

NATIONAL WATER REFORM 2024

Submission to the Productivity Commission Inquiry on the *2004 Intergovernmental Agreement on a National Water Initiative*

February 2024



Prepared by Terri Janke and Company

Terri Janke and Company, Lawyers and Consultants

Phone: 02 9693 2577

Email: tjc@terrijanke.com.au | Website: www.terrijanke.com.au

Acknowledgement of Country

We acknowledge the Traditional Owners on the lands of which our office is based, Bidjigal Country, and extend our respects to Elders, past, present and emerging, and all those who work tirelessly to advocate and fight for the rights of First Nations people. Sovereignty was never ceded. We acknowledge that custodianship of Country since time immemorial continues today through the strength and resilience of First Nations people, and that our collective futures depend on the self-determination of First Nations people.

Terri Janke and Company Pty Ltd (**TJC**) welcomes an opportunity to provide submission to the Productivity Commission (**the Commission**), on the *2004 Intergovernmental Agreement on a National Water Initiative (NWI)*.

TJC is a 100% Indigenous owned and run law firm that empowers clients to achieve success in business and innovation. Founded in April 2000 by Dr Terri Janke (Solicitor Director), a Wuthathi, Yadhaghana and Meriam woman, and an international authority on Indigenous Cultural and Intellectual Property (**ICIP**). We are multi-award winning and a Certified Supplier with Supply Nation.

Our expertise includes ICIP, commercial law, governance and environmental law. We work in Australia and internationally to provide quality services to Indigenous and non-Indigenous businesses, artists, government agencies, corporations, land councils, art and cultural institutions and more. TJC has worked with government and non-government bodies and individuals regarding First Nations rights to water and natural resources.

Disclaimers

We acknowledge the diversities of First Nations people, communities and cultures. This submission generally refers to 'First Nations people', because the NWI has a national focus. It is not intended to homogenise the rich diversities of the many Nations across Australia. The connections, uses and desired outcomes around water will vary significantly across Nations. Any co-design and consultation will require time to truly understand the diversity of needs and desired outcomes across all Nations.

This submission contains the analysis of Terri Janke and Company. This should not be relied on as legal advice. This document is not intended to be a complete analysis of all relevant laws, but is confined to the scope of this Inquiry.

TJC owns the copyright to this submission.

This submission may contain the ICIP of Australian Aboriginal and Torres Strait Islander peoples. All rights reserved. Dealing with any part of this knowledge for any purpose not authorised by the custodians may breach the *Copyright Act 1968* (Cth) and customary law.

1. This Inquiry into National Water Reform 2024

The inclusion of First Nations people in water regulation and policies has developed considerably since 2004. This submission focusses on practical and legislative opportunities to further uphold the First Nations people.

The Commission has been asked to make recommendations:

- on actions that the parties to the NWI might take to better achieve the objectives and outcomes of the NWI
- to support all Australian governments in efforts to progress national water reform in light of current priorities, including water security and the involvement of First Nations communities in water management
- on how the Australian Government can better utilise the *Water Act 2007* (Cth) as a framework for guiding national water reform policy.

NWI is the guiding framework for the Australian states and territories (**jurisdictions**)¹ for national water policy reform. Water – and therefore the NWI – affects First Nations people in every sense of life – Country, health, culture, spirituality, community, economies, and livelihoods.

While every aspect of the NWI affects First Nations people, this submission will focus on the objectives and scope most relevant for First Nations people.

2. The rights of First Nations people

Water sovereignty

First Nations people have inherent rights to, and cultural obligations to, protect Country that remain unbroken by colonisation.² These rights have existed since time immemorial and continue forever. The *Echuca Declaration 2007* from Murray Lower Darling Rivers Indigenous Nations (MLDRIN),³ and the *Indigenous Groundwater Declaration* from the International Association of Hydrogeologists Australia,⁴ articulates sovereignty over water.

We recognise that First Nations people at a community, regional and national levels have been calling for and advocating for recognition of the water rights for hundreds of years.

The following is an excerpt from an article written by co-authors Jodene Garstone (Jaru and Bardi woman, former Legal Intern, Terri Janke and Company, and non-Indigenous Solicitor, Emma Fitch, Terri Janke and Company).⁵

Water is life.

Rivers, lakes, springs, creeks and saltwater are the givers of life. Water rejuvenates Country season by season, is home to many land and water animals, and is key to the

¹ Analysis in this document does not include Tasmania.

² See further: Dr Virginia Marshall, *Overturning Aqua Nullius: Securing Aboriginal Water Rights* (2017).

³ MLDRIN, *Echuca Declaration* (2007) <<https://www.mldrin.org.au/wp-content/uploads/2018/07/Echuca-Declaration-Final-PDF.pdf>>.

⁴ The International Association of Hydrogeologists Australia, *Indigenous Groundwater Declaration* (2022) <<https://drive.google.com/file/d/1Xg1u1POifCyROQ3Gd4GFAorr7xeKX0JS/view>>.

⁵ Co-authors Jodene Garstone (Jaru and Bardi woman, former Legal Intern, Terri Janke and Company, and non-Indigenous Solicitor, Emma Fitch, Terri Janke and Company, 'Water is Life: Legal Solutions to Empower First Nations People in Water Management' <<https://www.terrijanke.com.au/post/water-is-life-legal-solutions-to-empower-first-nations-people-in-water-management>>.

survival of people and culture. We live in a symbiotic relationship with water as it looks after us and we look after it. First Nations people have inherent rights to water by virtue of being the First Peoples of Country.... Water is the holder of cultural knowledge, deeply connected to First Nations spirituality. Without water, connection to Country is muted. In some First Nations cultures, rivers are part of song lines and dreaming tracks, evidence of the connection to Country from time immemorial. In some First Nations cultures, many totems would not survive without water. First Nations people have rights beyond water itself, to protect totems, to stories, to protect the integrity of and to pass on culture.

The interaction between the land, water and sky is also significant to the creation of Country. From spiritual beings and animals travelling down from the sky creating lakes, rock formations and trees on their journey across the land, to stories of people and animals returning to the sky in the form of constellations, everything is intrinsically connected. The Country is telling the story of itself and of its people in all parts of itself.

Some language groups believe that spiritual and ancestral beings, who created Country, live at the bottom of rivers, lakes, and springs. Water is an embodiment of their power that continues to revive Country, keeping it strong.

In customary law Indigenous people are merely caretakers of Country. There is no sense of ownership, rather Country owns us. Here, the idea of water as intangible and spiritual is fundamental to why Indigenous people don't own Country. We are born from Country and Country is within us. Ownership in Western law is a right. A right to buy an asset or commodity (i.e. water or land) and own it exclusively is inherent to Western values and law in Australia. The tension between these fundamental understandings of water are often difficult to reconcile.

The *State of the Environment* (2021) report chapter on Indigenous water provides crucial further information and authoritative First Nations perspectives on the importance of water for all aspects of life.⁶

Knowledges

Water is ICIP. ICIP rights protect the tangible and intangible of First Nations heritage – water is both literal and spiritual. ICIP rights, as provided for under international law, provide that First Nations people must have equitable access to water for human and cultural rights to be exercised. This is not only about water access and management, but also crucial for the stronger protection of stories, cultures and totems, and caring for Country. ICIP rights cannot be upheld holistically without water.

This submission includes references in current water legislation in Western law around 'cultural values and uses'. In these cultural values and uses, there are significant amounts of ICIP – for example, knowledge of and caring for Country, cultural knowledge, passing on of culture, protecting totems, sacred sites and stories. These knowledges are ancient, contemporary and living. First Nations communities are generously sharing their ICIP with governments and further stakeholders to inform improved water management and

⁶ ID Cresswell, T Janke, EL Johnston (2021). *Australia State of the Environment 2021: 'Indigenous Water'* Independent report to the Australian Government Minister for the Environment, Commonwealth of Australia, Canberra <<https://soe.dcceew.gov.au/inland-water/environment/indigenous-water>>.

methodologies. While this brings exciting opportunities for collaboration and partnership, this also brings risks of ICIP being misappropriated or misused.

It is crucial that First Nations knowledges are understood in their own right as highly valuable to embed with water management, and on equal footing with 'Western' science.⁷ This must be done cautiously to avoid governments and stakeholders misappropriating knowledges. If done properly, cultural values and perspectives can be integrated in the way that science is undertaken while ICIP rights are respected. This also provides opportunities for First Nations people to be engaged as experts.

Recommendation 1: It is recommended that a renewed NWI commit jurisdictions to protecting ICIP rights around water. This can be done through protocols, policies and contracts with First Nations people.

A *International rights*

The Commonwealth is a signatory to the *United Nations Declaration on the Rights of Indigenous Peoples (the Declaration)*. In the Declaration, self-determination is the fundamental right of First Nations people to shape their own lives, pursue their economic, social and cultural development. These are inherent rights of First Nations people, that are also protected by the Declaration. Key articles are:

- **Article 3** – the right to self-determination, freely determine political status and freely pursue economic, social and cultural development;
- **Article 5** – the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions;
- **Article 11** – the right to practice and revitalise cultural traditions;
- **Article 12** – the right to practice, develop and teach customs and access cultural sites in privacy;
- **Article 19** – standards of Free, Prior and Informed Consent (**FPIC**);
- **Article 20** – the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities;
- **Article 21** – (1) the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security, and (2) States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions;
- **Article 24** – the right to traditional medicines and health practices, including the conservation of medicinal plants, animals and minerals; and
- **Article 25** – the right to maintain and strengthen relationships with lands, waters, seas and resources.
- **Article 31** – Indigenous peoples right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions.

On 28 July 2010, through **Resolution 64/292**, the United Nations General Assembly explicitly recognized the human right to water and sanitation, and acknowledged that clean drinking water and sanitation are essential to the realisation of all human rights. States and

⁷ See, e.g., Bradley Moggridge, Lyndal Betterridge and Ross Thompson, 'Integrating Aboriginal Cultural Values into Water Planning: A Case Study from New South Wales, Australia' (2019) 26 *Australasian Journal of Environmental Management*.

international organisations are called on to provide financial resources, build capacity, and to provide safe, clean, accessible and affordable drinking water and sanitation for all.

Many First Nations communities throughout Australia continue to suffer water quality and access issues comparable to third world countries, having significant impacts on health and livelihoods.⁸ As an example, we **attach** a media release from the Dharriwaa Elders Group and Walgett Aboriginal Medical Service from 13 April 2023 regarding the impacts of water quality on health for people on Gamilaraay Country (Walgett). There are many more useful resources on the Dharriwaa Elders Group website.⁹

B Rights in Australia

Self-determination

The Commonwealth relies on its constitutional powers to provide funding to the states and territories, and to make laws to support these aims. For example, the *Financial Framework (Supplementary Powers) Amendment (Climate Change, Energy, the Environment and Water Measures No. 2) Regulations 2023* provides funding for the Murray-Darling Basin Aboriginal Water Entitlements Program to support the purchase and management of water entitlements in the Murray-Darling Basin for the benefit of First Nations communities in the Murray-Darling Basin (\$40 million in 2022-23). This funding relies on section 51(xxvi) in the Constitution, empowering the Parliament to make laws about 'the people of any race for whom it is deemed necessary to make special laws' (**the race power**). Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to 'external affairs'. The external affairs power supports legislation implementing Australia's international obligations under treaties to which it is party.

The Explanatory Statement (which guides the interpretation of the legislation) to the Murray-Darling Basin Aboriginal Water Entitlements Program¹⁰ states that the program engages the following international law:

- the right to self-determination - Article 1 of the *International Covenant on Civil and Political Rights (ICCPR)*, read with Article 2, and Article 1 of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* read with Article 2; and
- the right to enjoy and benefit from culture - Article 27 of the ICCPR and Article 15 of the ICESCR.

Regrettably, Australia has still not fully ratified the Declaration, but it is a signatory. Australia should implement the Declaration in full. This submission is confined to this Inquiry. However, it is possible, and recommended, that governments implement international standards regarding First Nations people into water laws.

Australia is a party to both the ICCPR and ICESCR. The Explanatory Statement states that the program engages the international rights mentioned above. However, practical action will deliver on the commitment to implement those rights in practice.

⁸ Bradley J. Moggridge, *University of Canberra*; Cara D. Beal, *Griffith University*, and Nina Lansbury, 'Countless Reports Show Water is Undrinkable in many Indigenous communities. Why has nothing changed?' *The University of Queensland* <https://public-health.uq.edu.au/article/2022/11/countless-reports-show-water-undrinkable-many-indigenous-communities-why-has-nothing-changed>; Kalpana Balasooriya, Rajapakse and Gallage, 'A Review of Drinking Water Quality Issues in Remote and Indigenous Communities in Rich Nations with Special Emphasis on Australia' 9 *Science of the Total Environment* <<https://www.sciencedirect.com/science/article/pii/S0048969723051847#:~:text=In%20the%20Australian%20context%2C%20remote,exacerbated%20by%20climate%20change%20effects.>>

⁹ Dharriwaa Elders Group, 'Reports' <Publications (dharriwaaeldersgroup.org.au)>.

¹⁰ *Financial Framework (Supplementary Powers) Amendment (Climate Change, Energy, the Environment and Water Resources No. 2) Regulations 2023*.

By relying on international law, the Commonwealth has made a commitment to support the self-determination of First Nations people around decision-making for water. No Commonwealth, or state or territory legislation, proactively or expressly protects the self-determination of First Nations people to make decisions about water, or about matters relating to water that affect their lives.

Recommendation 2: It is recommended that a renewed NWI commit the Australian Government, states and territories to uphold standards of self-determination for First Nations people to be leaders in, and make decisions about, water as it affects their lives. Legislation should expressly protect this right.

Consultation standards

The water legislative framework as it currently stands, when holistically reviewed, puts First Nations people as a consideration, rather than in a position where their inherent rights to make decisions about water – and self-determination – are protected. For example:

- The *Water Act 2007* (Cth) requires that a water resource plan must **have regard to** social, spiritual and cultural matters relevant to Indigenous people.¹¹ This standard does not empower First Nations people to make decisions about water management.
- The *Basin Plan 2012* (Cth) requires that the Murray-Darling Basin Authority:
 - **must have regard to** (among other matters): Indigenous values and Indigenous uses;¹²
 - **must consult** relevant Indigenous organisations regarding Indigenous values and uses in the development of water resource plans.¹³

These standards of ‘having regard to’ and ‘consult’ do not meet the thresholds for Free, Prior and Informed Consent (**FPIC**), an inherent right of First Nations people, that is also protected under the Declaration. While these standards may be met in practice, this relies on the goodwill of governments and public servants.

Recommendation 3: It is recommended that a renewed NWI commit the Australian Government, states and territories to work towards Free, Prior and Informed Consent as a national standard for consultation, engagement, management and decision-making, for First Nations people regarding water as it affects their lives. This standard should be formalised in legislation.

3. First Nations people and the NWI

Clause 23 of the NWI provides for objectives, which states (of which the Terms of Reference specifically tasks the Commission to look at):

*Full implementation of this Agreement will result in a nationally-compatible, market, regulatory and planning based system of managing surface and groundwater resources for rural and urban use that optimises economic, social and environmental outcomes by achieving...(iii) statutory provision for environmental and **other** public benefit outcomes.*

¹¹ Section 3(fa).

¹² See, *Basin Plan 2012* (Cth), s 8.35(b)(iv); and Part 14.

¹³ *Basin Plan 2012* (Cth), Part 14.

First Nations people are not mentioned in this clause. **Recommendation 4: It is recommended that First Nations people have a say and can influence the objectives of the NWI, rather than being potentially considered as 'other public benefit outcomes'.** We support the commitment to co-design a renewed NWI element dedicated to Aboriginal and Torres Strait Islander interests in water, and involvement in water management; and improving cultural outcomes generally, not only within existing frameworks.

One of the overarching intended outcomes in the NWI state that (in clause 25): *'the Parties will agree that, once initiated, their water access entitlements and planning frameworks will (ix) recognise indigenous needs in relation to water access and management.'*

Recognition of 'needs'

While some progress has been made on these goals, overall, progress has been fractured and piecemeal.

The intended outcome of jurisdictions recognising the needs of First Nations people in relation to water access and management is occurring in practice to some extent within water resource planning. However, this outcome of only recognising needs falls short of governments being committed to address those needs.

Reducing this objective to 'needs' fails to recognise the rights of First Nations people to self-determination, to determine their own needs, goals and aspirations regarding water.

Clause 52 of the NWI states that:

Clause 52

*'the Parties will provide for indigenous **access** to water resources, in accordance with relevant Commonwealth, State and Territory legislation, through planning processes that ensure:*

- i) **inclusion** of indigenous representation in water planning wherever possible; and*
- ii) water plans will **incorporate** indigenous social, spiritual and customary objectives and strategies for achieving these objectives wherever they can be developed.*

Again, language such as 'access', 'inclusion' and 'incorporate' does not go far enough to encourage jurisdictions to take proactive steps to address needs.

Recommendation 5: It is recommended that a renewed NWI not only recognise the needs of First Nations people around water, but commits jurisdictions to take proactive steps to address those needs. A renewed NWI should be more specific in holding jurisdictions to account around criteria and reporting on cultural values and uses.

4. Summary of rights across the States and Territories

TJC conducted research about the rights of Aboriginal people across the states and territories. As at February 2023, for example, in Western Australia, no explicit water rights for First Nations people are provided for under state legislation. Access to water is via a licence.¹⁴ In the Northern Territory, while an 'Aboriginal water reserve' is provided for in legislation, this is limited to economic purposes.¹⁵ In Queensland (outside the Murray-Darling Basin), First Nations people are permitted to 'take or interfere with water for traditional activities or cultural purposes' without an entitlement.¹⁶

In the Murray-Darling Basin States and the Australian Capital Territory,¹⁷ there are over 50 different First Nations,¹⁸ yet First Nations people own just 0.2 per cent of available surface water across the entire Basin.¹⁹ Access to water is regulated via licences.

Extensive work has been conducted around cultural flows, by First Nations experts and leaders in water. 'Cultural flows' is largely still a policy concept. However, the Basin Plan does require that a water resource plan **have regard to** the views of Indigenous people with respect to cultural flows.²⁰ This does not yet equate to legislated rights to cultural flows, nor having an explicit right to influence on decisions about water.

Even in 'wet years', water throughout Australia suffers from over-allocation, yet First Nations people are not key participants in the water market, or water management more generally. Despite policy intent of governments, and calls from First Nations communities to become more active participants in water markets, this has not come to fruition. This clearly impacts on the economic rights of First Nations people as set out in the Declaration.

It is well known that where self-determination occurs, there are numerous cascading environment and socio-economic benefits.²¹ Benefits extend beyond First Nations people - to whole communities. The restoration project initiated by Ngemba man, Uncle Feli McHughes on the traditional lands of the Ngemba, Ualarai, Murrawarri and Wailwan Aboriginal people (Brewarrina), is a prime example of the significant benefits that can occur

¹⁴ *Water Services Act 2012* (WA); 'Water Service Licensing and Licence Exemptions | Western Australian Government' <https://www.wa.gov.au/service/building-utilities-and-essential-services/water-supply/water-service-licensing-and-licence-exemptions>; Water Services Association of Australia, 'Closing the Gap Water for People and Communities: Improving Water Services to First Nations Remote Communities Summary Report and Key Recommendations', <https://www.wsaa.asn.au/sites/default/files/publication/download/FINAL%20Closing%20the%20gap%20FA04%20Summary%20WEB.pdf>; *National Water Reform 2020: Inquiry Report* (Productivity Commission, 2021) 122

<https://www.pc.gov.au/inquiries/completed/water-reform-2020/report/water-reform-2020.pdf>; 'YAMATJI NATION - INDIGENOUS LAND USE AGREEMENT' 98 https://www.wa.gov.au/system/files/2021-06/Yamatji%20Nation%20ILUA%20%20Executed%20Agreement_Redacted.pdf.

¹⁵ Erin O'Donnell et al, 'Racialized Water Governance: The "Hydrological Frontier" in the Northern Territory, Australia' (2022) 26(1) *Australasian Journal of Water Resources* 59, 61

<https://www.tandfonline.com/doi/full/10.1080/13241583.2022.2049053>; Northern Territory Government, 'About Water Allocation Planning' (16 January 2023) <https://depws.nt.gov.au/water/water-management/water-allocation-plans/about-water-allocation-planning>; Northern Territory Government, *Strategic Aboriginal Water Reserve Policy Framework* (2017) 4 https://depws.nt.gov.au/__data/assets/pdf_file/00111/457553/SWRC-Policy-Framework_A4_V1.pdf; Matthew Currell and Sue Jackson, 'Mining vs Rivers: A Single Line on a Map Could Determine the Future of Water in the Northern Territory', *The Conversation* (8 November 2022) <http://theconversation.com/mining-vs-rivers-a-single-line-on-a-map-could-determine-the-future-of-water-in-the-northern-territory-192626>. See also 'Northern Territory Water Allocation Planning Framework' https://depws.nt.gov.au/__data/assets/pdf_file/00111/476669/nt-water-allocation-planning-framework.pdf.

¹⁶ *Water Act 2000* (Qld), s 95.

¹⁷ This analysis excludes the parts of South Australia and Victoria that are outside of the Murray-Darling Basin.

¹⁸ Mr Matthew Dadswell, Division Head, Water Reform Taskforce, Senate Environment and Communications Legislation Committee, 2023-24 Budget Estimates hearings, *Proof Committee Hansard*, 26 May 2023, p. 25.

¹⁹ *Water Amendment (Restoring our Rivers) Bill 2023* (Cth) (APH Report, 2023) https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/MDBAWaterBill2023/Report/Chapter_6_-_First_Nations.

²⁰ *Basin Plan 2012* (Cth), s 10.54.

²¹ See, e.g., Steve Hemming, Daryle Rigney, Simone Bignall, Shaun Berg & Grant Rigney, 'Indigenous National building for environmental futures: *Murrundi* flows through Ngarrindjeri Country' *Australasian Journal of Environmental Management* 26(3) <https://www.tandfonline.com/doi/abs/10.1080/14486563.2019.1651227>.

for river systems holistically, with relatively small amounts of water.²² Elders and First Nations people often already know what their community needs, and these initiatives require support from jurisdictions.

Recommendation 6: It is recommended that jurisdictions commit to securing the rights to cultural flows. However, it is necessary for jurisdictions to go further. Governments should commit to capacity building: through funding, supporting professional development, and investing in building strong organisations and governance. This supports representative First Nations voices in water management. First Nations leadership and representation should be embedded within all levels of water management, both inside and outside of government roles. First Nations people can be engaged as advisors.

²² Sue Jackson, 'Enacting Multiple River Realities in the Performance of an Environmental Flow in Australia's Murray-Darling Basin' (2021) 60 *Geographical Research* <<https://onlinelibrary.wiley.com/doi/full/10.1111/1745-5871.12513>>.

5. Summary of recommendations in this submission

This is in chronological order and not necessarily by importance or priority. Co-design is necessary for all recommendations. The inherent right to self-determination must be the foundation. While recommendations are made regarding legislation, it is important that policy and governance reform support any change.

1.	It is recommended that a renewed NWI commit jurisdictions to protecting ICIP rights around water. This can be done through protocols, policies and contracts with First Nations people.
2.	It is recommended that a renewed NWI commit the Australian Government, states and territories to uphold standards of self-determination for First Nations people to be leaders in, and make decisions about, water as it affects their lives. Legislation should expressly protect this right.
3.	It is recommended that a renewed NWI commit the Australian Government, states and territories to work towards Free, Prior and Informed Consent as a national standard for consultation, engagement, management and decision-making, for First Nations people regarding water as it affects their lives. This standard should be formalised in legislation.
4.	It is recommended that First Nations people have a say and can influence the objectives of the NWI, rather than being potentially considered as ‘ <u>other</u> public benefit outcomes’.
5.	It is recommended that a renewed NWI not only recognise the needs of First Nations people around water, but commits jurisdictions to take proactive steps to address those needs. A renewed NWI should be more specific in holding jurisdictions to account around criteria and reporting on cultural values and uses.
6.	It is recommended that jurisdictions commit to securing the rights to cultural flows. However, it is necessary for jurisdictions to go further. Governments should commit to capacity building: through funding, supporting professional development, and investing in building strong organisations and governance. This supports representative First Nations voices in water management. First Nations leadership and representation should be embedded within all levels of water management, both inside and outside of government roles. First Nations people can be engaged as advisors.