



United Nations Permanent Forum on Indigenous Issues
Tenth Session
New York, 16- 27 May 2011.

Agenda Item 6: The Right to Water and Indigenous Peoples

INTERVENTION by the New South Wales Aboriginal Land Council, delivered by Councillor for the Wiradjuri Region, and member of the Ngiyampaa Peoples, Cr Craig Cromelin.

Thank you Mister / Madam Chairperson

For at least 50,000 years or since our Dream Time, the Aboriginal peoples of Australia have traditionally owned, occupied and managed the lands, territories and resources of the driest inhabited continent on earth. Over these millennia we have sustainably managed the lands, waters and natural resources for the health of our Countries and our peoples. We have understood the importance of water and its centrality to life and have cherished it accordingly. Our traditional ecological knowledge has been passed down from generation to generation and continues up until this day.

However, for close on 200 years, our lands, our waters, and our resources have been mismanaged by those who came and proclaimed the nation of Australia. Through the dispossession and mismanagement of our lands, we have witnessed the detrimental effects upon both our peoples and our environment.

When it comes to water at least, the Australian nation has more recently come to realise the errors of its past. In 2007, faced with the prospect of climate change and with its history of mismanagement, the Australian Government commenced the most significant water reforms in the nation's history. The principal focus of these reforms was, and remains, the allocation of water resources within the basin area of Australia's most iconic and largest river system, the Murray-Darling.

The Murray-Darling Basin covers an area more than four times the size of the United Kingdom, and incorporates the traditional lands of 34 Aboriginal nations, including my own the Ngiyampaa Peoples. Despite our dispossession we the Aboriginal peoples of the Murray-Darling Basin continue to maintain strong connections and relationships to our traditional lands, waters and natural resources.

The reforms planned for the Murray-Darling Basin, present a real opportunity for Australia to recognise and learn from our peoples' traditional ecological knowledge and connections to our Countries, and significantly for our peoples, also presents an opportunity to right some of the past injustices and ongoing inequities suffered by the Aboriginal peoples of the Murray-Darling Basin.

As is recognised in the United Nations *Declaration on the Rights of Indigenous Peoples*, we have a right to our traditionally owned lands, waters and resources, and a right to maintain and strengthen our

relationships to them. We also have a right to redress and compensation for those lands, waters and resources that have been taken from us without our free, prior and informed consent.

The *then* Australian Social Justice Commissioner made it clear in his 2008 Report that any Government negotiations regarding water, including in regards to the Murray-Darling Basin reforms must as a minimum consider fully the rights of Indigenous peoples as enshrined in the *Declaration*.

As part of the Murray-Darling Basin reforms, we at the New South Wales Aboriginal Land Council are calling for the recognition of the inherent rights and entitlements Aboriginal peoples have to water, and we support the Aboriginal nations of the Murray-Darling Basin in their calling for Aboriginal water allocations or ‘Cultural flows’.

These waters are rightfully ours and must be legally and beneficially owned by our peoples. They must be of sufficient and adequate quantity and quality to improve the spiritual, cultural, environmental, social and economic conditions of our peoples. We must also be free to determine what use we put our waters to; our connection to our water and our Countries are complex and can only be determined by us and our culture.

Similarly, our water rights and entitlements can no longer be relegated to, or confused with the needs of the environment. In this age, the dated view of our peoples as part of the landscape cannot be used to undermine or limit our rights.

Further to this, our specific rights to water as Indigenous peoples exist on top of our rights to water for domestic purposes. As former United Nations Secretary General Kofi Annan has noted; “access to safe water is a fundamental human need and, therefore, a basic human right”. This right belongs to all and we as citizens have a right to enjoy it in addition to our specific rights to water as Indigenous peoples.

However, it must also be appreciated that mere recognition of our rights and entitlements alone, is not enough. We also need to see Governments addressing the barriers our peoples face in accessing our rights and entitlements to water. These barriers, which may be seen as insignificant, can prove impossible to overcome wherever basic infrastructure is lacking, and capacity to navigate bureaucratic pathways are limited. Rights and entitlements that are given without practical support for accessing those entitlements amount to mere symbolic gestures. At a time in Australia when the Government has allocated billions of dollars for water reforms, we are asking that some of those funds be spent assisting Aboriginal peoples with access to their rightful water.

Finally, for the benefit of the Murray-Darling, other waterways and our environment generally, we would encourage the Governments of Australia to listen and learn from our country’s first peoples. The Rio Earth Summit’s *Convention on Biological Diversity* and the *Ramsar Convention on Wetlands* make it clear that Indigenous knowledge and participation in resource management is to be both respected and encouraged. Australia’s own National Water Initiative also includes similar sentiments.

However, while we acknowledge the Government’s establishment, through the National Water Commission of the First Peoples’ Water Engagement Council, as well as the Murray-Darling Authorities’ consultation with the confederated bodies of both the Northern and Southern Aboriginal nations of the Murray-Darling Basin, we note that when it comes to opportunities for Aboriginal people to become meaningfully involved in the management of water resources in the Murray-Darling Basin there is at times

a chasm between the perception and reality as experienced by Aboriginal peoples. For our peoples, and all peoples we simply must do better to incorporate the traditional ecological knowledge Aboriginal peoples have gained over the millennia into water resource management.

We recommend that the Permanent Forum urges all states to:

- Ensure that Indigenous rights and entitlements to water are unreservedly recognised and protected by law and policy, and are supported by practical and economic measures to assist with Indigenous peoples access to such rights and entitlements; and
- Foster Indigenous participation and knowledge sharing with water resource management.

Thank you Chairperson and members.