




Australia's National Institute for Aboriginal
and Torres Strait Islander Health Research

Future National Water Agreement

Submission to the Department of Climate Change, Energy,
the Environment and Water

Lowitja Institute, May 2024



Future National Water Agreement
Consultation
Department of Climate Change,
Energy, the Environment and Water

May 2024

Dear Department of Climate Change, Energy, the Environment and Water,

Re: Future National Water Agreement Consultation

Lowitja Institute is Australia's national institute for Aboriginal and Torres Strait Islander health research, named in honour of our Patron, Dr Lowitja O'Donoghue AC CBE DSG. We welcome the opportunity to provide a submission to the Department of Climate Change, Energy, the Environment and Water (DCCEEW).

Climate and Aboriginal and Torres Strait Islander health and wellbeing, including the intersecting issues relating to water, is a policy priority for Lowitja Institute. Since we held a roundtable and published our discussion paper, *Climate Change and Aboriginal and Torres Strait Islander Health and Wellbeing* in 2021, we have been advocating for further action. The importance of water to Aboriginal and Torres Strait Islander peoples' health, cultural practices, and social and emotional wellbeing cannot be understated.

Working in this space, we see that policy areas are siloed, which leads to ineffective and suboptimal policymaking. Aboriginal and Torres Strait Islander peoples' worldviews do not silo things in this way; we see ourselves as intrinsically connected to Country, we are part of the natural environment, thus our health and wellbeing is impacted by the health of Country. When Country is sick, so are we.

We are encouraged by the Department's clear recognition that water, climate change and health are linked. We are further encouraged by the Department's elevation of our peoples' wisdom, knowledge, and leadership via the Committee on Aboriginal and Torres Strait Islander Water Interests. What we know from our work and our engagement with Aboriginal and Torres Strait Islander peoples, including community members, academics and experts is that the health impacts of climate change for our people are severe and need to be tackled innovatively and with our leadership. Water policy plays a large role in this.

We encourage the Department to work collaboratively with Aboriginal and Torres Strait Islander health organisations and experts, and Departmental counterparts, to ensure that these considerations are front of mind and elevated within the future

National Water Agreement, its implementation, and ancillary governance structures. We have made recommendations to this effect.

For several years, Lowitja Institute has been advocating for our peoples' rights in the context of climate change and Aboriginal and Torres Strait Islander health and wellbeing. In addition to our below submission, we refer the Department to the following Lowitja Institute documents, which will provide helpful context, information and insight, both of which are available on our website:

- [Climate Change and Aboriginal and Torres Strait Islander Health](#)
- [Let's walk together, work together, we'll be stronger together: The need for an Aboriginal and Torres Strait Islander Coalition on Climate and Health](#)

Please find our submission attached. We would welcome any opportunities to further discuss our recommendations therein.

Warm regards

A handwritten signature in black ink, appearing to read 'Rosemary Smith', with a stylized flourish at the end.

Rosemary Smith
Executive Manager, Policy & Consulting, Lowitja Institute



About the Lowitja Institute

The Lowitja Institute is a national Aboriginal and Torres Strait Islander Community Controlled Organisation working for the health and wellbeing of Aboriginal and Torres Strait Islander peoples through high impact quality research, knowledge translation, and by supporting Aboriginal and Torres Strait Islander health researchers.

Established in January 2010, we operate on the key principles of Aboriginal and Torres Strait Islander leadership, a broader understanding of health that incorporates wellbeing, and the need for the work to have a clear and positive impact.

The Lowitja Institute has a longstanding commitment to the National Agreement on Closing the Gap, as members of the Coalition of Peaks, National Health Leadership Forum and the Close the Gap Steering Committee, including authoring the Close the Gap Report over the past 4 years.

Based on this experience we offer the following general comments and note some specific issues for consideration.

Submission


Before responding to the discussion paper in greater detail, we appreciate that the Department has recognised 'the profound Cultural, spiritual, social, environmental and economic connections that Aboriginal and Torres Strait Islander Peoples have to their lands and waters and respect their custodianship and unique perspectives.'¹ The Department has recognised our peoples' water interests as a primary purpose for developing a future National Water Agreement (future Agreement); we commend this.

Historical context and the current National Water Initiative

Prior to colonisation, our peoples looked after the health of individuals, communities and Country as one, applying a holistic approach to health and social and emotional wellbeing. It is widely acknowledged by Aboriginal and Torres Strait Islander experts and peak health organisations, that there are several 'non-medical and behavioural influences on health',² which include 'social and cultural

¹ Department of Climate Change, Energy, the Environment and Water, 2024, Discussion paper – seeking views on a future water agreement, March 2024.

² Anderson, I., Baum, F. & Bentley, M. (eds) 2004, Beyond Band-aids: Exploring the Underlying Social



determinants'. Social and cultural determinants can be influenced by things such as economic, political and environment factors, which all impact significantly on the health and wellbeing of our peoples and communities. These determinants can be influenced, and any adverse impacts ameliorated through sound policy changes³ and system reform. Access to and control of water is such a determinant.

As written in Lowitja Institute's 2021 discussion paper, *Climate Change and Aboriginal and Torres Strait Islander Health*, healthy waterways 'nurture [our peoples'] identity, spirituality, and culture.'⁴

Good health is dependent on respectful and reciprocal relationships to Country, culture, spirituality, community and family (Figure 2). It is a cultural responsibility to look after and respect oneself (connection to body, mind and emotions), each other (family, kinship, community) and the environment (connection to Country). Aboriginal and Torres Strait Islander people had unfettered access to food and water within their traditional lands and managed these resources sustainably, taking cues from the environment and working to protect it for future times and generations. These traditional knowledges, developed through processes of observation, learning and adapting over millennia, have been transmitted through generations as lore and cultural practice, forming a code for maintaining balance with one another, with Country and other living beings.⁵

Colonisation disrupted these practices for our peoples, by disconnecting us from our communities and Countries. We were blocked from being able to access and care for Country, something that is key to our cultural practices. From an international perspective, this is a common harm to Indigenous peoples caused by colonisation globally; in this way, colonisation and climate change are related. This connection

Determinants of Aboriginal Health. Papers from the Social Determinants of Aboriginal Health Workshop, Adelaide, July 2004, Cooperative Research Centre for Aboriginal Health, Darwin, p. x-xi
3 Anderson, I., Baum, F. & Bentley, M. (eds) 2004, *Beyond Band-aids: Exploring the Underlying Social Determinants of Aboriginal Health*. Papers from the Social Determinants of Aboriginal Health Workshop, Adelaide, July 2004, Cooperative Research Centre for Aboriginal Health, Darwin, p. x.
4 HEAL Network & CRE-STRIDE, 2021, *Climate Change and Aboriginal and Torres Strait Islander Health*, Discussion Paper, Lowitja Institute, Melbourne p. 19
5 HEAL Network & CRE-STRIDE, 2021, *Climate Change and Aboriginal and Torres Strait Islander Health*, Discussion Paper, Lowitja Institute, Melbourne p. 13.



was recognised in the most recent International Panel on Climate Change (IPCC) report.⁶

One of the ways that colonisation functions is by taking control of land, waterways and seas, including natural resources. Colonial practices are not sustainable, they are profit driven rather than driven by a desire to maintain balance and good health and wellbeing.

Colonisation is ongoing in this country; one of its methods was and still is locking our peoples out of decision-making regarding Country, including decision making about water. Water policy and regulation in Australia is a mechanism that has disempowered our peoples and contributed to health inequities. The separation of land rights from water rights has meant that our peoples have had extremely limited control over water.

Our discussion paper speaks to the impacts of the current National Water Initiative (NWI). One consequence of the NWI was the 'enhanced commodification of water through expanding trade schemes', which led to overextraction, diversion and pollution.⁷ This has wider environmental impacts on local ecosystems and can threaten Aboriginal and Torres Strait Islander cultural sites. For example, in 2021 the Central Lands Council conducted a survey to assess the impact of a proposed agricultural license, which would permit 40,000 megaliters of water to be drawn per year over 30 years to grow crops for export. The survey found that 29 sacred sites and songlines were threatened 'even by the smallest drop in the water table.'⁸

The recognition of Aboriginal and Torres Strait Islander peoples' water rights and interests in the NWI was not strong enough to protect them. As of 2021, "despite subsequent government recognition of the importance of cultural flows and promised funding to secure cultural flows, nothing has eventuated, continuing the exclusion of Aboriginal communities from their inherent rights to access water on Country."⁹

Further, the impacts of climate change on water and on our peoples' health are severe. Urgent action is required. Norman Frank Jupurrurla, a Warumungu Elder and

⁶ IPCC, 2022, Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, et.al (eds.)], in: *Climate Change 2022: Impacts, Adaptation and Vulnerability*. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Cambridge University Press, Cambridge, UK, p. 12.

⁷ HEAL Network & CRE-STRIDE, 2021, *Climate Change and Aboriginal and Torres Strait Islander Health*, Discussion Paper, Lowitja Institute, Melbourne p. 19.

⁸ HEAL Network & CRE-STRIDE, 2021, *Climate Change and Aboriginal and Torres Strait Islander Health*, Discussion Paper, Lowitja Institute, Melbourne p. 19.

⁹ HEAL Network & CRE-STRIDE, 2021, *Climate Change and Aboriginal and Torres Strait Islander Health*, Discussion Paper, Lowitja Institute, Melbourne p. 19

community leader in Tennant Creek, Northern Territory, shared his story at Lowitja Institute's biannual conference:

We see a lot of changes. We see Country change. Country died. No water. There's nothing there. No grass, no dirt. Trees all dead because of the heat. Horses died in the thousands. No cattle. Birds falling from the skies. Now in the morning you don't hear nothing because the birds have all died because of the draught.

The heat. Everyone is talking about it... You couldn't see the lizards anymore. Nothing. Not even a crop for four years. When we got our first storm, our kids born years ago had never seen rain. A kid was running around scared in the house because it was his first storm.” – Norman Frank Jupurrurla.¹⁰

Without water, there is no life. We need to act urgently to mitigate and adapt, and to protect our waterways.

Specific impacts to health and wellbeing

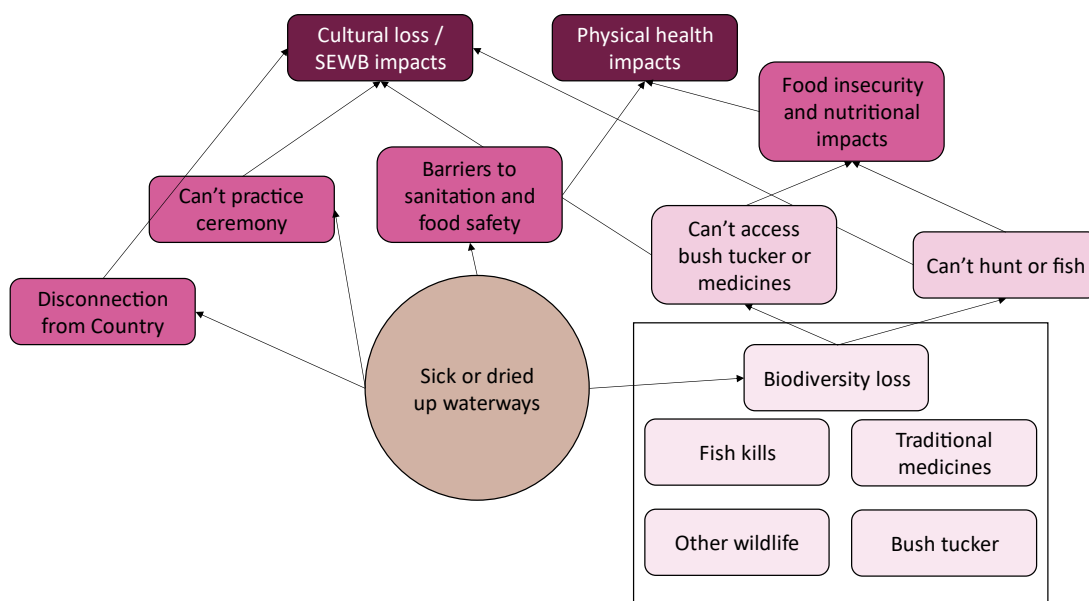
As noted in Objective 1, safe and secure supply of sufficient water quality and quantity is vital for our peoples' health and wellbeing, including the ability to continue practicing culture and ceremony.

In 2022 and 2023, Lowitja Institute engaged with Aboriginal and Torres Strait Islander peoples across Australia and the Torres Strait to hear their stories, concerns, and solutions regarding climate change's impacts on health and wellbeing. Key concerns that stakeholders expressed relating to water were:

- ❶ Water security relating to river systems drying up or becoming polluted by agriculture or mining.
- ❷ Loss of ability to practice culture and ceremony associated with specific waterways.
- ❸ Impacts to food security, including fish kills and loss of biodiversity and traditional food sources (e.g. kangaroo), the loss of bush tucker and traditional medicines. Further, these impacts limit our peoples' ability to practice traditional hunting and fishing, which is tied to both physical health and cultural, spiritual and emotional wellbeing. All of these factors impact on nutrition and healthy lifestyles.

¹⁰ Lowitja Institute, 2023, Let's walk together, work together, we'll be stronger together: The need for an Aboriginal and Torres Strait Islander Coalition on Climate and Health, Policy position paper, p. 3.

- ⊗ Impacts to sanitation, which limit the ability of communities to practice health hygiene.
- ⊗ Barriers to ensuring food safety.




Regarding sanitation, our 2021 discussion paper includes an example in which the NSW Aboriginal Land Rights Act 1983 led to the establishment of Local Aboriginal Land Councils (LALCs). Under this legislation, LALCs were able to control Aboriginal reserve and mission land. However, while they were given control of these lands, LALCs were not provided the resources or capability building that local councils have to develop and maintain infrastructure, including water and sewerage systems.¹¹

Lowitja Institute has made several submissions and advocated for policy change to improve the widespread housing disrepair, poor community infrastructure and associated health impacts that many of our communities endure. In Lowitja Institute's submission to the Productivity Commission's National Housing and Homelessness Agreement Review in 2022, we noted that access to plumbing and proper hardware¹² such as showers, taps, and washing machines as well as access

¹¹ HEAL Network & CRE-STRIDE, 2021, *Climate Change and Aboriginal and Torres Strait Islander Health*, Discussion Paper, Lowitja Institute, Melbourne p. 18.

¹² The importance of 'health hardware' is explained in Clement, Tracey 2020, "This is not a wicked problem": Healthabitat is making housing better for Australia's Indigenous communities, Planning



to potable water, and proper sewerage systems are all key to food safety and good hygiene.¹³ Water quality in remote communities often fails to meet national standards (Office of the Auditor General Western Australia 2015)¹⁴ and many do not have access to safe water sources.¹⁵

The above are all important to maintaining good health. Lack of access can result in physical health issues, which are outlined in the national *Aboriginal and Torres Strait Islander Health Plan*, including:

- ⊗ skin infections
- ⊗ acute rheumatic fever and rheumatic heart disease
- ⊗ trachoma
- ⊗ otitis media
- ⊗ post-streptococcal glomerulonephritis – which is linked to chronic kidney disease and caused by strains of group A streptococcus (which also causes acute rheumatic fever)¹⁶
- ⊗ increased spread of infectious diseases, and
- ⊗ increased risk of childhood illness, which can lead to chronic illness.¹⁷

Further, handwashing is vital for reducing the spread of infectious diseases within households and communities. We saw the importance of this during COVID-19. However, handwashing is not possible without access to running potable water and working plumbing.

Proposed structure of a future National Water Agreement

The holistic approach that the Department has taken, incorporating Aboriginal and Torres Strait Islander water interests, climate change and health across the objectives is sound. We agree with the approach of including Objective 2 – Supporting Aboriginal and Torres Strait Islander Peoples' water interests and values – as well as weaving Aboriginal and Torres Strait Islander peoples' rights, interests,

and Policy, Foreground, accessed on 15 March 2022 at ["This is not a wicked problem": Healthhabitat is making housing better for Australia's Indigenous communities \(foreground.com.au\)](https://www.foreground.com.au/this-is-not-a-wicked-problem/)


¹³ Housing sub, pp 7-8.

¹⁴ Lowitja Institute 2021, Close the Gap Leadership and Legacy Through Crises: Keeping Our Mob Safe, Close the Gap Campaign Report 2021, The Close the Gap Campaign Steering Committee for Indigenous Health Equity, p. 26.

¹⁵ Anderson, I., Baum, F. & Bentley, M. (eds) 2004, Beyond Band-aids: Exploring the Underlying Social Determinants of Aboriginal Health. Papers from the Social Determinants of Aboriginal Health Workshop, Adelaide, July 2004, Cooperative Research Centre for Aboriginal Health, Darwin, p. 79.

¹⁶ [Department of Health, Australian Government 2021, Aboriginal and Torres Strait Islander Health Plan 2021-2023, p. 46.](#)

¹⁷ Swan, Norman, 2019, The links between housing and health, On Health Report, ABC Radio National 25 February 2019. Accessed on 15 March 2022 at: [The links between housing and health - Health Report - ABC Radio National](#)



values, and leadership into the outcomes under the other objectives. We encourage the Department to embed as much of the Insights Paper¹⁸ into the future Agreement as possible.

In addition, **we recommend embedding Aboriginal and Torres Strait Islander leadership into Objective 2 and the future Agreement more broadly.** Enabling our leadership and encouraging states and territories to do so goes beyond the recognition and protection of our peoples' water interests and values; this seeks to transform the power structures that have precluded our peoples' from caring for the health of our communities, Countries and waterways.

Governance and implementation

The value of the governance structure that the Department has created internally, with the inclusion of the Committee on Aboriginal and Torres Strait Islander Water Interests, is clearly demonstrated in the Discussion Paper and the Insights Paper¹⁹. However, as noted above, issues relating to water are also connected to other portfolio areas such as housing and health. This is recognised in the discussion paper and was also acknowledged during a consultation session with the Department. It is vital that these areas all talk to one another to ensure cohesive policymaking that does not double handle or counteract.

We encourage the Department to consider how they might engage with other relevant Departmental and cross-portfolio stakeholders such as Department of Health and Aged Care (including their Climate and Health Unit), Department of Social Services and National Indigenous Australians Agency to ensure that the future Agreement considers the broader context and responds to key cross-cutting issues and priorities.

Further, it is vital that the Department include the voices of a broad range of Aboriginal and Torres Strait Islander peoples and organisations, and that it taps into existing governance forums such as the Coalition of Peaks. In Lowitja Institute's engagement with Aboriginal and Torres Strait Islander peoples during 2023, we heard that many stakeholders are either being left out of engagement processes or are being over consulted on issues regarding climate, health, and related areas such as water. This puts pressure on community members and organisations who do not have the resources and capacity to engage and thus this can lead to their

¹⁸ Committee on Aboriginal and Torres Strait Islander Water Interests, 2023, Insights Paper, Pathway to enduring recognition of Aboriginal and Torres Strait Islander Peoples' water interests in national water reform initiatives.

¹⁹ Committee on Aboriginal and Torres Strait Islander Water Interests, 2023, Insights Paper, Pathway to enduring recognition of Aboriginal and Torres Strait Islander Peoples' water interests in national water reform initiatives.



exclusion. This results in many of our peoples' voices being unheard in policy and decision making. It is important that the Department considers this in its engagement with our peoples and also in the implementation of the future Agreement.

There is no specific forum at present that is Aboriginal and Torres Strait Islander led and resourced to focus on health and climate – this is a huge governance gap that needs to be filled. Lowitja Institute led a significant body of work during 2022 and 2023 engaging with Aboriginal and Torres Strait Islander peoples nationally and assessing the feasibility of a national governance body to fill this governance gap.

We have previously recommended the establishment of a National Aboriginal and Torres Strait Islander Coalition on Climate and Health. This body would bring relevant Aboriginal and Torres Strait Islander experts and community representatives across various sectors together to have input into and lead policy development relating to climate, environment and health. It would be a nexus between portfolio areas and ensure broad representation of our peoples. Further, it would be able to facilitate and guide the establishment of stronger partnerships between government departments and our peoples.

Alongside the abovementioned position paper, Lowitja Institute also published a business case for the Coalition that we encourage the Department to review.²⁰ A copy can be downloaded via our website, The more that we engage with our communities, the stronger our conviction becomes that such a body would significantly enhance our peoples' voices and leadership on this important policy issue.

We recommend committing funding for the establishment and operation of a Coalition or like body that is designed and led by Aboriginal and Torres Strait Islander peoples.

It is also important that the future Agreement connects to and supports other policies, such as the National Agreement on Closing the Gap, the National Aboriginal and Torres Strait Islander Health Plan 2021-2031, the National Aboriginal and Torres Strait Islander Health Workforce Strategic Framework and Implementation Plan 2021-2023, the National Climate and Health and Climate Strategy, the National Climate Risk Assessment and National Climate Adaptation Plan, and the National Strategy for Food Security.

²⁰ Lowitja Institute, 2023, Business Case for an Aboriginal and Torres Strait Islander Coalition on Climate and Health, Short Summary.

Research and Data


Aboriginal and Torres Strait Islander peoples and researchers have long expressed concern and frustration with their knowledges being diminished and overlooked by mainstream researchers, Western methodologies, and funding processes. Despite this, there is a growing community of Aboriginal and Torres Strait Islander researchers and experts who can make significant contributions to the environmental and climate research and policy spaces. Objective 2 acknowledges the importance of Aboriginal and Torres Strait Islander people's ownership and management of water, and that this requires leadership and data sovereignty. This cannot be achieved without significant investment and funding towards Aboriginal and Torres Strait Islander-led (rather than 'informed') research, and the formation of effective and meaningful research partnerships with Aboriginal and Torres Strait Islander researchers and research communities.

Investing in Aboriginal and Torres Strait Islander-led research is key to best addressing the gaps and exclusion of Aboriginal and Torres Strait Islander knowledges and perspectives across science, research, and policy spaces. An important part of this process is investing in and building the capability of the Aboriginal and Torres Strait Islander workforce, including supporting Aboriginal and Torres Strait Islander water, climate, health and environmental scientists, researchers, and ecologists to grow their careers; and increasing funding for Aboriginal and Torres Strait Islander people to be involved in this work on Country. These efforts align with the *National Aboriginal and Torres Strait Islander Health Workforce Strategic Framework and Implementation Plan 2021-2031*.

Achieving the objectives outlined in the future Agreement requires water research, policy, and data collection to be led and designed by Aboriginal and Torres Strait Islander peoples. These objectives include supporting genuine partnerships and co-design, building capacity, and providing opportunities for Aboriginal and Torres Strait Islander peoples to own and protect their water ways for generations for come. The Department can refer to the former Department of Environment and Energy's guideline on partnering with Aboriginal and Torres Strait Islander organisations,²¹ which was developed in 2019.

Alongside ensuring the leadership of Aboriginal and Torres Strait Islander researchers, academics, water, climate and environmental scientists, is ensuring that Indigenous Data Sovereignty is embedded within the future Agreement.

²¹ Department of Environment and Energy 2019, Partnering with Indigenous organisations for a sustainable environment, Commonwealth of Australia, Canberra accessed on 24 July 2023 at <<https://www.dcceew.gov.au/sites/default/files/documents/partnering-indigenous-organisations-guide.pdf>>



Data is a valuable resource and a cultural, strategic, and economic asset for Aboriginal and Torres Strait Islander peoples.²² There is an emerging and urgent need to address how data is collected and used in ways that shift ownership and control to Aboriginal and Torres Strait Islander people across all sectors. Historically data development and analysis has excluded Aboriginal and Torres Strait Islander peoples, undermining our rights to self-determination and decision-making over our Cultural, spiritual, social, environmental, and economic water interests and values.

We recognise that Objective 2 proposes that Aboriginal and Torres Strait Islander Peoples' scientific knowledge, data sovereignty, innovation and customs inform the development of the new Agreement. We encourage the Department to consider and embed the principles of Indigenous Data Sovereignty and Governance within the future Agreement. Defined, Indigenous Data Sovereignty (ID-SOV):

*refers to the inherent and inalienable rights relating to the collection, ownership, and application of data about Indigenous peoples, and about their lifeways and territories. This includes Indigenous peoples' right to maintain, control, protect and develop their cultural heritage, traditional cultural expressions, as well as their right to maintain, control, protect and develop their intellectual property over these.*²³

Related is the concept of Indigenous Data Governance (ID-GOV) which enacts ID-SOV by:

*providing processes and mechanisms for ensuring Indigenous Peoples' rights and interest are reflected in data policies and practices. It refers to the right of Indigenous peoples to autonomously decide what, how, and why Indigenous Data are collected, accessed, and used. It ensures that data on or about Indigenous peoples reflects Indigenous priorities, values, cultures and worldviews, and diversity.*²⁴


ID-SOV relates to individual and collective information or knowledge, and Aboriginal and Torres Strait Islander peoples' rights to govern our own data, including its creation, collection, and use. It supports the rights of Indigenous peoples, our experiences, values, and understandings are developed and reflected in the data and information that pertains to us, our communities, and our cultural knowledges.

We recommend that Indigenous Data Sovereignty be embedded within the future Agreement.

²² Taking Control of Our Data: A Discussion Paper on Indigenous Data Governance for Aboriginal and Torres Strait Islander People and Communities, Discussion Paper, Lowitja Institute, Melbourne. DOI: 10.48455/rtvd-7782

²³ Griffiths K.E., Johnston M., Bowman-Derrick S. 2021, Indigenous Data Sovereignty: Readiness Assessment and Evaluation Toolkit, Lowitja Institute, Melbourne, p.5

²⁴ Griffiths K.E., Johnston M., Bowman-Derrick S. 2021, Indigenous Data Sovereignty: Readiness Assessment and Evaluation Toolkit, Lowitja Institute, Melbourne, p.5



Considering data will underpin evidence-based decision making in water management under the future Agreement, it is critical that Aboriginal and Torres Strait Islander people's cultural knowledge and data is collected by and owned by Aboriginal and Torres Strait Islander peoples. This would increase self-determination through empowering communities to lead the design of sustainable, Aboriginal and Torres Strait Islander-led solutions that inform sustainable water practices and improve water quality and health.