

**IMPACTS OF THE WATER AMENDMENT (RESTORING OUR RIVERS) ACT
2023 ON NSW REGIONAL COMMUNITIES**

Organisation: Currie Country Social Change

Date Received: 14 April 2025



Submission to the NSW Legislative Council Inquiry into the Water Amendment (Restoring Our Rivers) Act 2023

From: *Currie Country Social Change (CCSC)*

Date: 14 April 2025

Prepared by: *Currie Country Social Change*

Introduction

Currie Country Social Change (CCSC) is a First Nations-led organisation working across the Bundjalung and Yugambah Nations, we are traditional owners. We welcome the opportunity to respond to this Inquiry and express deep concern over the Water Amendment (Restoring Our Rivers) Act 2023. Our submission draws from decades of advocacy, lived experience, traditional ecological knowledge, and recent submissions including our 2024 response to the Department of Climate Change, Energy, the Environment and Water regarding the River Murray Darling Currie Country Social Change (2024) submission.¹

This submission addresses the Terms of Reference (a), (b), (c), and (g), and highlights broader structural and legal concerns essential to water justice, ecological health, and Indigenous rights in NSW and across Australia.

TOR (a): The effectiveness of the Water Amendment (Restoring Our Rivers) Act 2023 in delivering water recovery and environmental outcomes

The Act continues to be ineffective in delivering environmental outcomes, largely because it maintains extractive water licensing systems that ignore cumulative impacts and deny First Nations voices in decision-making.

Key concerns:

¹ Submission on the Assessment and Draft Conservation Advice for the River Murray Downstream of the Darling River and Associated Aquatic and Floodplain Systems April 2024

- The Act fails to mandate **free, prior and informed consent (FPIC)** before water allocation decisions are made.
- Water licences continue to be granted in ecologically and culturally sensitive areas, contributing to biodiversity decline, degraded floodplains, and collapse of culturally significant species.
- No requirement exists for **cultural risk assessments** in Environmental Impact Statements or licensing processes.

Recommendation: Suspend all new water licences until FPIC is embedded and enforceable. Audit existing licences for breaches of cultural and ecological obligations.

TOR (b): The level of First Nations peoples' involvement in water planning and governance

The marginalisation of First Nations from water governance violates both domestic legal rights and Australia's international obligations.

Legal and human rights basis:

- Native Title Act 1993 (Cth)²
- Aboriginal Land Rights Act 1983 (NSW)³
- UN Declaration on the Rights of Indigenous Peoples (UNDRIP)⁴

Convention on Biological Diversity⁵. The principle of FPIC is referenced particularly in **Article 8(j)** of the CBD:

"Subject to its national legislation, [each Party shall] respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities... and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices."

- Nagoya Protocols⁶ FPIC is further elaborated in the **Nagoya Protocol** (2010), a supplementary agreement to the CBD, which states:

² Commonwealth of Australia. (1993). *Native Title Act 1993*.

<https://www.legislation.gov.au/Series/C2004A04665>

³ New South Wales Government. (1983). *Aboriginal Land Rights Act 1983 (NSW)*.

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1983-042>

⁴ United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UN GAOR, 61st sess, 107th plen mtg, UN Doc A/RES/61/295 (13 September 2007)

⁵ United Nations. (1992). *Convention on Biological Diversity*. 1760 UNTS 79.

<https://www.cbd.int/convention/text>

⁶ United Nations. (2010). *Nagoya Protocol on Access and Benefit-sharing to the Convention on Biological Diversity*. <https://www.cbd.int/abs/>

“In accordance with domestic law, [Parties shall] take measures to ensure that traditional knowledge associated with genetic resources is accessed with the prior and informed consent or approval and involvement of these indigenous and local communities...” (Article 7).

Despite these, NSW water governance remains dominated by bureaucracies and statutory bodies like New South Wales Aboriginal Lands Councils (NSWALC), and Native Title representative Bodies (NTRB) and Local Aboriginal Lands Councils (LALC), which often fail to ensure participation, transparency, or accountability, and in which these failures are the sole responsibility of NSW government, and the Commonwealth Government.

Case evidence:

- Nous Group report (2021) identified failures in representation and governance, and performance at NTSCORP⁷ and this was further followed by another report 2023/2024 forming the same conclusions which is yet to be publicly released.
- ICAC reports (2018, 2020, and 2023) raised serious issues about transparency and accountability within LALCs, undermining Aboriginal people's right to participate in their own affairs and decision making.

Recommendation:

Establish a National Framework for Indigenous Water Justice that is co-designed with Traditional Owner groups and grounded in accountability mechanisms that uphold Free, Prior and Informed Consent (FPIC). This framework must operate independently of statutory bodies such as NSWALC and LALCs, unless it can be demonstrably proven that those bodies possess genuine democratic legitimacy—meaning they represent a substantial proportion of the Aboriginal population in their claimed region of authority.

To meet this threshold, representation must be proportional to the community's population size, as identified by authoritative sources such as the Australian Bureau of Statistics (ABS). For example, if a region has 20,000 Aboriginal residents, any body claiming to speak or act on their behalf should be able to demonstrate that it is elected or endorsed by a significant and representative proportion of that community, and that that population is registered as voter within the Australian voting system, which is consistent with subject land.

⁷ Nous Group. (2021). *Review of Performance as a Native Title Service Provider: NTSCORP – Summary Report*. National Indigenous Australians Agency. Retrieved from https://www.niaa.gov.au/sites/default/files/documents/publications/3-ntscorp-public-summary-report_0.pdf

TOR (c): Progress on implementing measures to return water to the environment and support healthy river systems

Progress has been minimal due to structural failures in recognising First Nations knowledge and stewardship.

Our evidence:

- Cultural flows are not formally recognised as water entitlements.
- Holistic, place-based approaches rooted in Traditional Ecological Knowledge (TEK) are not integrated into water recovery frameworks.
- Projects funded under the guise of sustainability continue to benefit extractive industries (agriculture, mining, hydrogen) without FPIC or environmental justice.

Recommendation: Recognise cultural flow rights as enforceable water entitlements and embed First Nations science in river health assessments and biodiversity credit schemes.

From our submission to DCCEEW (2024):

"Ecological wellbeing is inseparable from cultural stewardship. Wetlands, rivers, fish, birds and plants are our kin — their survival is our obligation under lore" [Currie Country Social Change, 2024†submission] .

TOR (g): Any related matter

1. Systemic Cultural and Legal Failure

Water management decisions in NSW are made without cultural authority, often ignoring the legal requirement for consultation and consent. FPIC is not a courtesy—it is a **binding legal obligation** under international law.

2. Statutory Representation Crisis

- NSWALC and LALCs frequently fail to act as genuine representatives of Aboriginal people.
- ORIC and the Minister for Aboriginal Affairs are derelict in enforcing functional and democratic LALC and decision making structures.
- Statutory advisory committees in agriculture, local government, housing, and infrastructure often exclude Aboriginal voices despite being legally required to include them, and or they default to a statutory rep which triggers the above issues of genuine representation.

Recommendation: Establish **independent First Nations-led monitoring, governance and reporting mechanisms**, with statutory power to influence licensing and planning decisions.

3. Nature Positive and Net Zero Transition

Water justice is foundational to delivering on Australia's Nature Positive and Net Zero commitments.

We call for:

- Integration of **Aboriginal-led methodologies** in the **water management**
- Prohibition of licences that degrade Country without explicit FPIC
- Inclusion and funded of **Indigenous baselining and monitoring, and First Nations approvals** in water, biodiversity and carbon markets.
- **Payment for cultural services** and land/water stewardship roles.

Conclusion

There can be no justice for rivers without justice for the peoples who have protected them for millennia. The Water Amendment (Restoring Our Rivers) Act 2023 risks entrenching colonial systems of control unless First Nations law, science, and governance are embedded at every level of decision-making.

We call on the NSW Government to:

- Reform its statutory bodies to ensure genuine representation
- Halt water allocation without FPIC
- Fund First Nations co-governance models
- Enact robust cultural protection and monitoring, and reporting frameworks

Currie Country Social Change stands ready to support a just transition to a water governance model rooted in cultural responsibility, ecological science, and First Nations leadership.

Cited Submission:

Currie Country Social Change. *Submission on the Assessment and Draft Conservation Advice for the River Murray downstream of the Darling River and Associated Aquatic and Floodplain Systems*. Submission to the Director, Ecological Communities Section, Department of Climate Change, Energy, the Environment and Water. April 2024.

Currie Country Social Change

www.ccscac.org

Author: A Douglas April 2025

Currie Country Social Change



The Director

Ecological Communities Section
Protected Species and Communities Branch
Department of Climate Change, Energy, the Environment and Water
PO Box 3090
Canberra ACT 2601

Email: EPBCNOM@dcceew.gov.au

Dear Director,

Re: Submission on the Assessment and Draft Conservation Advice for the River Murray Downstream of the Darling River and Associated Aquatic and Floodplain Systems

On behalf of Currie Country Social Change and our members who share country and responsibility in the Aboriginal Nations along and surrounding the Murray Darling River. I am writing to provide our submission in response to your invitation to comment on the assessment and draft Conservation Advice for the River Murray downstream of the Darling River and associated aquatic and floodplain systems. This submission emphasizes the critical need for the integration of First Nations sciences, totemic animism rights, and Indigenous knowledge systems into the assessment process. We believe this approach aligns with Australia's commitment to recognizing the significance of First Nations contributions to environmental management.

The River Murray and its ecosystems are vital not only for their biodiversity but also for the cultural, spiritual, and ecological connections they hold with First Nations communities, including the Ngarrindjeri, Barkindji, Kureinji, and others. For millennia, these communities have upheld sustainable stewardship of the river through Traditional Ecological Knowledge (TEK), which must be recognized and valued in conservation strategies moving forward.

We support the proposed inclusion of the ecological community in the Critically Endangered category under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). However, we urge that conservation efforts go beyond the typical

frameworks of Western science by incorporating a decolonized approach that fully integrates First Nations perspectives, respecting their cultural obligations to the land and its species.

Our submission highlights the importance of this shift in scientific inquiry and environmental governance, calling on the Committee to be bold in ensuring that First Nations knowledge systems play an essential role in the ongoing assessment of the River Murray's ecosystems. Without such an approach, we risk repeating the failures of the past by excluding Indigenous voices and knowledge from crucial decision-making processes.

We appreciate the opportunity to contribute to this vital conversation and look forward to working collaboratively toward more inclusive and culturally informed conservation outcomes.

Sincerely,
Arabella Douglas
Currie Country Social Change

1. A Human rights-based approach in relation to oceans

The **UN Special Rapporteur on Human Rights and the Environment**, particularly in relation to oceans, advocates for a human rights-based approach to ocean conservation that recognises the **interconnectedness of ecosystems, cultural heritage**, and the **rights of Indigenous Peoples**. This framework is deeply relevant to the **Murray-Darling River** system and the totemic connections that First Nations peoples have with the species and ecosystems in this critical ecological community. By applying the principles of this rapporteur's report and integrating First Nations science systems, we can assess the impact on threatened species and ecosystems in a way that reflects the holistic view of **interdependent relationships** between people, totems, and the environment.

1.1 Key Correlations Between UN Ocean Rapporteur Principles and the Murray-Darling System

1.1.1 Human Rights-Based Approach to Conservation:

- The UN rapporteur emphasises the need to **incorporate Indigenous rights** into conservation strategies, recognizing that protecting ecosystems is also about preserving Indigenous cultural and spiritual rights. In the Murray-Darling context, many species and ecosystems are **totemic** to First Nations peoples, such as the Ngarrindjeri, Barkindji, and Kureinji, who have deep spiritual and ancestral ties to the river and its inhabitants. These **totemic connections** create a framework where the degradation or loss of species and ecosystems is not just an ecological problem but a **cultural and spiritual violation**.
- **Example:** Species such as the **Murray cod, eels, and waterbirds** are often totems for different and many First Nations groups. The declining health of these species, as a result of pollution, over-extraction of water, and habitat loss, affects both the biodiversity of the region and the cultural integrity of the Indigenous communities.

1.2 Application of the Precautionary Principle: The **precautionary principle**, as endorsed by the UN rapporteur, requires action to prevent environmental degradation even when there is scientific

uncertainty. First Nations peoples have been applying this principle for millennia through **Traditional Ecological Knowledge (TEK)**, which emphasizes the **interconnectedness of species, ecosystems, and spiritual relationships**. TEK, grounded in the notion of **balance and reciprocity**, aligns with the idea that threatened species assessments cannot focus solely on individual species in isolation but must consider their broader ecological and cultural contexts.

1.2.1 Example: The degradation of the Murray-Darling system's **wetlands** (such as the Coorong) impacts not only water quality and biodiversity but also cultural practices and totemic species that rely on these habitats. A **First Nations science system** approach would demand immediate action to restore wetland health, even in the absence of complete scientific data, recognising the profound cultural and ecological consequences of inaction.

1.3 Recognition of Totemic Species in Conservation: Many First Nations communities in the Murray-Darling region have **totemic relationships** with certain species, which means that the protection of these species is tied directly to the **cultural survival and spiritual well-being** of the community. In the context of threatened species assessments, a **First Nations lens** would demand that **totemic species** be prioritized for protection not only because of their ecological roles but because of their **cultural significance**.

1.3.1 Example: If a species like the **Murray River turtle**, which is totemic for some groups, is assessed as threatened, the impact is twofold: the loss of biodiversity and the erosion of cultural practices and identities. Traditional laws and stories often guide how these species should be treated, hunted, or protected, and such cultural knowledge must be considered in conservation decision-making processes.

1.4 Interconnectedness of Ecosystems and Totemic Species: First Nations peoples view species and ecosystems as **interdependent**, where the survival of one is tied to the health of the entire system. Therefore, assessments of threatened species within the Murray-Darling system must consider the broader ecological impacts of habitat degradation, water quality, and climate change. This **holistic approach** is aligned with First

Nations science, which recognizes that **species, rivers, plants, and humans** are all part of a larger, interconnected network.

- 1.4.1 **Example:** The **Coorong wetlands** are vital for migratory birds, which may be totems for certain groups. A decline in wetland health—due to reduced water flows or pollution—affects the birds, fish, and plants that are part of this ecological community. A First Nations approach would argue that to restore one element (e.g., birds), the entire **hydrological and ecological system** must be addressed, including water allocations, habitat restoration, and the spiritual relationship between humans and nature.
- 1.5 **First Nations Science Informing Decision-Making: First Nations science systems** are based on generations of observations, stories, and knowledge about the rhythms of the land, water, and species. Incorporating this science into modern conservation practices ensures that the **knowledge of interdependence and balance** is central to how decisions about threatened species and ecosystems are made.
 - 1.5.1 **Example:** Traditional fire management practices, which are part of Indigenous land and water management systems, could be applied to riverbank restoration to help restore habitats that are important for both biodiversity and totemic species. Similarly, TEK regarding **fish spawning cycles** or **bird migrations** could help inform when and how water should be released from dams to support ecological recovery.
- 1.6 **Cultural Impact of Ecosystem Loss:** The UN rapporteur's focus on the **cultural dimensions** of ecosystem degradation is crucial. For First Nations peoples, the health of the Murray-Darling is not just an environmental issue; it is a **cultural issue**, as the river and its ecosystems are woven into their spiritual practices, creation stories, and responsibilities to care for country.
 - 1.6.1 **Example:** The decline of the **Murray cod**, a significant species in both the ecological and cultural landscape, symbolizes not only a biodiversity crisis but a spiritual disconnection for those First Nations peoples whose totems and cultural practices are tied to this species. Without its protection, cultural ceremonies, teachings, and spiritual obligations are undermined.
- 1.7 **Application of Indigenous Knowledge in Threatened Species Legislation:** The UN rapporteur's principles suggest that **national legislation** must evolve to integrate Indigenous perspectives and

knowledge systems. In the case of the Murray-Darling Basin, threatened species legislation must account for **totemic importance**, meaning that the **vulnerability of a species** should be assessed not only on ecological grounds but also based on its **cultural and spiritual significance** to First Nations communities.

1.7.1 **Example:** Assessments of threatened species like the **eastern long-necked turtle** or the **platypus** must include consultation with local First Nations groups to understand the cultural impacts of their decline. In some cases, this could mean elevating the conservation status of a species based on its **interconnected role** in both ecosystem function and cultural traditions.

1.8 Conclusion:

The application of **totemic animism** and **First Nations science systems** to the conservation and assessment of threatened species in the **Murray-Darling River system** highlights the **interconnectedness of species, ecosystems, and culture**. By integrating the principles of the UN ocean rapporteur, particularly the emphasis on human rights, ecological balance, and Indigenous knowledge, conservation strategies can more effectively reflect the holistic relationships between First Nations peoples and their totemic species. This approach is critical for ensuring that threatened species assessments not only protect biodiversity but also respect the **cultural and spiritual rights** of Indigenous communities, whose well-being is intimately tied to the health of the Murray-Darling Basin. Integrating **First Nations-led decision-making** ensures that the biodiversity, cultural heritage, and spiritual values embedded in the river system are respected and protected. This approach aligns with global human rights frameworks, conservation best practices, and the sustainable management of ecosystems.

2. Integrating First Nations Sciences, Totemic Animism Rights, in the Conservation of the Murray-Darling Basin

2.1 Introduction

The **River Murray–Darling to Sea ecological community** is of profound importance, not only for its biodiversity but also for its **cultural, spiritual, and economic significance**. It is home to unique and threatened species and serves as a **lifeblood for numerous First Nations peoples**. This submission advocates for the integration of **First Nations science systems**, and the **biodiversity principles**, and **totemic animism rights** into the assessment and conservation strategies of this critical ecosystem. The **First Nations-led decision-making process** will reveal the interconnected and interdependent relationships between clans, totemic species, and the environment, which must be included in any conservation framework.

2.3 The Importance of First Nations-Led Decision Making: The Murray-Darling Basin is home to many First Nations communities, including the **Ngarrindjeri, Ngadjuri, Peramangk, First Nations of the South East, First Peoples of the River Murray and Mallee, Barkindji, Latje Latje, and Kureinji**. Their **cultural, spiritual, and ecological knowledge** of the river system has been passed down for generations.

Incorporating a **First Nations lens** into the assessment process ensures that the **totemic relationships** these communities hold with the species and ecosystems in the river are protected and preserved. This process must include direct engagement with each Nation along the river course, to understand how threatened species assessments affect their sustained **cultural obligations, spiritual rights** and **environmental stewardship**. Such an approach will ensure that conservation efforts reflect the **holistic and interconnected view** that First Nations peoples have of their environment.

2.4 Totemic Animism Rights and the Protection of Threatened Species

First Nations peoples of the Murray-Darling Basin have **totemic connections** to species like the **Murray cod, turtles, waterbirds, and fish**, which are seen not only as important ecological species but as **spiritual entities** that are integral to their identity and cultural practices. The protection of these species, therefore, is directly tied to the survival of **First Nations culture**.

2.5 Under the UN Special Rapporteur on Human Rights and the Environment principles, totemic species must be recognised as vital not only for biodiversity but also for the **cultural survival** of First Nations

peoples. Conservation strategies that fail to account for the **totemic value** of species may lead to both environmental and **cultural degradation**. Hence, the **cultural rights** of First Nations communities, as protected under international law, should be embedded into any **biodiversity assessment process** for the Murray-Darling Basin.

2.6 A First Nations Lens on Interconnected and Interdependent Species and Ecosystems

In the context of the Murray-Darling Basin, **species assessments** that are done through a **First Nations lens** reveal a complex web of interdependencies between totemic species, ecosystems, and the cultural responsibilities of First Nations groups. These interdependencies must be recognized within any **threatened species assessments**. For example, the decline of a species like the **Murray River turtle** affects not only the **biological ecosystem** but also the **cultural fabric** of the First Nations peoples who have totemic ties to this species.

This interconnectedness extends to the broader ecosystem, where the **health of the wetlands, floodplains, and fish populations** all have direct impacts on the **cultural rights** and **environmental responsibilities** of First Nations peoples. The First Nations view of the **river as a living entity**—with rights and responsibilities—must be embedded into environmental assessments and restoration efforts.

2.7 Invitation to Include First Nations Sciences in the Assessment Process

We extend an invitation to the scientific and policymaking communities to include **First Nations sciences** in the ongoing **assessment of threatened species** and the conservation of the Murray-Darling Basin. **First Nations-led processes**, informed by their traditional knowledge systems, provide a **comprehensive understanding** of the relationships between species, ecosystems, and cultural heritage that are not always visible in Western scientific frameworks.

Engagement with **local clans** and **Aboriginal Nations along the whole route of the river** is critical in ensuring that conservation efforts are **inclusive, equitable**, and respectful of **cultural rights**. We urge decision-makers to work directly with these communities to create co-management

agreements and **inclusive governance frameworks** for the Murray-Darling Basin that recognize and prioritize First Nations perspectives.

2.8 Conclusion

This submission calls for the recognition of **totemic animism rights**, the integration of **Traditional Ecological Knowledge**, and the engagement of **First Nations communities** in all **threatened species assessments** and **restoration efforts** within the Murray-Darling Basin. This submission seeks to ensure that **First Nations voices** and **traditional knowledge systems** are at the forefront of decision-making processes in conserving the Murray-Darling Basin and protecting its rich biodiversity. By working collaboratively with First Nations communities, policymakers can create conservation frameworks that are both **ecologically sustainable** and **culturally responsible**. **First Nations science lens must be adopted to any science inquiry on ecological systems.**

Citations:

1. UN Special Rapporteur on Human Rights and the Environment. "The Precautionary Principle and Human Rights in Ocean Conservation." United Nations, 2023.
2. Murray-Darling Basin Authority. "The Living Murray Icon Sites." Australian Government, 2022.
3. Nature Repair Market Initiative. "Biodiversity Principles and the Future of Conservation." Australian Government, 2023.
4. Ngarrindjeri Regional Authority. "Our Connection to the Murray River and Coorong Wetlands." Ngarrindjeri Regional Authority, 2021.
5. Altman, Jon. "Indigenous Knowledge Systems and the Murray-Darling Basin: A First Nations Perspective." Australian National University, 2022.

3. The Murray-Darling River System as a Living Water Museum

The **Murray-Darling River System** should be treated as a **Living Water Museum**, akin to the **Martuwarra (Fitzroy River)**, which has been recognized by UNESCO for its cultural, environmental, and historical

significance. This position is grounded in the recognition that rivers are not just physical entities but living systems that embody rich cultural legacies, biodiversity, and ecological functions vital to both Indigenous and non-Indigenous communities.

3.1 Cultural and Historical Significance

The Murray-Darling River System is home to numerous Indigenous communities, each with deep spiritual and cultural connections to the waterway. The **Brewarrina Fish Traps**, a significant Indigenous cultural site, exemplify this connection. Dating back thousands of years, these traps demonstrate advanced aquaculture techniques developed by Indigenous peoples to sustainably harvest fish, showcasing the profound understanding of the river's ecology. Recognising the Murray-Darling as a Living Water Museum would affirm the factual history, fostering greater appreciation for Indigenous knowledge systems and their relevance in contemporary water management practices.

3.2 Ecological Importance

Similar to the Martuwarra, the Murray-Darling River System is an ecological treasure that supports diverse flora and fauna. It provides critical habitat for numerous threatened species and plays a vital role in maintaining regional biodiversity. The establishment of the Murray-Darling as a Living Water Museum would highlight the importance of protecting and restoring its ecosystems, promoting sustainable management practices that respect both natural and cultural values.

3.3 International Recognition and Education

By seeking recognition as a Living Water Museum, the Murray-Darling River System can align with the goals of the **Global Network of Water Museums (WAMU-NET)**, which fosters water awareness and education globally. This initiative emphasizes the interconnectedness of water, culture, and history, encouraging communities to engage with their water heritage. The inclusion of the Murray-Darling in this network would enhance its visibility and reinforce the importance of water conservation efforts, drawing attention to both local and global water issues.

3.4 Economic and Social Benefits

Treating the Murray-Darling River System as a Living Water Museum can stimulate local economies through sustainable tourism initiatives focused on cultural heritage and ecological education. Engaging communities in the

stewardship of their waterways fosters pride and ownership, promoting a sustainable relationship with water resources. This approach aligns with the principles of environmental justice, ensuring that Indigenous voices are included in decision-making processes regarding the management and protection of their waterways.

3.5 Global Context and Collaborative Efforts

The recognition of the Martuwarra as the world's first Living Water Museum underscores a global commitment to protecting vital waterways as essential natural resources. As representatives from the **Martuwarra Fitzroy River Council (MFRC)** prepare to present at the **10th World Water Forum** in Bali, the opportunity arises to draw parallels between the Martuwarra and the Murray-Darling. By advocating for the Murray-Darling River System to be treated as a Living Water Museum, we not only acknowledge its significance but also foster collaboration among local, national, and international stakeholders in protecting and restoring this vital waterway.

3.6 Conclusion

The Murray-Darling River System holds profound cultural, ecological, and spiritual significance for Indigenous peoples and within many First Nations lands and should be recognised as such. By acknowledging the totemic relations, we can improve the narrow lens applied to this assessment process.

The time has come for the scientific community to be bold and courageous in its approach to conservation and environmental management. As assessments of threatened species and ecosystems in the Murray-Darling Basin continue, there is a critical need to ensure that past failures to integrate First Nations sciences and knowledge systems are not repeated. To truly protect and restore these ecosystems, scientists must engage in the process of decolonizing science, recognizing that the Western scientific paradigm is not the only valid way of understanding the world.

Decolonisation is the unsettling and complex undoing of colonisation, and in the context of science, it means dismantling the dominance of Western ways of knowing that have historically marginalised Indigenous knowledge systems. Western science must be understood as one cultural approach to knowledge, and only by engaging Indigenous sciences as equal partners can

we begin to co-create new, holistic ways of knowing and managing our ecosystems.

This journey toward decolonizing science is not a one-size-fits-all approach, as Indigenous knowledge is deeply rooted in local land, culture, and spiritual practices. Therefore, it is more of a path than a destination, but one that holds the promise of a new, multiparadigmatic space where different knowledge systems can coexist and enrich one another. The scientific community must become the trailblazers in this journey, embracing new paradigms that prioritize collaboration, inclusivity, and respect for First Nations ways of knowing. By integrating First Nations sciences and embracing the process of decolonising science, we can foster a conservation framework that is not only ecologically sustainable but also culturally and spiritually respectful. Let us not repeat the mistakes of the past. Instead, let us move forward boldly, ensuring that our scientific inquiries advance and uplift the knowledge systems that have long stewarded the lands and waters we seek to protect.

References:

1. Hauofa, Epeli. *We Are the Ocean*. Manoa: University of Hawai'i Press, 2008.
2. Meduna, Veronika. "Tracking the Lapita Expansion across the Pacific." *Our Changing World*, Radio New Zealand, August 13, 2015. www.rnz.co.nz.
3. Bedford, Stuart, Christopher Sand, and Richard Shing. *Lapita Peoples: Oceania Ancestors*. Port Villa: Vanuatu Cultural Centre, 2010.
4. Bedford, Stuart, and M. Spriggs. "Northern Vanuatu as a Pacific Crossroads: The Archaeology of Discovery." *Asian Perspectives* 47, no. 1 (2008): 95–120.
5. Douglas, Arabella. "Protecting the Spirit of the Sea Bill." Submission for Currie Country Social Change, 2023. Submissions – Parliament of Australia (aph.gov.au).
6. Held, M. (2023). "Decolonizing Science: Undoing the Colonial and Racist Hegemony of Western Science." *Journal of MultiDisciplinary Evaluation* 19(44), 88–101. <https://doi.org/10.56645/jmde.v19i44.785>.
7. Smith, Linda Tuhiwai. *Decolonizing Methodologies: Research and Indigenous Peoples*. London: Zed Books, 1999.

8. Davis, Megan, and Marcia Langton. *Indigenous Australians and the Law*. London: Routledge, 2016.
9. Kimmerer, Robin Wall. *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge, and the Teachings of Plants*. Minneapolis: Milkweed Editions, 2013.
10. Wilson, Shawn. *Research is Ceremony: Indigenous Research Methods*. Winnipeg: Fernwood Publishing, 2008.
11. Nakata, Martin. *Disciplining the Savages: Savaging the Disciplines*. Canberra: Aboriginal Studies Press, 2007.
12. Whyte, Kyle Powys. "Indigenous Science (Fiction) for the Anthropocene: Ancestral Dystopias and Fantasies of Climate Change Crises." *Environment and Planning E: Nature and Space* 1, no. 1–2 (2018): 224–242. <https://doi.org/10.1177/2514848618777621>.
13. Todd, Zoe. "Indigenizing the Anthropocene." *Art in the Anthropocene: Encounters Among Aesthetics, Politics, Environments and Epistemologies*. Edited by Heather Davis and Etienne Turpin. London: Open Humanities Press, 2015, 241–254.
14. Latulippe, Nicole, and Margaret Klenk. "Making Room and Moving over: Knowledge Co-production, Indigenous Knowledge Sovereignty and the Politics of Global Environmental Change Decision-Making." *Current Opinion in Environmental Sustainability* 42 (2020): 7–14. <https://doi.org/10.1016/j.cosust.2019.10.010>.
15. Dei, George J. Sefa. "Decolonizing the University: The Challenges and Possibilities of Inclusive Education." *Journal of Thought* 45, no. 1 (2010): 1–10.
16. Bang, Megan, and Douglas Medin. "Cultural Processes in Science Education: Supporting the Navigation of Multiple Epistemologies." *Science Education* 94, no. 6 (2010): 1008–1026. <https://doi.org/10.1002/sce.20392>.

"The Ripple Effect: Human Rights and the Quest for Ocean Health"

Submission to the Oceans and Human Rights - Special Rapporteur on the human right to a healthy environment

Currie Country Social Change

Representing the Gurri Guraghn peoples of Minyungbal land Bundjalung Nation

Date: 22 October 2024

Introduction: The Ripple Effect of Australia's Inaction on UNDRIP and Native Title Rights

Currie Country Social Change (CCSC) is a First Nations-led Traditional Owner organisation representing the Minyungbal peoples, saltwater peoples from the east coast of Australia. We are grateful for the opportunity to contribute to the Special Rapporteur's inquiry into human rights and ocean-related environmental issues. The protection of our oceans and coastal communities is inextricably linked to the rights and sovereignty of First Nations peoples. This submission draws from First Nations knowledge systems (Foley, 2023) to illuminate the profound gaps in Australia's legislative frameworks, particularly the deficiencies of the Native Title Act, which perpetuate a ripple effect of pain, destruction, and violations of First Nations' universal human rights.

Australia's failure to effectively implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and reform Native Title rights has cascading consequences that extend far beyond legal frameworks. These shortcomings not only hinder First Nations peoples from exercising their rights to manage and protect their marine environments but also contribute to broader environmental degradation and social injustices. The bureaucratic barriers and restrictive interpretations inherent in the Native Title Act have systematically marginalised Indigenous communities from critical decision-making processes regarding ocean and river governance, further entrenching inequalities and eroding their cultural connections, and land and sea rights to country.

As First Nations peoples bear the brunt of climate change impacts—such as rising sea levels and the degradation of vital marine ecosystems—the need for urgent dialogue and collaboration among First Nations groups across Australia, Oceania, and the Pacific region becomes increasingly clear. Leading up to COP29, COP30, and COP31, we aim to strengthen these relationships to address ocean conservation and human rights issues collectively, fostering a unified and powerful presence at international climate negotiations.

While Australia has engaged in international discussions recognising the right to a clean, healthy, and sustainable environment—particularly in marine conservation—it has yet to

Special Rapporteur on the Human Right to a Clean, Healthy, and Sustainable Environment:
Oceans and Human Rights Author: A Douglas CCSC©2024

translate these commitments into meaningful domestic action. The nation's endorsement of the United Nations General Assembly's 2022 resolution acknowledging this right (UNGA, 2022) stands in stark contrast to the persistent flaws in its legal frameworks. Without genuine recognition and protection of First Nations peoples' rights to manage their traditional sea country, the ripple effect of Australia's inaction will continue to resonate, causing ongoing harm and injustice within our communities.

Despite ongoing calls from non-governmental organisations (NGOs) for stronger legal protections and the integration of Indigenous knowledge systems in environmental governance, little progress has been made in aligning Australia's domestic policies with UNDRIP and ensuring Free, Prior, and Informed Consent (FPIC) (Australian Human Rights Institute, 2023). This submission aims to highlight these pressing issues and advocate for transformative change that acknowledges and upholds the rights of First Nations peoples in the context of ocean health and environmental justice.

1. Ineffective Measures and the Failure of the Native Title Act

1.1 The Limitations of Native Title

While the Native Title Act was intended to restore traditional rights, its practical failures have rendered it insufficient in empowering First Nations peoples over marine conservation. The current legislation often reduces First Nations' input to a consultative role, denying them the right to manage their sea country fully. Australia has yet to enshrine the principles of UNDRIP in its legislation, particularly in relation to land and water rights, thus failing to ensure First Nations peoples have control over their cultural heritage and environmental responsibilities (Dodson, 2021).

1.2 Lack of Genuine Engagement with Pacific Nations

Australia's failure to establish and nurture meaningful First Nation-to-First Nation relationships within the Pacific and Oceania further weakens our ability to engage collaboratively on pressing marine and climate issues. The lack of direct engagement between Aboriginal groups and other First Nations peoples across the Pacific has limited opportunities to share knowledge, strategies, and advocacy efforts that are critical to addressing ocean degradation and rising sea levels (McGowan, 2020).

Urgent efforts are needed to build these relationships and foster solidarity before COP29, COP30, and COP31. These upcoming conferences offer a platform for First Nations peoples from across the Pacific to present a unified front, demanding stronger action on ocean protection, climate change, and Indigenous rights. The strength of this alliance will play a key role in ensuring that global climate policies reflect the unique needs and rights of First Nations peoples throughout the region.

2. Best Practices and Immediate Solutions Based on Human Rights Approaches

2.1 Strengthening Pacific First Nation Alliances

We call for an immediate effort to build First Nation-to-First Nation relationships across Oceania and the Pacific, establishing a shared platform to discuss ocean conservation, climate resilience, and Indigenous sovereignty as shared peoples of the ocean (Hau'ofa, E. (2008). The upcoming COP29, COP30, and COP31 provide an unprecedented opportunity for First Nations leaders from Australia and the Pacific to coordinate efforts and advocate for stronger protections for our marine environments. These discussions are essential not only for amplifying our voices in the international arena but also for crafting solutions that are culturally informed and rooted in Indigenous knowledge (Kelsey & Ritchie, 2021).

3. Examples of Fulfillment of Human Rights Related to Oceans

There are positive examples in Australia and the broader Pacific region where Indigenous groups are successfully managing marine environments, but these are often isolated and insufficiently supported. Notable examples include:

3.1 Co-Management in Jervis Bay Marine Park

The Wreck Bay Aboriginal Community Council's partnership in managing Jervis Bay Marine Park is one of the few examples of co-management where Aboriginal knowledge informs marine conservation strategies. However, co-management agreements remain rare, and broader legislative frameworks continue to limit the control Indigenous peoples have over marine and coastal environments (Wreck Bay Aboriginal Community Council, 2021).

4. Gaps in Marine Conservation for Aboriginal Communities

4.1 Limited Recognition

Indigenous groups often struggle to have their rights and traditional knowledge recognised within the broader marine conservation policy frameworks. This issue is especially pronounced in the marine sector, where Indigenous perspectives are frequently marginalised (Hoffmann, 2019).

4.2 Barriers to Participation

Bureaucratic hurdles, insufficient funding, and limited capacity-building opportunities often prevent Aboriginal communities from fully participating in marine management initiatives. These barriers hinder meaningful engagement in crucial decision-making processes (Moreton-Robinson, 2015).

4.3 Lack of Formal Co-Management Arrangements

The absence of formalised co-management agreements in many regions limits the ability of Indigenous groups to assert their rights over marine resources. This situation

diminishes their potential to manage their sea country effectively (Kelsey & Ritchie, 2021).

4.4 Voting Rights Violations

One pressing concern is the ongoing failure of the New South Wales Aboriginal Affairs Minister to protect the political and voting rights of Aboriginal people within the NSW Aboriginal Lands Rights Act. This issue has led to extreme political and legal disenfranchisement, silencing Aboriginal voices on issues critical to land rights, treaty, ocean conservation and climate and environmental justice. There are 309,000 first nation adults in NSW (ABS 2021) yet less than 3000 adults voted or were eligible to vote in NSW State Aboriginal Lands Council Elections (2024).

4.5 Totemic Animism Rights

There is a gap in the specific protection of totemic rights within ocean conservation efforts, a deep understanding of their cultural, spiritual, and environmental significance is essential. Legal Recognition of Totemic Animism Rights in Marine Governance: Amendments to Australian laws should explicitly recognise the spiritual connection between First Nations peoples and their marine totems for salt water and fresh water peoples. This legal acknowledgment would establish their rights to protect marine species and ecosystems as part of their spiritual obligations.

Conclusion and Call for Action

It is imperative that Australia take immediate steps to rectify the failures of the Native Title Act and ensure First Nations peoples have genuine control over their marine environments. The lack of meaningful First Nation-to-First Nation engagement with Pacific nations further undermines our collective ability to address the pressing issues of ocean conservation and climate change collectively.

We call for the urgent strengthening of relationships between First Nations peoples across Australia, Oceania, and the Pacific. These alliances must be formalised and supported before COP29, COP30, and COP31 to ensure that Indigenous leaders from across the region can present a unified and powerful front in demanding environmental justice and human rights protections.

Recommendations

1. **Reform the Native Title Act** to provide greater control and sovereignty for First Nations peoples over marine and coastal environments.
2. **Adopt UNDRIP** into domestic law to ensure the protection of Indigenous rights and traditional knowledge.

3. **Establish First Nation-to-First Nation partnerships** across Oceania and the Pacific, facilitating knowledge exchange and coordinated action on ocean conservation and climate change.
4. **Increase support for Indigenous-led ocean conservation efforts**, ensuring equitable access to resources and decision-making authority.
5. **Formalise co-management agreements** to empower Aboriginal groups in managing marine environments and sea country.
6. **Addressing disenfranchisement** in the voting process for Aboriginal communities, particularly in marine governance matters.
7. **Capacity-building programs** to support Aboriginal communities in marine conservation efforts.
8. **Restitution and Redress for Environmental Harm:** Establishing mechanisms for restitution and legal avenues for compensation in cases of environmental degradation on First Nations waterways.
9. **Nature to Have Legal Rights:** We advocate for our rivers in the Bundjalung Nation to have ‘legal personhood’ status, and ‘living being’s status as outlined in the Bundjalung Flood Report 2022.

Contact Information

Arabella Douglas *BA LLB, GDLP BBUS(HONS)(1st Class) GAICD*

Currie Country Social Change

www.ccscac.org

References

1. Cissé, M. A. (2020). "Women's Roles in Coastal Management: Case Studies from Senegal." *Gender and Environment Journal*.
2. Currie Country Social Change (CCSC). (2022). *Bundjalung Flood Report 2022*. Available at <https://static1.squarespace.com/static/6239449d6d2bef44de44bc31/t/62e98cc6a1290e2335f550d1/1659473121098/A+Bundjalung+Nation+Response+-+NSW+Flood+Inquiry+July+2022.pdf>
3. Douglas, A. (2023). *Currie Country Social Change (CCSC) Submission to the Protecting the Spirit of Sea Country Bill 2023 Submissions – Parliament of Australia*. Currie Country Social Change.
4. Douglas, A. (2024). *Currie Country Social Change (CCSC) Nature Repair Market Submission*. Retrieved from [CCSC website].
5. Foley, D. (2003). Indigenous epistemology and Indigenous standpoint theory. *Social Alternatives*, 22(1), 44-52. <https://search.informit.org/doi/10.3316/jelapa.200305132>
6. Grifo, F. L. (2020). "Conserving Blue Carbon: Human Rights Implications." *International Journal of Marine Conservation*.
7. Hau'ofa, E. (2008). *We are the ocean: Selected works* (illustrated ed.). University of Hawaii Press.
8. Knox, J. W. (2018). "Human Rights and the Environment: A Global Perspective." *Environmental Law Review*.
9. Leckie, C. M. (2021). "Indigenous Governance and Marine Conservation in New Zealand." *Journal of Marine Policy and Governance*.
10. McGowan, M. (2019). "Legal Frameworks for Sustainable Fisheries in the Philippines." *Marine Policy Journal*.
11. Mendez, V. V. (2020). "Community-Based Resource Management: Success Stories from Chile." *Journal of Environmental Policy*.
12. Poelina, A., Brueckner, M., & McDuffie, M. (2020). "For the Greater Good: Questioning the Social Licence of Extractive-Led Development in Western Australia's Martuwarra Fitzroy River Region." *The Extractive Industries and Society*, 8(3), 19. Available at: <https://doi.org/10.1016/j.exis.2020.10.010>
13. Poelina, A., Perdrisat, I., & McDuffie, M. (2021). *Our Commons and Shared Future*. Madjulla Inc. Available at: <https://vimeo.com/556591704/eda8f81424>

14. RiverOfLife, M., Poelina, A., Alexandra, J., & Samnakay, N. (2020). *A Conservation and Management Plan for the National Heritage Listed Fitzroy River Catchment Estate (No. 1)*. Martuwarra Fitzroy River Council, Nulungu Research Institute, The University of Notre Dame, Australia. Available at: <https://doi.org/10.32613/nrp/2020.4>
15. Sultana, F. (2021). "Integrating Indigenous Knowledge in Coastal Restoration." *Coastal Management Review*.
16. Australian Conservation Foundation. (2023). Climate Change and Indigenous Communities.
17. Australian Human Rights Institute. (2023). Advocating for Environmental Rights in Australia. [Home | Australian Human Rights Institute](#)
18. International Indigenous Peoples' Forum on Climate Change. (2023). Indigenous Knowledge and Environmental Governance. Retrieved from [INTERNATIONAL INDIGENOUS PEOPLE'S FORUM ON CLIMATE CHANGE](#)
19. United Nations General Assembly. (2022). Resolution on the Right to a Clean, Healthy, and Sustainable Environment. Retrieved from https://unemg.org/wp-content/uploads/2022/12/UN_CommonNarrative_Upholding-Human-Right-to-Healthy-Environment_2022.28.11.pdf
20. UN Human Rights Council. (2023). Climate Change and Human Rights Report. Retrieved from [Human Rights Council resolutions on human rights and climate change | OHCHR](#)
21. Victorian Charter of Human Rights and Responsibilities Act. (2006). Legislation on Human Rights in Victoria. Retrieved from [Charter of Human Rights and Responsibilities Act 2006 | legislation.vic.gov.au](#)
22. Department of Environment, Land, Water and Planning. (2020). *Gunditjmara people and the Budj Bim Cultural Landscape*.
23. Great Barrier Reef Marine Park Authority. (2020). *Indigenous participation in marine park management*.
24. Hoffmann, A. (2019). *Indigenous rights and marine conservation in Australia*.
25. Keenan, S. (2019). *Coffs Harbour Aboriginal Conservation: A case study in community-led initiatives*.
26. Kelsey, H., & Ritchie, K. (2021). *Barriers to Aboriginal participation in marine resource management*.

27. Moreton-Robinson, A. (2015). *The White Possessive: Property, Power, and Indigenous Sovereignty*.
28. Torres Strait Regional Authority. (2017). *Torres Strait Islander Marine Management: A Framework*.
29. Wreck Bay Aboriginal Community Council. (2021). *Managing Jervis Bay Marine Park*.

Other Notable **Examples of Fulfillment of Human Rights Related to Oceans**

New South Wales (NSW)

Jervis Bay Marine Park

Aboriginal groups, particularly the Wreck Bay Aboriginal Community Council, play a pivotal role in managing Jervis Bay Marine Park. Their involvement ensures that traditional ecological knowledge is incorporated into the development of marine management plans, showcasing the importance of Indigenous perspectives in marine conservation (Wreck Bay Aboriginal Community Council, 2021).

Coffs Harbour Aboriginal Conservation

In Coffs Harbour, the Gumbaynggirr people are involved in efforts to restore coastal ecosystems and promote sustainable fishing practices. Collaborative projects with government agencies aim to preserve cultural heritage while enhancing marine biodiversity (Keenan, 2019).

Queensland (QLD)

Great Barrier Reef Marine Park Authority (GBRMPA)

Indigenous groups, such as the Kuku Yalanji and Yirrganydji peoples, are actively involved in co-managing sections of the Great Barrier Reef. Their contributions of traditional ecological knowledge are crucial in ensuring that the management of marine areas respects Indigenous rights and cultural values (Great Barrier Reef Marine Park Authority, 2020).

Torres Strait Islander Marine Management

In the Torres Strait, traditional owners are leading initiatives to manage marine resources through Indigenous-led approaches. The Torres Strait Regional Authority supports these initiatives, recognizing the vital role of Indigenous knowledge in conserving marine biodiversity and promoting sustainable practices (Torres Strait Regional Authority, 2017).

Victoria

Gunditjmara and Marine Management

The Gunditjmara people of Victoria are engaged in managing coastal areas, particularly around the Budj Bim Cultural Landscape. Although this area primarily focuses on freshwater ecosystems, it demonstrates how Indigenous knowledge can be applied to natural resource management, including marine contexts (Department of Environment, Land, Water, and Planning, 2020).