 - 10.2. 2 – 5 years
 - 10.2.1. Full time
 - 10.2.2. Established career paths for Wamba Wamba members
 - 10.2.3. Horticulture including operations, sales & marketing
 - 10.2.4. Water management
 - 10.2.5. Construction
 - 10.2.6. Consultancy
 - 10.2.7. Finance & Administration
 - 10.2.8. Development of indigenous branded foods
 - 10.3. 5 – 10 years
 - 10.3.1. Building out career experience with a variety of related roles
 - 10.3.2. Building horticulture subject matter expertise
 - 10.3.3. Generating significant profits
 - 10.3.4. Wamba Wamba membership gaining experience in senior operational and management roles at the Greenhouse or with related businesses in the horticulture industry supply chain (e.g. with Category Managers)
 - 10.4. 10 years +
 - 10.4.1. Fully indigenous owned, led, run and operated
11. Professional business plan, including site visits
 - 11.1. Commercial crop (e.g. tomatoes)

- 11.2. Stonefruit seedling stock from the greenhouse or hot house, supplied under contract on a commercial basis
- 11.3. R&D for native food varieties to find commercial opportunities
- 12. Stakeholder map and communications strategy
 - 12.1. Who are the Wamba Wamba youth members? 6 boys and 6 girls aged 17 – 22 years old
 - 12.2. Other stakeholders

Risks & Issues register

Fears	Mitigating actions
<ul style="list-style-type: none"> • That Wamba Wamba members may get left out 	<ul style="list-style-type: none"> • Contractually commit to Wamba Wamba members • CEO is rewarded for developing Wamba Wamba members
<ul style="list-style-type: none"> • Wamba Wamba membership does not have priority 	<ul style="list-style-type: none"> • Contractually commit to Wamba Wamba children coming first • Create a gated process for their development. Guaranteed promotion once they go through the gate.
<ul style="list-style-type: none"> • Pollution, chemicals • Greenhouse may be an eyesore 	<ul style="list-style-type: none"> • Locate the greenhouse away from the Wamba Wamba reserve
<ul style="list-style-type: none"> • Protect the environment • Culture and heritage management • Lack of cultural considerations 	<ul style="list-style-type: none"> • Do not locate the greenhouse on or near a Wamba Wamba sacred site • Establish a governance process that builds Wamba Wamba / indigenous values into the management of the greenhouse

APPENDIX 1:

What do indigenous Australians want from Australia's Murray Darling Basin water flows?
Indigenous Australians' Requirements List (Wamba Wamba perspective)
Col Williams, Damian Crowe, 15th March 2020
Draft for Discussion, Version 0.5

Context

1. Indigenous peoples participate in the Murray Darling Basin water market as both irrigators and as traditional custodians of the land with an interest in environmental and cultural water flows.
2. Indigenous peoples have built up knowledge over the past 40,000 years that is relevant to the proper functioning of the markets in water rights. For example, we have noticed that in droughts, flows of water in the rivers and going out to sea tend to decline whilst during wet years they tend to rise. Among Aboriginal people, we call this our "common sense". We have noticed that the markets and environmental flows for Murray Darling Basin water do not appear to follow our common sense.
3. The Murray Darling Basin Plan was supposed to give traditional, indigenous custodians of the land a voice in the operation of the plan which would allowed us to contribute important information and advice relevant to the efficient operation of the markets in water rights: for example, the knowledge that water flows into the ocean should substantially decline in a drought and then substantially increase when it is wet. Lack of access to market information and a mechanism for our voice being heard.

Purpose

The purpose of this document is to articulate the requirements of Wamba Wamba Aboriginal Land Council from the Murray Darling Basin Plan and its water markets:

1. Opportunity for Reconciliation. Indigenous people working together with farmers as neighbours and collaborators in defending and developing rural communities.
 - a. We believe this crisis represents an opportunity for indigenous people to demonstrate our commitment to families who are our neighbours and who have a desperate need for access to water for their survival during a drought and who cannot afford to pay the outrageous prices for water as speculators, politicians and foreign corporations and other institutional investors bid up its price during droughts that are unsustainable for the "residents"
 - b. The Federal Government is set up to "listen" to the NFF and other institutions and not to people such as small holding irrigation farmers nor to indigenous groups who have a legislated and legal (local, national and international) right to be heard.
 - c. Wamba Wamba Land Council do not want our claim to be transferred to an indigenous advisory committee in Canberra, Melbourne or Sydney. This is an initiative of local Aboriginal Land Councils to benefit our members, the wider community and local farmers. We believe that one of the key regulatory and institutional issues we face as participants in the water market is that individually we are small and disaggregated and so larger participants in the market, including their lobbyists, have a disproportionate and inappropriate control over air-time with decision-makers including State and Federal politicians. We believe that institutions that regulate the market for water prices should have a loud voice in the form of the indigenous communities and our neighbours, the family owned farms that live on the land near the rivers and who's interests in water for irrigation and conservation,

Section 100 of the Australian Constitution has traditionally protected as an explicit obligation.

2. Respect as traditional custodians of the land and its waters. But that doesn't mean indigenous people should be pigeon-holed. It means their role as custodians is modernised for the 21st century and respected.
3. Respect for indigenous culture and the contribution it can deliver to enhance outcomes for everyone. In return we ask that you give fair consideration to how our culture can help you better achieve your goals - for example, Aboriginal beliefs, are water is part of the landscape, and it's ownership cannot be detached from the people and places where it is used.
4. Aboriginal voice at the table – re efficient and effective operation of the Murray Darling Basin Plan (i.e. common-sense voice at the table). Not as an adviser in some side group, but with a seat with the decision-makers at the top table and in all the various sub-groups beneath.
5. Aboriginal voice at the table – re management of the mechanism responsible for allocating water between environmental flows and irrigation flows during floods and droughts. Prevent the obscenity of water flowing out to the ocean during a crisis.
 - a. Australian superannuation funds and other institutions have been investing heavily in the newly created arable land for which water has been overallocated. That then creates a conflict over water resources with other users of water, including in particular indigenous groups and family owned farms. The overallocation of water is unsustainable, particularly during a drought as everyone competes for finite and declining and available water resources to keep their cows, vines and trees alive. That has created the current situation, in which all irrigators, including foreign owned farms, farms owned by superannuation companies as well as family owned farms start to eye off diversion of environmental flows to irrigation in order to keep orchards and pastures alive during the drought. And we do not know how long it will last or whether the current predictions of more frequent droughts, higher temperatures, lower rainfall and greater evaporation is going to result in permanent damage to the environment.
6. Aboriginal voice at the table defending the interests of rural communities in the water.
 - a. The objectives of water markets have not been achieved. In particular, because the market regulator has taken an incorrect definition of “efficiency” and “most productive user” that are not supported by the traditional interpretation of Section 100 of the Australian Constitution. Water is a unique commodity because it is part of the landscape. Thus, a measure of the “efficient” use of water needs to reflect the geographic location or region where it is being used. And a most efficient user of water was never defined as one that takes its revenues and profits away from the region around the rivers. It is not an “efficient” use of water to allow speculators to strip assets from desperate farmers including indigenous farmers who are trying to protect their investment in stock during a severe drought.
7. Aboriginal voice at the table defending the environment's need for water.
 - a. The Wamba Wamba Land Council is deeply sympathetic to the interests of our neighbours and in particular farmers whose families live here near the rivers of the Murray Darling Basin. We believe the mechanism at the heart of the Murray Darling Basin Plan, which defines water as either for irrigation or for environmental purposes, is fundamentally flawed. The mechanism that allocates water between irrigation and environmental does not reflect the voice of indigenous people, who managed the land and water for thousands of years and who have a common sense perspective to share with local, family owned farms, as we both watch enormous

amounts of so called “environmental water” flowing out to the sea in the middle of a drought.

- b. We do not believe anything should be done to reduce environmental water because we believe the hand of corrupt politicians have already been busy at work reducing the amount of water that is available to sustain the environment. However, as traditional custodians of the land and water we would like to have a say about how water that has been set aside for the environment is used during a drought. In particular, we are conscious that this drought is threatening the survival of our neighbours, the families that live on family owned farms. And so, as has always been the tradition of indigenous peoples during times of hardship that threatens survival, we want our voice to be heard as we advocate for common sense on behalf of farming families and for restoration of our own right to a voice in the sustainable management of the land including rollback of overallocation of water to land owned by institutions and not by people, for the role of brokers in the efficient allocation of water, for the elimination of speculators
 - c. We believe in the management of economic resources for communities for social / economic purposes and we believe environmental allocations are about preservation of the landscape for fish, for the 50 year old cod, and today we see potential for management of the water to conserve both the natural ecosystem as well as the economic ecosystem insofar as it relates to protection of rural communities including in particular the interests of small holding farmers in the midst of a terrible drought.
8. Aboriginal voice at the table defending family’s need for water.
 - a. We believe that the market for water suffers from inelastic demand during a drought. We believe that water speculators in particular can exploit water users (and especially those traditionally defined as “residents” within Section 100 of the Constitution who have a need to keep their cows, trees or vines alive, can have their need used against them by speculators who simply have a want to profiteer off family owned and indigenous farms during a crippling drought.
 - b. We also believe that if local indigenous land councils were given their legal right to a voice within the institutions responsible for the operation of water markets, our ancient understanding and role as custodian of the land could be used to improve the efficiency of the market, in particular in terms of our evaluation of the amount of environmental water that can be made available to participants in the market who are users of water.
 9. Aboriginal voice at the table evaluating new technologies options (such as desalination, harvesting the artisan basin, solar and nuclear energy, floodplain harvesting and anything more drastic if climate conditions substantially worsen).
 10. Good jobs including exciting career paths for indigenous Australians.
 11. A right to support our neighbours during a drought because water is their lifeblood, just as it is ours and we recognise that.
 12. Transition to ownership and operation of profitable enterprises because profit is sustainable and will free indigenous Australians from the life-destroying scourge of welfare and handouts.
 13. A right and an ability to stand with farmers with families against large corporate interests, foreigners and speculators.

14. The right and an ability to call for a judicial review or Royal Commission into the water markets, particularly when Federal politicians on both the right and the left are not holding each other to account for their parliamentary disclosure obligations.
 - a. Sometime during the past two decades Section 100 appears to have been diminished by detaching water ownership from the land and via the Federal Government signing an external treaty on the environment that was then used in conjunction with the Franklin River precedent to override the constitutional protects for residents. We would like the ACCC to investigate and disclose whether any current or former politicians in either the Federal Parliament or the State Parliaments of Queensland, Victoria and New South Wales had undisclosed water holdings and/or engaged in trading of water. We would like to decide for ourselves if those politicians may have been inappropriately influenced them in voting in Federal or State parliaments on legislation relevant to the operation of water markets.
15. The use of water and land management was our right but in recent years it has been presented to Aboriginal people as a privilege. There should be a (balanced) return of this right to indigenous Australians. "Balanced" means governance for all local "residents" (neighbours, including families on farms).
16. A voice at the table to ensure water allocation mechanism prices in rare events such as the need to maintain food supplies during the coronavirus (as opposed to a pricing mechanism that redirects production away from food towards cotton).
17. A right to convene a dialog between indigenous water users as traditional custodians of the water and land and other end users of water including farmers with families (neighbours). The bush tradition of neighbours helping neighbours sits well with us because it is consistent with our own traditions.
 - b. The Wamba Wamba Land Council would like to establish a dialog with the local grower associations who represent our neighbours (farmers with families who live by the water and for whom the water is their lifeblood and thus who share our interest in safeguarding the right of access by market participants who are our neighbours because we believe these are some of the Residents that the Australian Constitution and we share common ground.
 - c. Indigenous groups have never had a good experience in our attempts to work with the NFF and so we would now like to work directly with the local grower associations (as opposed to national associations) to find solutions to their need for water during a drought, because we believe those local associations better reflect the interests of our neighbours including families who own farms.
18. Aboriginal voice at the table, articulate a concern that government has not heard the message of the overallocation of water to land for irrigation purposes and that new land continues to be opened up. The current model lacks a common sense voice at the table.
 - d. Governments in Victoria, NSW and South Australia have overallocated water by opening up enormous tracts of land for irrigation to big corporate interests, thus allowing them and their deep pockets to compete directly with the interests of small holding farmers an indigenous peoples and thereby dramatically increasing the risk that during a drought, small holding farmers will be wiped out of Australia's rural economy. Big almond growers are just like dairy farmers and stonefruit, table grape and orange growers ... during a drought they simply MUST have water to keep their trees alive. So, in an environment where water has been overallocated, during a drought, small holding farmers will be guaranteed to be wiped out by the water speculators and the big guys. Water speculators ("blood sucking parasites") produce

nothing and make enormous profits during a drought. Whilst farmers use water to produce food for our tables and during a drought their cows, vines and trees die because they can't compete for water with the big guys.

19. An right and an ability for indigenous Australians to insert agility together with their voice of common sense into the Murray Darling Basin Plan, so that unexpected adverse outcomes can be quickly identified and resolved. E.G. severe drought. Corona virus. Etc.
20. An indigenous right and voice to call for transparency in water markets, including in particular who owns / has owned water rights. Investigation into politicians holdings of water rights (trust but verify).
21. An understanding by all participants in the Murray Darling Basin water markets that the pricing strategy for water may have consequences for risks of exploitation of workers in agriculture. Understanding of the relationship between Modern Day Slavery and pricing of inputs such as water into agriculture production.
22. An indigenous voice at the table on the proper operational functioning of the market including in terms of the role of participants such as speculators and investors in water who aren't end users.
23. An indigenous voice at the table to explain to non-indigenous Australians that water is a unique, sovereign asset on a dry continent. Clearly, water is not just another commodity because without water, people including families, small farmers and indigenous peoples cannot survive. Sovereign is defined as people (Australians).
24. An indigenous voice at the table to call for a review the decision to separate water ownership from the land. That enabled water prices to be bid up by stakeholders who were not previously included in the definition of "Residents", who could then profiteer against family owned farms and strip assets away from rural communities to the big cities and to overseas investors without a direct connection to the land.
25. An indigenous voice at the table that allows us to define for ourselves who our neighbours are. Investors who live outside our communities do not share our common interest with our neighbours in the waters of the Murray Darling Basin as the lifeblood of our small communities.
26. The impact of the loss of the right of Aboriginal Groups who live along the river to manage the land has been a loss of purpose among young Aboriginal people. We understand you have declared out of scope consideration of the social and economic impacts of the people who live near the water and whose rights as participants in the market for water was traditionally protected by the Australian Constitution. We point out that one way to articulate what happened to indigenous people in our loss of our right to manage the land and water is to compare what happened to us with what is happening right now to family owned farms in their interest in the water under the Murray Darling Basin Plan. And therein, we believe we may have common ground with our neighbours with families who live on the land near the water and who own farms.
 - a. Voice for indigenous peoples as traditional custodians and managers of the land and water and as represented by the Land Councils of the First Nations who live on the land beside the rivers (decentralised as opposed to centralised governance model for indigenous interests in the water)
27. Control / influence / management control over water, particularly environment flows, so that indigenous people can achieve our goals.
 - e. Our interest in this particular regard can be described as "access to water via the market mechanism"

28. Indigenous voice at the table able to contribute to the interpretation of “resident” in the Australian constitution.
 - f. Thus “Residents” includes indigenous groups (today represented by Land Councils) and small family owned farms who live on the land by the rivers (i.e. people with a direct connection to the land). We do not believe “Residents” should be defined as including large institutional investors in the land, nor foreign owned corporations, speculators and politicians who have undisclosed conflicts of interest.
29. We are happy to receive advice from subject matter experts who live in the big cities, but the plan for how the water should be used should in the first instance be made at a decentralised or local level, perhaps with oversight from people living in the big cities.
30. The issue that most indigenous users and farmers face is that they are people and small to medium sized businesses and unlike big listed corporations, they do not have the ability to tap liquidity (cash) from global capital markets during a drought. By contrast to corporations with deep lines of liquidity, often the only way small farmers can survive a drought is to sell their water. Then their businesses are lost. It might be that the water market was set up by bankers to enable competition for water from large, listed corporations who are more likely to survive a drought than small family owned farms because large corporations have a greater capacity to borrow during lean times. An indigenous voice may call for a fair working capital solution to help address these liquidity issues for farmers with families.
31. Gated transition processes
 - a. Transition from the current Murray Darling Basin Plan, which defies common sense, to a better, common sense solution developed by indigenous people in consultation with farmers with family owned farms and rural communities.
 - b.
 - c. We are under no illusions that if Aboriginal Groups have unrestricted control over environmental water, that they would be targeted by the same narrow corporate and special interests that have already corrupted our politicians. Therefore, we propose a mechanism whereby we own and manage environmental water in trust as custodians [past issues with “trust”] with a common sense and transparent mechanism for managing the water, which reflects environmental conditions. We are willing to give a blocking vote for our plans to [parliament ?], because whilst we are excited about the possibility of good careers for Aboriginal people that could come from this, we are also aware of the risk of further destruction to Aboriginal lives if we get the governance and operational structure wrong.
 - d. Management of economic resources for communities – social / economic, murray cod. Environmental allocations are about preservation of the land for fish and today we see potential for management of the water for conservation of both the natural ecosystem as well as the economic ecosystem insofar as it relates to protection of rural communities including in particular the interests of small holding farmers.
 - e. We believe consideration should be given to a governance, operational and pricing model for water markets that will incentivise investing equity of funds in the infrastructure required to efficiently manage the distribution including monitoring the extraction of water. Creation of a national asset that contributes to better water management and the efficient operation of water markets will deliver better outcomes for market participants including in particular, indigenous and family farmers and career opportunities for young Aboriginal people.

- f. Transition from the current Murray Darling Basin Plan, which defies common sense, to a better, common sense solution developed by indigenous people in consultation with farmers with family owned farms and rural communities.
- g. Voice for indigenous peoples as traditional custodians and managers of the land and water and as represented by the Land Councils of the First Nations who live on the land beside the rivers (decentralised as opposed to centralised governance model for indigenous interests in the water)
- h. Voice particularly focused on the use and trading of environmental waters, including in particular as part of reallocation of environmental water to irrigation market participants during a severe drought.
- i. Voice on the development of new land for irrigation including the potential for overallocation of land for available for irrigation purposes.
- j. Voice in the development and operation of Murray Darling Basin water markets, able to use national and international recognition to cut through red tape that may be constraining the efficient functioning of the water markets, including metering and inconsistent laws that may be constraining the development and deployment of sustainable, new fresh water sources.
- k. To kick things off, we call for a dialog between indigenous peoples as traditional custodians of the land and its water with farmers of family owned farms (as represented by individual growers and local grower associations). Because between us and the people living in rural communities, this question as to how water markets operate is ours because there are still enough votes in rural electorates that if we (indigenous groups, family farms and communities) work together effective as a team, we can control our shared destiny in relation to water, the lifeblood of the land.
- l. We would like the ACCC to require the government to fulfil its commitment to give indigenous peoples a voice in the management of the water markets, including management of both environmental flows and irrigation flows. We want the ACCC to allow indigenous groups to use their legal right to a voice in the management of the water markets to better protect environmental flows and to use our voice to restore the protection of family owned farms who were traditionally protected by Section 100 of the Australian Constitution before it was reinterpreted by politicians through a series of mechanisms that might have been designed to thwart their constitutional protections in favour of new market participants including large corporations, superannuation funds, foreign investors and speculators.
 - i. This should be part of the gated process, transitioning indigenous people into water markets.
 - ii. We understand that there may be some resistance to granting indigenous Australians a role managing irrigation flows.
- m. We want a commitment to replace the current, deeply flawed markets for water from the Murray Darling Basin with a transparent, gated process with a series of pilots to gradually build capacity among indigenous peoples so they can most effectively deploy their voice at the table in the regulation, development and operation of the Murray Darling Basin water markets.
- n. We hereby call for transitional arrangements, from the current management and operation of the markets for water from the Murray Darling Basin, which defies common sense, to a new model that is designed to use common sense, including in

relation considerations for the management and allocation of environmental water during a severe drought.

- o. We ask for a transitional arrangement as we move to a more efficient model for the allocation of water that:
 - i. Avoids sudden shocks to the market;
 - ii. That constrains new commitments by politicians and governments to further overallocation of land for irrigation purposes that is being acquired by participants in the water markets who do not have the traditional constitutional protections of “residents” and which allows existing commitments to be unwound in an orderly fashion;
 - iii. To provide time for capacity building among indigenous stakeholders in the water markets of the Murray Darling Basin.