

The Mayiny-galang-ngadyang (Peoples' Water) Communique

The National First Nations' Water Roundtable *'Securing water rights for First Nations peoples' self-determination'*

The National First Nations' Water Roundtable was held on the Country and Waterways of the Ngambri (Kamberri), Ngunnawal and Ngarigo peoples, at the Australian National University (ANU) in Canberra on 16-17 May 2023.

A joint initiative of the ANU, the Indigenous Land and Sea Corporation (ILSC) and the National Native Title Council (NNTC), this historic Roundtable was attended by a diverse group of over 80 people with expertise on First Nations water rights and its intersection with public policy and water management.

They comprised First Nations representatives from across Australia at the centre of managing their lands and waters, researchers with extensive experience collaborating with First Nations people and government policy makers who work in this space.

The meeting heard from First Nations leaders around the country about the unique view of First Nations who do not separate themselves from water, land or sea and how this interconnectedness has allowed First Nations to live sustainably for more than 65,000 years. It also heard of the dire and urgent circumstances surrounding First Nations access to water as it relates to First Nations holding rights to about 40% of Australian land through native title and traditional ownership – yet own and control less than 0.2 percent of surface water entitlements.

The meeting also heard from Canadian Indigenous leaders Dana Tizya-Tramm of the Vuntut Gwitchin First Nation and Professor Deborah McGregor from the Whitefish River First Nation. They discussed the challenges of First Nations people in Canada on their journey of securing water rights in similar circumstances to that in Australia.

A cohort of young First Nation leaders and students provided a fresh and reinvigorated sense that a new approach to managing the nation's water is urgent and First Nations require a new approach.

Key Messages

The meeting agreed that a lack of recognition and access to water contributes to widening the gap of First Nations disadvantage, leading to poor environmental outcomes as highlighted in the State of the Environment Report 2022, and contributing to inefficient use and management of Australia's natural resources at an unsustainable level for future generations.

The meeting revisited previous work undertaken across the country, noting key challenges of lack of ownership over water access entitlements; lack of participation in water governance regimes; fragmented legislative regimes across States and Territory jurisdictions; rural and remote communities lacking access to clean drinking water; and the lack of institutional frameworks and practices consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

The Roundtable noted opportunities to advance First Nations peoples' rights to water in Australia through the implementation of UNDRIP and the United Nations' Sustainability Development Goals and in the Australian policy environment, through the proposed reforms to the *Environment Protection and Biodiversity Conservation Act 1999*; refresh of the National Water Initiative; the 2026 review of the Murray Darling Basin Plan; and the 2024 review of the *Water Act 2007*.

Also appreciated by participants in the Roundtable was the increasingly positive national political environment highlighted by the Albanese Government's commitment to fully implement the Uluru Statement from the Heart and re-establish the National Water Commission, and its recent announcement to increase First Nations water ownership. In that regard, the Roundtable had the benefit of a presentation by the Hon Tanya Plibersek MP, Minister for the Environment and Water, who confirmed that the Government will consult and design an enduring arrangement for First Nations peoples to own, access and manage water in Australia.

There was consensus at the Roundtable for a new approach to advance First Nations water rights and needs and that First Nations leaders needed to act now. As evidenced from work in the Murray Darling Basin and northern Australia, that approach should be built around a First Nations led, nationally consistent approach to First Nations' water rights, that is informed by evidence and international trends towards water justice for First Nations people and equitable participation in the nation's social, economic and environmental futures.

Key Recommendation

It is recommended that going forward a First Nations Working Group be convened to facilitate the development of a First Nations led, nationally consistent approach to First Nations' water rights. The Working Group would be a loose federation of experts with experience in advocating the rights and interests of First Nations over the past decades. The role of the Working Group should extend to facilitating the establishment of a First Nations alliance that can negotiate and seek to reach a national accord with all Australian Governments to implement this new approach.

To progress this recommendation, the Roundtable co-convenors will act collectively on this recommendation as a matter of urgency with respect to engaging with appropriate agencies in its construct and design.

26 May 2023