



**North Australian
Indigenous Experts
Water Futures Forum Report**

5th - 6th August 2009

Mary River Park

Northern Territory

Australia

REPORT SUMMARY

In August 2009, about 80 Indigenous experts from north Australia convened at Mary River Park in the Northern Territory to discuss and present to the Northern Land and Water Taskforce their water interests and issues.

Convened by the North Australian Indigenous Land and Sea Management Alliance (NAILSMA), the North Australian Indigenous Experts Water Futures Forum provided an opportunity to raise ideas and concerns about economic development and opportunities; the potential impacts of development in north Australia; and governance and institutional arrangements as they affect Indigenous community interests, aspirations and issues.

The Mary River Statement, Principles and Recommendations are the major Forum Outcomes. They demonstrate the seriousness of Indigenous peoples' contribution and participation in policy decision making. The Interim Working Group elected during the Forum is ready to engage at all levels to facilitate a broader dialogue with Indigenous groups across north Australia.

ACKNOWLEDGEMENTS

The North Australian Indigenous Land and Sea Management Alliance (NAILSMA) and the Indigenous Experts Water Futures Forum Steering Committee acknowledge the support of the Northern Australia Land and Water Taskforce in funding this Forum.



This report was prepared by Michael Duffy under the guidance and endorsement of NAILSMA.

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Executive Summary

'Alive that water - not only human beings but animals, plants... it gives life.'

Biddy Lindsay, Daly River

Background

The North Australian Indigenous Land and Sea Management Alliance (NAILSMA)¹ was commissioned by the Northern Australia Land and Water Taskforce (the Taskforce)² to convene the North Australian Indigenous Experts Water Futures Forum³ at Mary River in the Northern Territory in August 2009.

The Taskforce maintains that Indigenous stakeholders need to have a strong voice so that their interests and beliefs about water and water sustainability can be better understood. Mainly scientific data on water sustainability is available to work with and the Taskforce understands that this water research does not create a complete picture about Northern Australia's water story. The Taskforce, therefore, sought advice on three key aspects of its brief⁴:

- the sustainable capacity of the Northern river systems;
- economic development options and their impacts; and
- institutional and governance arrangement for the effective management of Northern water resources.

Accordingly, the Forum, which was attended by about 80 Indigenous leaders and aspiring leaders, was aimed to draw out ideas and concerns about economic development, cultural issues associated with water and the perceived or actual consequences of developments in Northern Australia; as well as how governance and institutional arrangements may affect Indigenous community interests and aspirations. It was also a place to declare a clear Indigenous position and commentary on water resource use, based on and refined through open, regional and culturally-based discussion groups.

The Forum

Over two days the forum combined keynote talks, regional workshops conducted by Indigenous facilitators and open discussions based on the Taskforce's Terms of Reference. Delegates were asked to consider and comment on their:

- social and cultural connections to water resources;
- economic development aspirations that rely on access and use of locally or regionally significant water resources; and
- knowledge of current and proposed water resource management and governance arrangements and perceptions of actual and potential positive and negative impacts.

¹ For more information, see www.nailsma.org.au

² For more information, see <http://www.nalwt.gov.au/>

³ See Appendix 1: the grant agreement

⁴ See Section 2: The Forum

The first day's workshops covered and reported on discussions about both cultural and non-Indigenous values and interests in water, including the current and proposed water uses in their regions. The second day focussed on checking that the previous day's work was comprehensive, and in developing a set of Principles and Recommendations for the Taskforce to consider.

The groups all spoke about and documented the impacts of non-cultural water uses in their local areas. These discussions were often accompanied by comments about perceived non-Indigenous and institutional ignorance of the cultural values of water, the need to consider water and land as one, and the importance of water in culture.

It was generally discussed and documented by all groups that while commercial management and uses of water may be intended to benefit society and economic growth, it frequently causes significant negative social and cultural impacts on Indigenous people. Another linked factor is that Indigenous people are only considered to be worthy of limited consultation in regard to cultural use, but in fact want to participate in all levels of decision making.

Similarly the recent history of water allocation and use (eg. Ord River project), demonstrably did not include Indigenous people in the planning and decision process, although this decision would significantly and negatively affect people from many Aboriginal groups in the region. The Kimberley groups specifically voiced concerns that developers would not listen to or understand Indigenous peoples' views, cultural laws and rights to water.

Australian law was perceived as generally not respecting Indigenous cultural values and based only on short-term economic benefits, and as an economic commodity. It was a common feeling that non-Indigenous businesses and governments have used and continue to use water without consultation with Traditional Owners and the practice of excluding Aboriginal people and denying them their rights continues. The Kimberley group stated that they are not going to change their cultural ways and beliefs, and they want to participate in discussions and decisions but not at the cost of losing their cultural values.

Of particular concern to one group was the impact of climate change. The group believed that decisions were being made without due consideration for the negative impacts of climate change on wetlands, and freshwater systems in the north and they felt that decisions were being made by people based on 'southern models' that do not have the same application in the north, and in fact the evidence suggest that these management models have failed in the south anyway, and certainly did not include Indigenous decision making.

The Outcomes

The delegates saw the outcomes of the Forum as providing an overall opportunity to formulate a broader foundation for advocacy of Indigenous interests and recommendations about water management in the north.

The Forum concluded with the development of the Mary River Statement⁵, which is a powerful assertion of the centrality of Indigenous people to decisions at all levels about developing, allocating and using northern waters. It upholds the rights of Indigenous people to participate actively in and contribute to policy formulation at all levels, based on the fundamental principle that water, land and Indigenous people are intrinsically entwined.

The Statement is founded on agreement with a set of Principles and comprehensive Recommendations aimed at providing an action platform for a progressive and inclusive approach to water policy formulation and implementation.

⁵ See section 3: Forum Outcomes

1. The Water Futures Forum

1.1 Background

The North Australian Land and Water Taskforce was asked by the Prime Minister to find out about:

- the sustainable capacity of the northern river systems;
- economic development options, including those which might involve non-consumptive uses for water;
- potential impacts; and
- possible planning instruments or governance arrangements for the effective management of water resources in north Australia.

The Taskforce commissioned NAILSMA to convene a forum of key Indigenous water experts from across Northern Australia to discuss:

- their social and cultural connections to water;
- their economic development aspirations that rely on access to and development of locally or regionally significant water resources; and
- how they perceive current or proposed water management and governance arrangements and actual or potential positive or negative impacts on their ability to pursue their economic development aspirations.

Applying its Terms of Reference⁶ to the Forum, the Taskforce recognised that Indigenous perspectives were necessary to add to its understanding of factors influencing sustainability, being very much aware that scientific research alone does not create the complete picture. It asked Indigenous stakeholders to expand on their views of water use – beyond the questions of allocations and rights - to help better assess the current and future demands on northern water. Similarly, the Taskforce was inviting an Indigenous perspective on economic development and their views on the potential positive and negative impacts of development on social and cultural interests. It sought an understanding of what a shared economic future might look like and a vision of the associated opportunities and risks.

The Taskforce was also seeking views on institutional and governance arrangements for managing water so they could better understand the perceived and actual barriers to economic development and to identify existing and new associated uses of water. It was also important to explore ideas for arrangements that would overcome identified barriers.

1.2 Forum Agenda, Aims and Structure

Several months prior to the Forum, a Steering Group⁷ was convened to oversee the delivery of the project and an Indigenous Project Support Officer was engaged within NAILSMA to facilitate the

⁶ See <http://www.nalwt.gov.au/tor.aspx>

⁷ See Appendix 1 under grant agreement for list of steering group members

organisation of the meeting. The Steering group was made up of representatives from the Taskforce and Indigenous members of NAILSMA, NAILSMA staff members and an observer from the Department of Environment, Water, Heritage and the Arts. The Steering Group convened weekly to progress the development of a participants list, venue logistics and Forum agenda.

An experienced 'senior' facilitator was engaged to support a team of indigenous facilitators and ensure consistency and the ability to work effectively with a large group of 80 people within the Taskforce brief. A week before the Forum, the team of Indigenous facilitators met with the senior facilitator to:⁸

- familiarise themselves with the organiser's (NAILSMA) objectives;
- familiarise themselves with the Taskforce's required outcomes;
- decide and negotiate working principles for working groups sessions;
- agree and understand working processes for the plenary and working groups breakout sessions;
- develop fallbacks to manage and handle any glitches; and
- prepare any papers, handouts and recordings.

At the Forum, about 80 Indigenous experts, together with non-Indigenous land managers, scientists and policy and research officers⁹ gathered at Mary River Park in the top end of the Northern Territory. The Forum¹⁰ was structured generally as two days of break-out sessions, where regions could discuss their concerns, and take up the opportunity for facilitated feedback and joint discussion. The focus was on regional commonalities and differences and the development of working principles and recommendations.

Day One

On Day 1, the 5th August 2009, Patrick Dodson of the Lingiari Foundation set the scene with a keynote speech. Patrick challenged Indigenous people in the North to develop a political strategy that would enable them to work with government to promote and engage Indigenous interests, rights and responsibilities in and for water.

'You are the bosses of country; these people should be dealing with you.'

Patrick Dodson, Lingiari Foundation

Development associated with water use, he said, needed to be managed to deal with the potential risks to Indigenous people's social space, their health, their economies and even their right to access their land. He called on the group to think about the power they had to negotiate solutions instead of waiting for government to do it for them.

Facilitators then outlined Forum themes and proposed outcomes that would help the Taskforce develop a better understanding of:

- the complexity of the issues of water, development and Indigenous disadvantage;

⁸ See Pre-forum Agenda at Appendix 3: Agendas

⁹ See Appendix 2 for list of participants

¹⁰ See Appendix 3: Agendas

- Indigenous social, economic and cultural connections to water resources;
- Indigenous views on the sustainability of freshwater systems;
- Indigenous visions for water in terms of socio-cultural, political and economic aspirations;
- Indigenous water use, particularly for social, cultural and economic purposes;
- Indigenous views on social, economic and cultural impacts of Indigenous loss of control of water management and use (historical and contemporary);
- ideas of models or structures for best practice governance or management of country and its water resources from an Indigenous perspective;
- the need to support Indigenous leadership in the development of the North;
- the complexity of institutional roles and responsibilities; and
- the need for proper process for the development of the North and the interconnectedness of land and people.

Indigenous participants were then given the opportunity to share perspectives in an Indigenous Only Forum, before joining their regional groups to consider questions¹¹ grouped under four themes.

Theme 1, *Indigenous interests in water*, asked:

- Why did you come to this meeting and what are your interests in water?
- What do you value most about water in your country?
- What are your social, cultural and economic interests in water?
- Does your region have an economic interest in future water use?

Theme 2, *Aspirations for development*, asked:

- What are the key uses of water in your region?
- Are there any conflicts between water users or issues for water use?
- What other issues or concerns do you see for current water uses?
- Does your region have an economic interest in future water use?
- How should any conflicts or issues get resolved?
- What do you think water resources should be used for?
- What other concerns do you see for future water uses?

Theme 3, *Governance and institutional arrangements*, asked:

- Do you know water is managed in your region?
- What are some of your concerns about how water is currently governed or managed?
- What would you like to do about it?
- What are some good examples of how water is governed and managed?
- What do you see are some of the barriers to good governance of water?

Theme 4, *What needs to be put in place for Indigenous aspirations?* asked:

- What types of resources (if any) do you need to deliver an economic outcome?
- What sort of governance arrangements would support preferred outcomes?

¹¹ See Appendix 4 for notes on the workshop discussions

- Can you identify any opportunities to develop more workable or better governance arrangements?
- What is missing (resources, structures) to develop more effective and responsive (to Indigenous needs) governance arrangements?
- What recommendations do you have to put a system in place that considers Indigenous aspirations?

Four regional groups¹² discussed Theme questions over Day 1 and some of Day 2. Much of the discussion focussed on the need to develop new ways of doing business in the north; from communications between Indigenous groups and government agencies to new frameworks for informed decision-making about water management. Participants showed a well-developed understanding of the fact that any development will have consequences. Implications of this highlighted a great need for Government to talk about basing clear principles for water use on cultural protection, cultural management and to advance Indigenous interests. Participants also spoke of the need for better risk management and were acutely aware that issues would change over time, including the assumption that water would always be available.

From discussions there emerged a clear understanding of the need to develop strategies that adhere to a united and holistic approach that accounts for social, cultural, environmental and economic impacts of development and associated water use on Indigenous people. A fourth strand was included by some groups - a politically sustainable approach - as part of a quadruple bottom line. The basis for any future discussion was the inherent right of Indigenous peoples to be at the decision table developing and defining water management and allocation.

A powerful statement (The Mary River Statement) from the Forum would set the scene, but participants felt they would then need time to develop an appropriate and effective framework. The strategies would be based on a clear set of Principles that Indigenous people would develop. Workshop groups were adamant that it would not be productive to simply follow existing paradigms that had been historically proved to be destructive to Indigenous interests.

These views are clearly reflected in the Workshop Notes¹³ and the presentation summaries from each discussion group. As the discussions were free-ranging and connected the set topics, however, the findings of each regional discussion group have been condensed and collated into the following table.

¹² See Appendix 2 for participants

¹³ See Appendix 4: Workshop Notes

Issue	Group 1	Group 2	Group 3	Group 4
<i>Indigenous interests in water: reasons for attending</i>	Water critical to survival of plants, animals, people and culture.	Cultural importance of water still unrecognised in economic return to Aboriginal people; Native Title rights do not include water rights.	Water is the foundation of social/cultural, economic, political and ecological sustainability.	Appropriate water management to maximise investment and development in the north on Indigenous terms.
	Climate change will impact on potential for livelihoods based on water – aquaculture, grazing cropping.	Legislation is needed to protect rivers.	Big issues but no clear avenues for information exchange, involvement, engagement.	Development without proper evidence base contributing to unsustainable land use.
	Indigenous people have rights and responsibilities for water and need to be engaged with government to improve future management; need to slow down water allocation to allow for further negotiation on management, governance.	Indigenous people want to fix the water problems they have.	Better management will help keep people on country; recognition of human rights, real engagement and social inclusion will underpin Traditional Owner (TO) involvement in managing water.	Need for realistic timeframes to mobilise development of an Indigenous legal and cultural framework.
<i>Aspirations for development</i>	Caring for environment is the basis of good development and that needs careful negotiation.	Huge potential for economic development: aquaculture, agriculture mining and tourism; needs careful management.	Range of current economic uses of water; need greater understanding of water management, impacts, engagement and access to country.	Need to minimise the impact of development and yet sustain Indigenous values and assets, inhibited by lack of clear policy or formula for Nth Australian water.
	Resolving conflicts over different proposals for or approaches to water use needs better engagement processes.	Improved processes for accountability, dispute resolution needed to deal with existing and future conflict over use.	Unequal balance of power and lack of TO involvement in planning and management of water use.	Debate to be had about Indigenous rights, appropriate governance for water allocation (cultural, commercial, consumptive).

Issue	Group 1	Group 2	Group 3	Group 4
<i>Governance and institutional arrangements</i>	Common approach to water rights and management is critical to appropriate governance on a cultural base.	Partnerships with Indigenous people, reference groups and engagement at every step of the way; real cultural awareness and meaningful understanding from government.	Appropriate legislation for northern water management, a National Water Commission, an Indigenous Water Quality Group and removal of inequities in power balance.	Legal mechanisms to protect Indigenous rights and interests.
<i>Governance and institutional arrangements</i>	Common approach to water rights and management is critical to appropriate governance on a cultural base.	Partnerships with Indigenous people, reference groups and engagement at every step of the way; real cultural awareness and meaningful understanding from government.	Appropriate legislation for northern water management, a National Water Commission, an Indigenous Water Quality Group and removal of inequities in power balance.	Legal mechanisms to protect Indigenous rights and interests.
		Agreed consequences for government if it falls down on responsibility.	TO involvement in developing strategic planning for water use.	Audit and analysis of water and environment to support stronger Indigenous rights and interests.
		Governance at local level, not distant and not fly-in fly-out.	Engagement and marketing properly funded.	United response from Indigenous leadership to planning and development to influence institutional policy, practice and legislation.
		Priority for cultural, social and then economic use in planning allocation.	Core funding for Indigenous organisation; more land and sea centres.	Land tenure reform.
			Statutory linking water allocation to efficiencies of use.	

Day Two

The agenda for Day 2, in brief, was to:

- establish clear recommendations from group work on Day 1;
- develop ideas about what northern water systems will be like and how they might be managed in five, ten and 100 years time; and
- develop and write up principles for governing an Indigenous water management arrangement.

Using reports¹⁴ from each break-out group, the Forum moved to develop its major outcomes, which are detailed in the next section: Forum Outcomes.

2. Forum Outcomes

Delegates were very clear from the start that the Forum needed to make a strong statement and deliver a plan that would both satisfy the Taskforce's requirements and allow for Indigenous people to develop a stronger and more coherent position on Indigenous water management. The four outcomes of the Forum are the:

- Mary River Statement
- Principles
- Recommendations
- Interim Working Group

These outcomes, as presented below, are broad in scope and present a workable approach to complex issues.

The challenge will be for Government and other relevant agencies to recognise their significance and act on the intent and the detail.

2.1 The Mary River Statement

At the closing of the Forum, delegates endorsed this as their Statement of Intent:

We, the delegates of the Mary River Water Forum, make this Statement to bring to the attention of the Australian Government to the fundamental principle that water, land and Indigenous people are intrinsically entwined.

Indigenous Peoples have rights, responsibilities and obligations in accordance with their customary laws, traditions, protocols and customs to protect, conserve and maintain the environment and ecosystems in their natural state so as to ensure the sustainability of the whole environment.

¹⁴ See Appendix 4: Workshop Notes

Consideration by the Australian Government to separate land and water in future policy development for north Australia and establish a new regime for the allocation and use of water is of critical concern to us.

As Traditional Owners we have an inherent right to make decisions about cultural and natural resource management in north Australia. In accordance with Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples we must have a central role in the development, implementation and evaluation of policy and legislative or administrative measures that may affect us concerning water.

Any policies and legislation that are developed in water allocation and management in north Australia need to ensure that Indigenous rights are paramount.

We assert in accordance with Articles 26 & 32 of the United Nations Declaration on the Rights of Indigenous Peoples¹⁵ confirming that:

- 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*
- 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*
- 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditional and land tenure systems of the indigenous peoples concerned.*
- 4. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.*
- 5. States shall consult through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilisation or exploitation of mineral, water or other resources.*
- 6. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.*

Indigenous peoples have always been part of and are crucial to the maintenance of our ecosystems and therefore want to ensure minimal impact from settlement and unsustainable development across north Australia.

We urge the government to ensure that sufficient resources are provided to enable the equitable participation of the Indigenous owners of north Australia in the development of policies, setting of allocations and management of regulatory schemes that may evolve.

¹⁵ See Appendix 5 for complete Declaration

We the Indigenous peoples of north Australia will work with the Government to establish what water entitlement and allocation is required to satisfy our:

- *social and cultural;*
- *ecological; and*
- *economic needs.*

The delegates of the North Australian Indigenous Experts Water Futures Forum (August 2009) support the North Australia Indigenous Land Sea Management Alliance (NAILSMA), Indigenous Water Policy Group, representative bodies or individuals to proactively pursue positive outcomes in line with this Mary River Forum Statement.

The Mary River Statement is consistent with the outcomes of other meetings of Indigenous land, sea and water managers, such as the Garma International Indigenous Peoples Water Declaration¹⁶, which was an outcome of NAILSMA's International Water Experts Forum at the Garma Festival in August 2008.

2.2 Principles

The Forum endorsed the following principles on which any future water management should be based.

- Land, water and people are inextricably connected, which means unity of land, water and Indigenous people. "Water and land cannot be separated. We look and care for country together not separate..."
- Water management and use includes all of cultural uses, environmental flows, consumptive and commercial uses; and all freshwater systems are included whether on the mainland or on sea country.
- Adherence to maintaining a balanced revised 'Triple Bottom Line' (social and cultural, ecological and economic) including a fourth element of political sustainability.
- Water dealings based on free, prior, and informed decisions and engagement with Indigenous community at all levels. This means representative bodies and Indigenous communities on the ground be fully informed and participate in process (Traditional Owners on country).
- Principles of International Law (e.g. UNDRIP, Ramsar) be the guiding principles for development of Indigenous engagement on water.
- Water allocation needs to be linked with best practice, sustainable, efficient use and accurate up to date information about environmental flows.
- Indigenous people across north Australia are united in dealing with water issues and accordingly recognise that:

¹⁶ See Appendix 4. The Garma Declaration can also be found at http://www.nailsma.org.au/forum/international_water_experts_forum/international-water-experts-forum.html

- we have cultural and kinship responsibilities and obligations under customary law to look after water;
- Traditional Owners have a right to be involved in the management and decision making over water use;
- Indigenous peoples have responsibilities and obligations in accordance with Indigenous laws and customs. We have responsibility for maintaining the rivers and the environment and ecosystem in their natural state so as to ensure their sustainability of this whole environment;
- Indigenous people need to be the primary interface in the planning and development of water usage proposed and regulated; and
- our water is part of our native title through our cultural and ceremonial practices that are part of the birds, animals, plants and us. We don't want younger generations to live with the same hardship we older ones did.

2.3 Recommendations

Having formulated the Mary River Statement and endorsed the Principles, the Forum made the following Recommendations:

- That new ways to deal with government need to be created, such as a new authoritative, statutory governance arrangement between governments and north Australian Traditional Owners to be established and supported. This could include the establishment of Regional Basin authorities in north Australia, or an Indigenous Water Commission.
- That the United Nations Declaration on the Rights of Indigenous Peoples Rights (UNDRIP) be used as the benchmark for establishing and building a new legal and cultural framework for doing business between governments, enterprises and Indigenous people in the north of Australia.
- That membership and governance of NAILSMA should be expanded to include Prescribed Body Corporates with the intent of returning authority back to Traditional Owners living and working on country as part of building sustainable livelihoods.
- That NAILSMA, the Water Taskforce and land councils facilitate a broader forum across north Australia, and that among its tasks could be establishment of a set of guiding principles for governments, and to set up an interim group to lobby on behalf of Indigenous peoples rights to water.
- That the uses of water as a northern Indigenous economic development opportunity, through sustainable practices, is investigated; and that there are clearly defined culturally relevant geographical boundaries of north Australia.
- That all water policy and legislation is enacted in accordance with national and international laws and policies aimed at ensuring Indigenous rights are upheld.
- That a communication strategy is developed to ensure that Indigenous communities are able to actually participate and are fully informed on water policy issues and opportunities; and that the strategy includes requirements for institutional feedback to community for a two-way approach.

- That the Native Title Act is amended to include water as a use right to negotiate (other than just a customary use right), and this be included in other local, state, federal and international laws, codes and protocols.
- Engage other lobby groups to develop partnerships that promote understanding, recognition and a common goal in water use and management.
- That the diversity, different needs and aspirations of urban, remote, and regional areas be all considered in any consultations and decisions.

2.4 Interim Working Group

Each of the four regional groups elected two members to drive implementation of the Mary River Statement as an interim Working Group, as follows:

Queensland	Ron Archer Marceil Lawrence
Western Australia	Anne Poelina Andrew Wungundin (proxy Chris Griffiths)
Northern Territory	John Christopherson (proxy Jack Green) Mona Liddy (proxy Biddy Lindsay)

3. Conclusions and Future Directions

Consistent with its brief, NAILSMA has presented the Taskforce with an Executive Summary of the Forum and its outcomes. This Final Report will reinforce the messages that have already been sent in that Executive Summary.

NAILSMA Chief Executive Officer, Joe Morrison noted¹⁷ that the Forum provided a watershed opportunity for Indigenous people in north Australia to clearly articulate their opinions for economic development, potential impacts of development and the importance of securing appropriate governance arrangements for northern development. He said it had also enabled them to voice their aspirations on water policy and management of north Australian water resources.

The elected Interim Working Group is ready to engage at all levels to facilitate a broader dialogue with Indigenous groups across north Australia.

With the appropriate support, the Interim Working Group will establish a set of guiding principles for governments that articulate the interests of Indigenous peoples across the north.

The Working Group will engage other interest groups to develop partnerships that promote understanding, recognition and a common goal in water use and management.

The Mary River Statement gives NAILSMA a clear direction to collaborate with other representative groups to pursue its objectives.

¹⁷ See Media Release 24 August 2009 at Appendix 6

The Taskforce now has the information they need to include Indigenous interests in broad water policies for north Australia.

Importantly, the Statement, together with the Principles and Recommendations, has answered the questions the Taskforce put to the Indigenous Forum participants, so the Taskforce can better understand:

- their social and cultural connections to water;
- their economic development aspirations that rely on access to and development of locally or regionally significant water resources; and
- how they perceive current or proposed water management and governance arrangements and their actual or potential positive or negative impacts on their ability to pursue their economic development aspirations.

For further information contact:

NAISMA email: nailsma@cdu.edu.au or the water program water@cdu.edu.au



**North Australian Indigenous
Land and Sea Management Alliance**

www.nailsma.org.au



www.nalwt.gov.au

Appendix 1: List of Participants

Indigenous facilitators

Lillian Chestnut	Kimberley Land Council, WA
Annette Kogolo	Kimberley Land Council, WA
Trish Rigby-Christophersen	Northern Land Council, NT
Dean Yibarbuk	Warddeken Land Management, NT
Waubin Richard Aken	Balkanu Cape York Development Corporation, QLD
Tonya Murray	Carpentaria Land Council Aboriginal Corporation, QLD

Workshop participants

Group 1:

Trish Rigby-Christophersen Northern Land Council	Group Facilitator, Executive Officer, Caring for Country Unit,
Dean Yibarbuk	Group Facilitator, Senior Ranger, Warddeken Land Management

Paul Lane	Lingiari Foundation, Broome
Robert Bo Crane	NT Fisheries
Samuel Bush-Blanas	Northern Land Council
Damien Pracy	Borrooloola ranger
Jack Green	Northern Land Council Borrooloola
Ron Archer	Dimbulah, QLD
Biddy Lindsey	Malak Malak Traditional Owner, Daly River
Robert Lindsey	Malak Malak Ranger Facilitator
Michael Schmidt	Tiwi Water Resource Strategy, NRETAS
Wanyubi Marika	Laynhapuy Homelands Association
Graham Friday	Li-anthiwirryarra Senior Ranger, Mabunji Aboriginal Resource Assoc.
Damien Pracy	Li-anthiwirryarra Senior Ranger, Mabunji Aboriginal Resource Assoc.
Mandaka Marika	Dhimurru Aboriginal Corporation
Liza Schenkel	Community Engagement & Indigenous Liaison Officer, NRETAS
Mona Liddy	Wagiman, Tjuwaliyn Women, NT
Linda Ford	Kurrindja Wayuit Aboriginal Land Trust
Ngelebe Ford	Makmak Marranunggu
Emily Ford	Makmak Marranunggu

Group 2:

Annette Kogolo	Group Facilitator, NAILMSA ICWFN Fitzroy Facilitator, Kimberley Land Council
Lillian Chestnut	Group Facilitator, Fitzcam Project, Fitzroy Crossing, Kimberley Land Council

Sonia Leonard	Support Facilitator, NAILSMA ICWFN Ord Facilitator, Miriuwung Gajerrong Corporation
Shirley Brown	Paruku IPA – Mulan, WA
Elizabeth Lulu	Paruku IPA – Mulan, WA
Peter Yu	Yawuru PBC Broome, WA
Chris Griffiths	Miriuwung Gajerrong, WA
Marceil Lawrence	Western Kuku Yalanji, Mitchell River Watershed
Phillip Duckhole	Mt Barnett Station Traditional Owner, WA
Michael	Kununurra
Dillon Andrews	Fitzroy Crossing Traditional Owner
Dean Matthews	Indigenous Liaison with Water Quality monitoring, Department of Water- Kimberley region
Mary Aiken	Fitzroy Crossing Traditional Owner, Darnngku Heritage Cruises
Rosemary Carey	Halls Creek
Merle Carter	Miriuwung Gajerrong Traditional Owner
Edna O’Malley	Yawoorroong Miriuwung Gajerrong
Lloyd Nulgit	Mt Barnett, Wunggurr Ranger
Andrew Wungundin	Derby, Wunggurr Ranger
Rowan Nulgit	Mt Barnett, Wunggurr Ranger

Group 3:

Tonya Murray	Group Facilitator, NAILSMA Dugong & Marine Turtle Project Facilitator and Water Projects, Carpentaria Land Council Aboriginal Corporation
David Hinchley	Support Facilitator, Land & Sea Projects Manager, Carpentaria Land Council Aboriginal Corporation
John Christophersen	Cobourg Peninsula, West Arnhem Land, Consultant, NT
Gerry Turpin	Atherton Tableland, Environmental Protection Agency, Qld
Rod Burke	Cape York, Qld
Hmalan Hunter-Xenie	TRaCK, School of Environmental Research Charles Darwin University
Sam Savage	North Queensland
Darryn Wilson	Batchelor Institute of Indigenous Tertiary education, NT
Katie Kiss	Kaanju Cape York, HREOC.
William Busch	Kaanju Cape York, Mapoon Aboriginal Shire Council
Toby Accoom	Kaanju, Lockhardt River, Cape York Land Council
Robbie Salee	Injinoo Cape York Land Council
Damian Miley	Torres Strait Regional Authority (proxy to Toshi Kris)
Vic Hunter	Housing, Broome.

Group 4:

Waubin Aken	Group Facilitator , NAILSMA ICWFN, Balkanu
Anne Poelina	Support Facilitator , Managing Director, Madjulla Incorporated
Bradley Moggridge	Indigenous Water SE Australia Coordinator, CSIRO
Robbie Dalton	Policy Advisor to the Chair, Northern Land Council

Patrick Dodson	Lingiari Foundation
Joe Ross	Bunuba, Fitzroy Crossing
Richie Ah Mat	Wuthati, Chairman NAILSMA, Director Balkanu – Cape York Development Corporation
Richard Jenkins	Property Planning and Land Tenure, Balkanu – Cape York Development Corporation
Russell Taylor	AIATSIS, Canberra
Estelle Waia	Kuku Djungan (Ngarrbullgan)
Howard Pedersen	Kimberley Institute
Desmond Hill	Ord Final Agreement Projects Implementation Officer, Yawoorroong Miriuwung Gajerrong Yirrgb Noong Dawang Aboriginal Corporation
Matt Rigney	Chairman, Murray Lower Darling Rivers Indigenous Nations

Support Staff: NAILSMA

Joe Morrison	(CEO)
Samara Erlandson	(Operations Manager)
Kalem Ronberg	(Project officer)
Hugh Wallace-Smith	(Coordinator ICWFN)
Lorrae McArthur	(Coordinator IWPG)
Michael Storrs	(Coordinator TRaCK)

Other Support Staff

Paul Josif	(Consultant and Senior Facilitator)
Margaret Ayer	(Research Fellow, CSIRO Sustainable Ecosystems)

Guests

Jim McColl	(Sustainable Ecosystems Division, CSIRO)
Peter O'Brien	(Managing Director, Rural Industries Research & Development Corporation)
Sue Jackson	(Research Scientist, CSIRO)
Tom Hatton	(Director - Water for a Healthy Country Flagship, CSIRO)
Andrew Dickson	(Director - Office of Northern Australia)
Lauren Kitscha	(Office of Northern Australia)
Rosemary Hill	(Northern Land and Water Taskforce)
Stuart Blanch	(Northern Land and Water Taskforce)

Appendix 2: Agendas



NAILSMA and ICWFN Pre Forum Workshop

Thursday 30 – Friday 31 July 2009

**Field trip - Thursday 30th July,
&
CDU Red 1.3.03, Room 3 - Friday 31st July**

Aim

The aim of the workshop is to enhance the capabilities of Indigenous Community Water Facilitators to assist in & facilitate regional breakout sessions.

The workshop will build confidence in unifying ICWFN working relationships between NAILSMA and community participants.

Objectives

By the end of the workshop, ICWFN participants will comprehend:

- The organiser's objective/s
- What Northern Taskforce want as outcomes - so we can achieve them;
- Decide & negotiate working principles for all sessions (all on the same page)
- Agree and understand working processes for the breakouts and plenary (intro, welcome to country, important info for facilitators);
- fallbacks and handling glitches (backup facilitator);
- Papers/handouts and recording.

Participants

ICWFN participants will be drawn from the Kimberley Land Council, the Northern Land Council, the Carpentaria Land Council Aboriginal Corporation and Balkanu Cape York Development Corporation and Miriuwung Gajerrong Aboriginal Corporation.

Facilitator

The workshop will be facilitated by Paul Josif, in an interactive and inclusive format.

NAILSMA and ICFWN Pre Forum Workshop

Draft Agenda

Thursday 30 July 2009 (Mary River field trip)

- 9.00 am Participants arrive at CDU and drive to Mary River
- 10.30 am *Morning Tea*
- 11.00 am Introduction to Mary River Park
Background information surrounding forum
The North Australian Indigenous Water Experts Forum
Expectations form Office of North Australia & Northern Taskforce
Opportunities for the ICWFN
Group Discussion
- 12.30 pm *Lunch*
- 1.20 pm Outline proposed forum facilities & operations
Introduce regional format delivery & breakout sessions
Identify complexities & opportunities of outdoor settings
Run thru (onsite) Presentation from PJ
Group Discussion
- 3.00 pm *Afternoon Tea*
- 3.15 pm Drive back to Darwin
- 5.00 pm *Finish for the day*
Social event and dinner

Friday 31 July 2009

- 8.45 am Reconvene at CDU Red 1.3.03, Room 3 (Near TRaCK Office)
- 9.00 am Reflection on yesterdays field visit
Identification of Key Issues
Principles and tools for improved communication
Developing set of principles common to all workshop breakout sessions
Roles & Expectations of facilitators
- 10.15 am *Morning Tea*
- 10.45 am Working Together
- Consistent communication throughout the ICWFN
 - Facilitators clear and understand process and objectives
 - Positive improvements and actions for ICWFN
- 12.10 pm *Lunch*
- 1.00 pm Working Together in the Future
- Opportunities to collaborate & benefit thru Indigenous network
 - Capturing and maximizing communication techniques (Josh K)
 - Information dissemination (kits or packages)
- 2.45 pm *Afternoon Tea*
- 3.15 pm Consolidating the Progress
- Next Steps
- Review
- 4.15 pm *Close*



**North Australian
Indigenous Experts
Water Futures Forum
5th - 6th August 2009
Mary River Park¹⁸
Northern Territory**

Background

The North Australian Indigenous Land and Sea Management Alliance (NAILSMA)¹⁹ has been commissioned by the Northern Australia Land and Water Taskforce (the Taskforce) to convene a forum that brings together key Indigenous water experts from across the north of Australia to discuss their water interests and issues.

The Taskforce²⁰ has been brought together by the Prime Minister to look at the sustainable capacity of the northern river systems; economic development options (including those that might involve non-consumptive²¹ uses for water); potential impacts; and possible planning instruments or governance arrangements for the effective management of water resources in northern Australia.

Aim

The North Australian Indigenous Water Experts Forum provides an opportunity for you to raise your ideas for or concerns about economic development and opportunities; the potential impacts of developments in the north of Australia; and governance and institutional arrangements as they affect Indigenous community interests, aspirations and issues.

¹⁸ Mary River Park, Halfway between Darwin and Kakadu. Website for more details:
www.maryriverpark.com.au

¹⁹ More information on the North Australian Indigenous Land and Sea Management Alliance can be found:
www.nailsma.org.au

²⁰ More information on the Northern Australia Land and Water Taskforce can be found at www.nalwt.gov.au.

²¹ See attached brief explaining these terms in more detail.

Intent

NAILSMA has been asked to convene a meeting to consult with Indigenous people on:

1. their social and cultural connections to water resources;
2. their economic development aspirations that are reliant on access to and development of locally or regionally significant water resources; and,
3. how they perceive current or proposed water resource management and governance arrangements (positive and negative impacts), and their ability to pursue their economic development aspirations.

These are based on the Taskforce's Terms of Reference that are in short:

1. Sustainable Capacity of the Northern River Systems

The Taskforce would like to gain a better understanding of what the consumptive and the non-consumptive uses for water might be so that they can understand what the current and future demands on water resources might be. The information being sought from Indigenous communities goes beyond water allocation and rights and the kind of information that the Taskforce is likely to get from state and territory governments or key research programs (North Australian Sustainable Yields – NASY). Indigenous stakeholders need to have a strong voice so that this idea of water sustainability can be better understood. The taskforce has only scientific data on sustainability to work with and understands that this water research does not create a complete picture. Indigenous perspectives are needed to strengthen future discussions on the idea of sustainability.

2. Economic Development Options and Their Impacts

The Taskforce would like to better understand Indigenous people's perspectives on economic development, as well as attitudes towards positive and negative impacts of economic development on social and cultural interests. The Taskforce is looking to gain understanding of what a shared economic future might be and identify associated risks and opportunities.

3. Institutional and Governance Arrangements for the Effective Management of Northern Water Resources

The Taskforce would like to better understand the perceived and actual barriers to economic development and associated uses of water (existing or new) and explore ideas for institutional and or governance arrangements that may overcome any identified barriers. The Taskforce seeks to develop its awareness of any cross border interests and issues for water management and be open for any recommendations.

Forum Overview

A full agenda is provided below and in brief here. A set of leading questions broken down into themes (located at the end of the agenda) is provided to assist in regional breakout discussions. Not all questions need to be answered but each theme needs to be considered in detail. The questions provide prompts to lead theme discussions. The stated objectives below will also assist in producing the desired outcomes from the Forum

Day 1 – regional breakout sessions will be convened concurrently to focus on regional issues, interests and aspirations.

Day 2, the three groups will be brought together to focus on regional commonalities and differences.

Outcomes from the Forum will include a set of recommendations and guiding principles on Indigenous interests, aspirations for sustainable development, scope relationships and governance arrangements and identify the tools needed to put northern Australian Indigenous aspirations in place. These recommendations will then be presented to the Taskforce.

Outcomes

By the end of the workshop, the Taskforce will have a better understanding of:

- the complexity of the issue of water, development and Indigenous disadvantage;
- Indigenous social, economic and cultural connections to water resources;
- Indigenous views on the sustainability of their freshwater systems;
- Indigenous visions for water, in terms of socio-cultural and political economy aspirations;
- Indigenous water use, particularly for social, cultural and economic purposes;
- Indigenous views on social, economic and cultural impacts of Indigenous loss of control of water management and use (historical and contemporary);
- ideas of models or structures for best governance or management of country and its water resources from an Indigenous perspective;
- the need to support indigenous leadership with respect to the development of the north;
- the complexity of institutional roles and responsibilities; and,
- the need for proper process regarding development of the north and the interconnectedness between land and people.

Agenda	Day One - Wednesday, 5th August 2009
6.30am	Guided boat cruise or walks
6.30-7.30am	Breakfast
8:00am	Registration – Pick up your information pack
9:00am	Welcome to Country – Grahame Kenyon
9:30am	Opening Remarks – <ul style="list-style-type: none"> - Joe Morrison – CEO NAILSMA or Richie Ah Matt Chair NAILSMA -TBC - Joe Ross – Chairman Taskforce
10.15am	Keynote Patrick Dodson
10.45am	Morning Tea
11.00am	Forum Overview – Paul Josif (Forum Facilitator) <ul style="list-style-type: none"> • Structure • Outline • Define 'regional' groups from Indigenous participants' perspectives • Discuss the need to achieve specific outcomes from the workshop • Introduce regional co-facilitators <ul style="list-style-type: none"> - Trish Rigby-Christophersen - Dean Yibarbuk - Annette Kogolo and Lilian Chestnut - Richard Aken - Tonya Murray
11:45am	Split Sessions – Concurrent co-facilitated regional sessions During these sessions delegates will work through a number of questions (attached) associated to different themes that serve only to prompt elicit views and contribute to the development of recommendations for the Taskforce
12:45pm	Lunch Break
1.30pm	Split Sessions – Continued
3.00pm	Afternoon Tea
3.15pm	Split Sessions – Continued
4.15pm	Regional deliberations – selected spokespersons from each region provide positive and negative feedback on proceedings so far
4.45pm	Synthesis and remarks – Joe Morrison Joe Ross
5.00pm	Day one Close – Paul Josif - Wrap up and overview of following Day
5.30pm	Guided Boat cruise and or walks
7.00pm	Dinner – Soap box stand up. led by Matthew Rigney who will provide some southern experiences and wisdom

Agenda	Day 2 Thursday, 6th August 2009
6.30am	Guided boat cruise or walks
6.30 - 7.30am	Breakfast
7:30am	Registration – for new arrivals only
8:00am	Reconvene – Joe Ross Opening remarks based on outcomes of previous day and objectives of meeting
8.15am	Forum Overview – Paul Josif <ul style="list-style-type: none"> • Summary of previous day • Overview of the day's agenda and objectives • Review theme summaries and any recommendations
8.45pm	Split sessions – Regions reconvene, nominate a spokesperson(s) and review theme summaries and develop further recommendations
10.00am	Morning Tea
10.15am	Presentations – Delegates convene as one group and each region presents its summary and recommendations
11.30am	Finalise recommendations and draft vision
12:30pm	Lunch Break
1.30pm	Ratify recommendations (if no further time is required for discussions)
2.30pm	Synthesis and remarks – Paul Josif Joe Ross
3.00	Afternoon Tea
3.15	Closed Indigenous Debrief
4.45	Close Meeting – Joe Morrison
5.00pm	Bus departure to Darwin

Please note that there is flexibility in day one and day two agendas depending on the progress of regional discussions on day one. That is, if people feel they need more time to develop ideas, more time can be allocated on day two to further discussions.

Times are not set, and will be dependent on the general flow of the meeting.

Regional discussion themes for split sessions

We will try and have note takers in each region, but some groups may need to delegate a job for someone to take notes.

Refer to the Taskforce TOR, listed above the agenda under intent, to also assist in guiding discussions.

Below are some questions within each theme to help prompt discussion, but please start with general introductions.

General Introductions

Please introduce yourself to everyone

Theme One - Indigenous interests in water

1. Why did you come to this meeting, what is your interest in water? (Day 1)
2. What do you value most about water in your country? (Day 1)
3. What are your social, cultural and economic interests in water? (Day 1)
4. Does your region have an economic interest in future water use? (Day 1 + 2)

Theme two - Aspirations for development

1. What are the key water uses in your region? (Day 1)
2. Are there any conflicts between water uses or issues for water use? (Day 1)
3. What other issues or concerns do you see for current water uses? (Day 1)
4. Does your region have an economic interest in future water use? (Day 1 + 2)
5. How should any conflicts or issues get resolved? (Day 2)
6. What do you think the water resources should be used for? (Day 2)
7. What other issues or concerns do you see for future water uses? (Day 2)

Theme three - Governance and institutional arrangements

1. Do you know how water is managed or governed in your region? (Day 1)
2. What are some of your concerns about how water is currently governed or managed? (Day 1)
3. What would you like to do about it? (Day 1 + 2)
4. What are some good examples of how water is governed and managed? (Day 1)
5. What do you see are some of the barriers for good governance of water? (Day 1)

Theme four - What needs to be put in place for Indigenous aspirations?

With a big picture view, what is your vision for water use and management in the future in your country?

1. What types of resources (if any) do you need to deliver an economic outcome? (Day 1 + 2)
2. What sort of governance arrangement would support preferred outcomes? (Day 1 + 2)
3. Can you identify any opportunities to develop more workable or better water governance arrangements? (Day 1 + 2)
4. What is missing (resources, structures) to develop more effective and responsive (to Indigenous needs) governance arrangements? (Day 1)
5. What recommendations do you have to put a system in place that considers Indigenous aspirations? (Day 2)

Appendix 3: Workshop Notes

NB: These notes reflect participant statements without being an actual transcript. They have been slightly edited for conciseness or to bring out meaning. Participants are not always identified.

1.1 Welcome and Introduction – Paul Josif (Meeting Facilitator)

Welcome to Country information about ceremony to take place later that day

1.2 Opening Remarks

Joe Morrison (CEO NAILSMA) – acknowledgements and summary about the role of NAILSMA as the appropriate convenor of the workshop, and a reminder about the importance of the workshop to establish an Indigenous voice in the discussion about water and its use in Northern Australia.

Richard Ah Mat, (Chairman NAILSMA) welcomed participants. Spoke about the importance of an Indigenous voice to make resolutions about water and to contribute to solutions to pass on to government through the Taskforce. He thanked the ONA for supporting the workshop.

Joe Ross, (Chairman the Taskforce) acknowledged other Taskforce members, and ONA and NAILSMA for pulling together a meeting at very short notice. Talking as Bunuba people of culture trying to fit into the new world of policy that has meaning for his people.

Taskforce is to present a report in December, and the results and outcomes of this consultation will contribute to this. The Prime Minister (PM) is looking for something tangible to come out of the findings to inform policy at the least. The Australian government is conscious that any development in the north must include focussed policy and a legislative framework.

There must be a strong focus on Indigenous livelihoods in terms of sustainable development. What are your views on development and your values around water and are the current ways of business right for us in terms of contributing? This meeting is setting the seed and providing the platform for the key issues and interest of indigenous people. We aim to ensure that Indigenous consultation is one of the core elements of the report. A new way of business and recognition of Aboriginal people and their knowledge is a continuing part of the policy landscape and the future that needs to be engaged. Kevin Rudd the PM is taking a keen interest in North Australia. He talks about closing the gap. Indigenous people have little influence when examining the statistics, but this is a way that we can influence policy.

1.3 Keynote - Patrick Dodson

Patrick acknowledges ONA and NAILSMA

Patrick highlights the positives of bringing people from WA, QLD and NT together; the issue of changing the native title to help close the gap and create economic opportunity; and ideas of creating markets and industry, such as those in the Kimberley, that come and go and visions that are continually evolving.

Looking back to first contact of people in the north was to only exchange goods. They never came to take country, not to steal the land or change the culture. It wasn't until colonialism

that people settled and took land and resources at the cost of Indigenous lives and property. The dominance and control of Indigenous people began at that point and managed our lives to minute detail.

The intensity has been reduced but replaced by policies to manage the people and their land. And yet, all the land they touch is bugged up no matter what science is poured into them. For Indigenous people, access is cut and resources have altered. The new framework around policy, development and people are about people who don't have the same feeling for the land, they have money in mind. How are they going to profit and earn money in this new policy for development?

There are some basic rights through land rights etc, and now we are being asked about water. We are now being asked about how you fit into the framework and dolly it up into a thing called policy. We are being consulted as a stakeholder and are still not seen as the Traditional Owners and custodians of the lands and resources. We are still constrained with the same mentality as at the start.

The gas industry in the Kimberley uses billions of litres of underground water. The challenge for government is for how to engage Indigenous rights, interests and responsibilities in water. How does government manage the risks that impact our social, health, economic and access? Impacts through people, laws and restrictions and constant changing of rules that change the ways of living.

'You are bosses of country; these people should be dealing with you'.

How do we take this information forward in a structured way? We can't wait for the government to do it for us; they won't. Government change acts and policies to suit the day and has no long term vision or solution. We have been continually fighting to assert our rights in a rapidly changing policy climate.

A good example is the experience of southern Australia where development has ruined land and depleted resources to the detriment of the land and its people. Let's not just focus on the parameters that the government sets for us, we must use what power we have to negotiate our rights. We need forward thinking. We need a political strategy and framework to assert our rights and not leave it to the Taskforce and expect them to deliver our arguments about our interests.

1.4 Forum Overview - Paul Josif

Patrick has set the scene to be "strategic in our thinking". It is up to you to develop a strategy, and to make and use the tools you need to implement the strategy and not rely on the taskforce but to contribute your own ideas and knowledge. An Indigenous only session was then convened.

1.5 Indigenous Closed Session

Minutes not included for cultural reasons.

1.6 Forum Overview continued - Paul Josif

Paul introduced the six Indigenous co-facilitators and invited them to introduce themselves. He said that as facilitators we have the job of recording what you are saying; it is most important that we accurately record what you are saying. We don't want to set the workshop groups up into political boundaries. Five workshop tables have been setup to accommodate smaller workshop groups. There is also the opportunity to have separate women's and men's groups if you need that.

A series of questions set into four themes are set out below. They are aimed to get the discussion going within groups and help facilitators keep it on track. The outcomes will provide the information that will underpin an Indigenous strategic approach that goes to Canberra. We will work on the issues today and perhaps later today and tomorrow we will develop principles and recommendations based on the themes.

1.7 Themes introduced

1.8 Group Outcomes

GROUP ONE

Water is very important for the **survival of plants, animals and people**

Come out of this process:

- **Our capacity to engage with government**
- People know about culture
- Future management
- Recognition of rights and responsibilities and engagement

No consultation out of this process

Message needs to go out to countrymen

- Same river goes out to sea from the Katherine and Daly Rivers
- Community awareness
- FCM, RCM, Shires
- Water, single aquifers on my country
- Horticulture and agriculture on land

Government wants to understand Aboriginal people's use of water and value water

- Develop an economy
- Current legislation says: under Water Allocation Plan determines how much water goes to users

I.e. Ooloo Plan being developed. Process: consultation done by Water Planner (NTG); from Water Advisory Committee, given information.

In Tiwi, trying to get away from strict structure; **then you can develop a Strategy**

Minister Anderson allocating water to peanut farmers; **need to involve Aboriginal people across ALL aquifers** (with emphasis)

Minister allocates on basis of a Water Plan; issues licenses; Native Title land, no consultation; WA government can issue licenses.

Need formal recognition of rights (with emphasis)

i.e. 100,000 litres from Broom aquifer going out to oil rigs, exploration stage

Cultural Heritage Act, Qld; look at database but don't talk to the Traditional Owners about their database

Need legislation that makes it strong; respect our rights

Impact and values

Worried about dreaming sites related to drought i.e. sand goanna protected by Traditional Owners, there are consequences of mismanagement through traditional laws; wrong practices

Cultural obligation **"Our spirituality; I am nothing without my land and water"**

Ask old people; emotional and physiological, social impacts; country sorry but got to argue with white man.

Site in tree and creek; men's ceremony fresh and saltwater meet; white man does not understand how we relate to our water and land

Government gave native title over the McArthur River – all lies. Our River has been diverted and damaged. Soon as given approval they get **AAPA to sign off but don't talk to all TOs**; nearby sites not considered

Don't want to be like Murray River

Have government already made a decision?

Looking at national estate for managing water. **Danger**: licences issued; buy license and use allocation in some other part of Australia; potential for **trading**.

Alive that water; not only human beings but animals, plants. It gives life; if no water then you look for gum tree bump for sign of water; seen by old people and passed down. (Mary River)
All this bamboo that is our ancestor. I have seen drought when aged about 10 yrs; not good water; still water – was deeper; now flowing only when flood from Katherine; water stops half way.

Water very valuable; to white, black, animals, ferals; **industry coming fast** like agriculture ie big market for mango; **how much mega litres** underneath the ground and how much being used for industry; cultural being impacted by industry; impact on our young; **we need water for future generations (interest)**; water is for **survival**; worried about giving cultural information when government already made up their minds; these people coming in because of their interest in industry and using our water.

Government has plans on how to use water; but they are very disjointed in **the way they engage with us**.

Ask: **how much water do we need for survival?** No bathroom – bathed in river – **conserved water**; now - flushing toilet uses lots of water (impact). **Climate change** – are animals adapting or is it affecting them? Don't know how much water we need. **Culture is priceless, but what is the real value**; white man think in \$\$\$ when they blink; when we blink, we see country.

Laynuhpuy – spring water – ancestor – Yirritja – making water holes that we see now in reality it is part of our life. Talk here is about \$\$\$ value. Will government talk to Traditional Owner groups and work out how we use that spring water for the future to benefit our people. Water is important to drink. And the ways we use to collect water was important to the valuing of water – used paperbark at cups – now talking about using water for commercial purposes. There is freshwater on beach, but damaged by 4wd this is the types of knowledge we have. Crystal springs – a sacred site - untouched but illegal entries. Who will continue to protect this? **We need to control our water before ruined by visitors**. Paperbark taste awful but can live with it.

Can't distinguish between water and land resources (principle); need to take both into consideration; deal with both together, not separately; **sustainable resources to sustain people and their rights (principle)**; government not talking about **negotiating over water**;

Got to have a buy in water trading, and investment for our children.

Water has a **high cultural significance** for ceremony, e.g. welcome people to country; water ceremony in itself and curing ceremony cleansing, birthing, death; links back to ancestors and creation stories; 'language' covers everything and connection to country; different sites are important spring rivers creek old river beds floodplains out to ocean;

- **Economics** - current reliance on water
- **Cattle pastoral industry**, value significant; reliance – 11,000 head of cattle, export market
- **Tourism** - through Litchfield national park – Batchelor to Dundee; 1000's visitors (positive)
- **Mining industry** - negative impact through heavy metal release into Finniss; \$\$ value to mining company
- **Fishing industry** - recreation and industry, \$ value to and industry
- **Future** - Areas that get high rainfall will be **under pressure** ie in times of drought, work out how we are going to **manage** that.
- **Lobbying** - by east-coast population
- **Potential impact and opportunities** - Aquaculture enterprises – another example of how you cant deal with water in isolation

How do you put a \$ value on **geographic** location? Floodplain is important for **ecological sustainability for breeding and hatching grounds**.

Increased development – increased **competition between users**

Climate change will impact on water – drier areas of water and centre will end up rainforest areas.

Tied to climate change – temperature increases, crime increases: will changes in temperature impact on our livelihoods? 1.5m sea level rise predicted around Cairns in 2025

Farmers and scientist are looking for solutions (for themselves), on what will grow? For saltwater to rise in 15-20 years by 1m means the floodplain will be flooded by saltwater.

CSIRO said it may get drier not wetter.

But peanut farmers rely on computer modelling moved up from down south, not on information collected here in this environment.

Sea levels will raise – flood plain impacted – species of plants and animals will change

Indirect replace low impact grazing to intense cropping – already happening in the Daly

Creek bed and billabong ground water bubbling but may dry up

Pignose turtle – temperature determines the sex of the offspring; changes in temperature will impact breeding and feeding and possibly cause extinction.

Hot springs – Douglas and Daly Rivers – creeks smaller, quality of water not healthy (white man say healthy, but not through eyes of generations living on land; doesn't smell; species decline and diversity decreases.

Island and coastal rely on ground water, Bores, Saltwater intrusion ie Milingimbi – will come down to survival; may need to source water from else where.

Big problem is going to be the cost of water as resources are depleted, **especially town and urban development**

What do we need to do now? Sustain water? Steps to take?

What has Northern Land Council done to represent Traditional Owners views about water use?
Answer: talking to Traditional Owners to work out natural resources needs and uses.

Suggest more community meetings

Look at quality and maintenance of water. Mutual use of water, pollution into water.

Natural elements – higher than when uranium was dug out of the ground...prostrate issues...infant still born increase... Introduced aquatic pests – fish, weeds, plants impacts on quality of water and other resources.

What do we need?

- Resources to manage weeds and ferals on water and land
- Pastoral leases criteria for funding from commonwealth and NT government - look at water Acts
- **Indigenous policy; we need funding to implement a strategy** (development and management)
- Traditional Owners working using traditional knowledge to manage resources
- **Traditional Owners informing Academics ...two ways**
- Local land care groups
- Park rangers working on pollution and impacts
- Case study sites to be negotiated with and involve TOs – quantity and quality...give scientific and traditional knowledge perspectives
- Water for life – greening Australia – monitoring – **no long term funding**...path or vision

Other Issues:

- domestic use vs. industry use, mostly domestic; mango, hay; biggest water use is fisherman
- recreation; too much pressure on the river; impacts from Katherine – Douglas – detrimental to bottom end of Daly; no studies on damage of water wake; peak times, slumping (raises river bed); sitting beds – flooding
- Weeds and Noongurra burr choking native species that held banks together.
- Scientific studies – conflicting advice – outcomes
- Use to bring water from billabong where we stayed, when housing and gardens were developed. We stopped drinking from billabong. More water used for garden, football oval, banana plantations.
- Good quality water is from bore – need to save that water and bottle spring water as economic
- Drainage of aquifers, not capping bores; polluting aquifers – septic pollution (management)
- Metres on bores – commercial
- Mining companies don't justify their use
- PAWA biggest user

Slowdown water allocation process so consultation, negotiate over management and governance

Traditional Owners should charge for extracting water

Illegal extraction from Daly because farmers and pastoralists have no licences

NLC to consult and negotiate licence terms and conditions

Illegal extraction from Daly

Water Act

Like Blue Mud Bay Case

Have a story from the ground: for needs to survive.

Case strong, not for just us, stand together for recognition – govt see us as one nation. We have a story from the ground; tribe identity, who owns, has law, ceremony that identifies owner; story line also identifies. Sun hits water, storm clouds, song line. Maniyuky identifies you and tribe. Ancestors (s) and (b) made holes and spring water

People who have travelled from QLD, NT, WA, centre and other states have same ancestors; same rainbow serpent making holes and tunnels making access for water.

Identify you and tribe and who you are linked too.

Drinking and economic – identify spring or billabong water where your song line is linked – came together.

Stand together if you want water quality and rights

- Consider IPA

One law view. Common interest and understanding given by our ancestors and need to consult – how to use and conserve. Government want to develop the land. But how do we use, how do we care, not for ourselves, but environment.

Water is our law – Yirritja, Dhuwa.

Changes to environment are all human factors – climate change, not natural.

We need to negotiate our terms and conditions for need to survive. Work toward getting our message to government; continue to talk to land council, organisations, and shires.

Elders need to be involved in this debate (principle – new way for government) – inform policy; we own that water

1. When buying into water allocation – **caution**
2. **Cultural is separate** to environment (reinforce this), economic, conservation, recreation, Indigenous commercial.
3. At present 80/20% environment/beneficial.
4. Beneficial is open to negotiation – agricultural, aquaculture, public water supply, environment, cultural, industry, rural stock and domestic

GROUP TWO

Indigenous interests in water.

Why did you come here and what is your interest in water?

- Miriung-Gajerrong (MG) people want to fix water problems they face, share ideas and take them back to Kununurra.
- It all comes back to our cultural business. Some things we can talk about under our law and culture. Some things we can't. We have law to look after our country.
- MG information – in our native title they took away our water rights. State develops our land for farms; and we are part of the land – **we want wealth from our land but only get**

recognised for our cultural water. Our native title didn't come with water for farming. We were never farmers.

- There are five other groups in the Ord. Gadiya get wealth from the hydro-plant but we get nothing. They say that Ord and Fitzroy are going to be next food bowl. And we want to be able to drink that water. All these stories old to me, our Dreaming came from the land, Dreamings created the river. **Can't separate land from the water.** Dreamings come from the land.
- We look at our country and see a whole landscape. As tenants or caretakers of our homelands, we have to manage that. **We should be encouraged to have a voice on our country.** Before things happen. **Need to ask the Traditional Owners first.**
- **Government needs to compensate for past injustices.**
- Story told in paintings and verbally. Same thing. **You want proof**—look to our dancing, corroboree and painting.
- Miners might have all the technology but we've got our culture. The white men don't understand our culture—what have you got to take to Canberra to make them listen. He got to come to my country, to my spring. To the Fitzroy. **If there is to be development we need to be there on top.**
- With water you can say you can do anything, but our culture is strong. Will the government listen, will they understand.
- We still haven't got Rangers for our country, for Wingjina Gorge.
- White man needs knowledge of our culture.
- Every animal has a story, a Dreamtime story. Animals are like humans. For us, two of our fishes use the river, and are from those two fish we found our law and culture.
- It's really hard to explain our culture. It's simple—if you break the Aboriginal law, you're dead. No second chance.
- We need to establish a **set of guidelines for three levels of government so they understand our inherent right to govern our waters. Need agreements and protocols written by the people.**
- We were asked to establish an agreement for the Mitchell River. The TOs sat down and developed their own. **Need legal advice for TOs to employ their own lawyers.**
- **Back taxes to be paid to TOs.**
- Is this all about taxing water? We have to do something. There has to be right and proper negotiations.
- Most of the MG pays bills to live in town. When the women go bush **they don't pay, they manage the waterways, no bills, no rates no taxes, when we're on country. It's our livelihood.** We're not paying people for our water on country.
- **Graziers use our underground water in the Mitchell. Graziers stopped us from using water** from tanks. They're putting gates and locks.
- WA might open up uranium mining and pipe water from the Ord to the Pilbara. We need to be one foot ahead of them. **Government represents business. The government will try to divide us.**

1. What do you value most about water?

- **Water is our life**—giver, only one that gives us life. We have connections from our Dreaming. We've got song and dance for water.
- **There are significant places that are water places.**
- When we got our native title, the only thing we didn't get was our water. Gadiya can take the water.
- Does your Indigenous Land Use Agreements (ILUA) cover the water?

- MG: No, only the land.
- The **water has to be part of the ILUA**. Government had the upper hand.
- That's where you get the economic value.
- *Kadiya* (non-Indigenous people) saying **once you put a bore down you've got to pay for that water**. We've got letters saying you got to pay for that water.
- **Rights to water should allow access to consumptive and non-consumptive water.**
- It's another stick they're using to make it harder to go back to our communities.
- **Priority access to Indigenous people must be part of law.**
- Values: life; culture; country.
- In Bunuba country we've got a lot of springs. We've got to save the springs for the animals. We've got stories for those springs, and songs. All have names.
- Miners require water when they drill. **Springs are drying up from diamond mining**. We've noticed. We need to keep them safe. Animals are going to have to look elsewhere.
- We have a lot of **tourists**, can't go fishing there anymore. River changing.
- **With Fitzcam we want to get Rangers and Guides and get employment.**
- Government **should negotiate in all the rivers they want to develop**. We put a stop to that dam at the Fitzroy.
- River means a lot of things to us. For kids to learn about culture.
- Need to **protect our rivers by legislation**.
- No mining for sand at the Fitzroy.
- We've got Indigenous Protected Areas (IPA) wetlands. They're drying up. We've got a big mob of birds. We want to educate our kids about the importance of those wetlands to our ancestors. We're working with the schools to map our country on canvas. We've got a big fish project—worms and fish. Haven't got much old people left—Walniajarri.
- **We use water for healing, mud to heal.**
- We didn't over use the water, only to meet our needs. Gadiya don't look after the 7th generation. We never removed anything. Gadiya got to make sure there's enough for next 7 generations.

What are your social, cultural, economic interests in water?

1. Economic
2. Agriculture: growing plants; native plants; large scale farming; veggie gardens
3. Aquaculture: fish farming; prawn and barra
4. Pastoral industries: cattle;
5. Fee-for-service: weeds; all industries; Rangers; Caring for Country; water monitoring; water planning; feral animal control; scientists
6. Tourism
7. Ecotourism: fishing camps; boat camps; camp site management
8. Bird watching
9. Land management
10. Timeframe as to when to develop. Make sure land tenure for existing tourism. Controls on white tourism operating.
11. Local barra farm uses lots of water and location will affect sacred sites. Interest in monitoring water use. Chemicals back in water. Interpretations of landscape. Environmental monitoring of mining and farming side-by-side.

Does your region have an economic interest in future water use?

- MG: farming; hydropower; tourism; mining; roads
- Paruku (Lake Gregory): wetlands; tourism development (small groups); pastoral industry; roads; groundwater used to water down roads; community use (domestic)
- West coast WA: population growth; large scale industrial development; agricultural and pastoral diversification; fodder; live export trade; tourism; town planning.

NO DAMS.

All areas: tourism uses water; town planning; social impact; state government; dams (small scale); power poles (small scale); impacts to waterways; fine around communities

Are there any conflicts between water uses or issues for water users?

- Destroying cultural sites; **not consulting** with TOs about water use; **no access** to river through pastoral stations; some people lock gates so people can't get through farms; not allowed to get to places people want to;
- 'No Entry' signs, private property
- Ord Final Agreement had to have access to River through farms, was meant to do corridors but still hasn't happened
- Burial sites all through this area on the Ord road to be protected; buffer zones around area; going to start farms on areas?
- Agreements to be drawn up with station owners and TOs so people can use country.
- Farmers use more water than us and **waste** it
- Keep River area, not let people have access
- Looking after the country after mining, needing to **revegetate** after
- Seek bank started for revegetation projects
- MG mob it's taken three years and none of this stuff has been done.
- Buffer because of farming practices.
- Keep people accountable.
- Groundwater contamination.
- GM crops in the Ord. Why in the Ord?

How should any conflicts or issues be resolved?

- Good partnership between government and Indigenous people
- Consultation and engagement with reference groups, PBC, land councils and Fitzcam etc.
- Future development has to engage with people every step of the way.
- Need to get the govt to understand where we are coming from.
- Govt need to be put through cultural awareness training.
- There needs to consequences for government if they don't take on broad cultural ideals.
- Fly in and fly out is not good enough. They need to stay on community for longer.
- Govt need to put \$\$ in budgets for engagement that includes back to country; spend a week there.
- Engage in day-to-day life.
- Proper consultation.
- Avoid overlap in projects through sharing information and working together.
- No more desktop studies. Scientists need to be put through cultural awareness training before coming on country.
- All agencies should put staff through cultural awareness training.

- CEOs in communities need to be made aware of cultural protocol
- Sharing information between projects so people aren't meeting every day

What do you think the water resources should be used for?

- Priority to TOs customary
- Sustainable social and economic development
- No cultural flow river will have not life
- Should be allocated in order of Cultural, social and then economic uses in drawing allocation plans
- If water dry's up then get soak water
- Dam in Ord has already effected cultural flows
- Before dam in Ord river was the road for travel for meetings, gatherings, now can't cross river anywhere, have to travel long way to get together
- Can't put a limit on culture for culture flows so its hard to say how much we should ask for in cultural flows
- Industry does need some but cant have all, what ever industry gets then, when they have used it all , ...that's it
- Should be 50% for indigenous people 50% industry
- No restriction on how indigenous people use their water
- Industry should pay royalty for water use

GROUP THREE

Indigenous Interests in Water

- Triple bottom line
- Social/cultural, economic, political and ecological sustainability
- Indigenous industry
- Keeping people on Country
- Indigenous land and sea management
- Land tenure and title, restrictions
- Indigenous Authority for Resource Management and Allocation
- Responsibility and encouragement of young people to get involved
- Social growth
- Changes in legislation impacting on Country – no real avenues
- Social inclusion, REAL Indigenous engagement
- Ecological value of rivers
- Feels for what's happening on ground to take back to classrooms
- Human rights – engagement in water policy planning
- See what approaches can be taken with land and sea management
- Clear up confusion and frustration in communities – no proper information
- Lack of consultation with TOs
- No framework for legal engagement
- How can TOs be properly involved in management of all water on our Country?
- Education and development
- Information on laws/legislation not being given to TOs
- No clear answers from government representatives

- Consultations for the sake of it
- Formulate geographical boundary for Northern Australia
- Knowledge on separation of powers

Aspirations for development

- Current uses
- Mining
- Grazing
- Irrigated agriculture
- Fisheries
- Tourism
- Recreational use
- Domestic
- Aquaculture
- Concerns / Issues
- Toxic waste released into waters
- Use of groundwater affecting springs and river flow / course
- Diversion of waterways
- Ecological values
- Incompatible uses e.g. mining/tourism
- Impacts upstream from mining etc in coastal areas
- Access to Country to manage land and sea
- Engagement with TOs, language and information transfers
- Overgrazing, soil erosion, river destruction
- Pollution
- Approach all parties for input
- Owner/Manager Vs User group needs highlighting
- Skills to negotiate
- Lack of background scientific data
- Fisheries in local creeks/ivers
- Understanding of water management levels, processes that TOs might not be aware of
- Competition for water usage
- Farming practices affecting the Great Barrier Reef etc conflict

Governance and institutional arrangements

- Wild Rivers legislation
- GBRMPA
- EPA
- Unequal balance of power in negotiations and management - owner/manager
- Indigenous Water Quality Group
- Water Act
- National Water Commission
- Difference in urban and remote area - ability to be engaged
- TOs not fully aware of management groups/organisations to engage with
- No Traditional Owner management – involvement in planning and management
- TOs want responsibility and recognition as owner/managers not just users

- TOs involved in allocation of water

What needs to be put in place for Indigenous Aspirations?

- Core funding for Indigenous organisations
- More land and sea centres (Indigenous)
- Indigenous Water Commission (Cape York) – same for other regions, to feed into National Water Commission
- Water allocation needs to be linked with efficient use and environmental flows
- Indigenous allocation should be for more than just traditional use e.g. economical
- Development of a strategic plan to get TOs more involved in processes
- \$ For marketing and all relevant agencies on board
- Using successful mentors to get messages

GROUP FOUR

Indigenous interests in Water

Why are we here?

- Government are focused on this separation of water from land? What is the Indigenous worldview?
- Timing is critical.
- Issues on the table – maximise opportunities and investment on Indigenous terms for northern development.
- Questions on research and development with Indigenous determined agenda's, processes outcomes.
- Learn from the south to influence the development of Indigenous sustainable livelihoods.
- Gaps in science- development appear to be rapidly moving forward without baseline evidence.
- National conversation around a land reform (land and water rights). How this might shape economic rights and rights to development? Not contained on Native Title – limited to (hunting and gathering).
- New paradigm shift between government, non-government organisations and private sector to influence the land reform agenda.
- Northern Taskforce recommends to government use this? IWPG (Key Reference Group) to research plan and develop policy and practice – Pan Indigenous Development of the north.
- Investment for a summit.
- Need united position from this forum – Indigenous/ Aboriginal statement - clear principles for moving forward?
- What is the realistic timeframe to respond to government? It limited by the constraints of the Taskforce December report.
- Realistic timeframe would be 12 months to mobilise Indigenous leadership to develop a legal and cultural framework to reflect the paradigm shift for doing business with First Australians (benchmark of UN Declaration on Rights of Indigenous People, rights enshrined in legislation).
- Investment into evaluation of the process, impact and outcomes of development.
- National Representative Body – where to next? Influence?
- PBC – local government and statutory requirements.

- Audit Indigenous Business.
- Indigenous Economic Development CRC.
- 4a. Influence the process and outcomes.
- 4b. Audit of all existing Indigenous industries on Aboriginal land what exist – tourism, pastoralist.
- 4c. Meta-analysis of existing research (TRaCK, NAILSMA, CSIRO) to develop an economic model for Indigenous economic rights and interest.
- 4e. Audit of organisations and current instruments that influence government policy farmers, meat and livestock.

Aspirations for Development

Who owns the water?

- Create conflict between TOs;
- Opportunity for trading water;
- Opportunity to restrict transporting water across catchments. How many?
- Response – minimise the impact of development yet sustain our Indigenous values and assets.
- Look at legal mechanism to protect Indigenous rights and interest. Sometime it contradicted Indigenous (Wild Rivers, Living Rivers) legislation.
- Audit/ analysis of water and environment to take account of and strengthen Indigenous rights and interest.
- Debate to be had about Indigenous rights and interest in the allocation of water and rights to trade water.
- No policy and no formula for environmental allocation of water in northern Australia.
- Question – around cultural rights and allocations (commercial, consumptive and cultural).
- Governance arrangement – Indigenous leadership – united response to planning and development, influence institutional policy, practice and legislation.
- Land tenure reform, major deficit policy approach reference to housing.
- Need to document best practice case studies – Aboriginal people and river management (example - Jardine/Jackie Jackie).
- Fitzcam – happening – not sustainable.
- (Department of Environment and Climate Change) NSW handbook and DVD for Aboriginal people to understand how to get involved in water planning. Water allocation and what to do.
- N.B. Very good example/barrier Q5 multitude of sectoral interest in water.
- No policy and legislation to protect the rights and interest of Aboriginal people.
- Disconnect between surface and groundwater – legislated differently, responsibility of different department.
- No investment, resources and statutory requirements to build capacity, leadership and governance of PBC or TO Group to manage water, land and NRM in a sustainable livelihood way.

1.9 Day one Close

Joe Ross: Fantastic discussion over a wide range of topics. Need to further the process and move forward. The in-depth discussion is important and needs to continue.

Joe Morrison: Started a very much needed conversation about water and country. We are always considered only as stakeholders and we need to manifest conversation into something more meaningful and on indigenous terms.

1.10 Reconvene

Joe Ross – The specific objectives of the Taskforce for this forum is for us to think about how we are going to address the challenge ahead with regards to development. There is no glue between Aboriginal people when it comes to development and there are a lot of emerging ideas (reference is made to a study by Tom Hatton-CSIRO).

The aim of the forum is for the dialogue to contribute toward a report.

The Taskforce will provide information to the government only, and will not change the world for you. It is up to you to participate in the discussion.

Realistically, a freight train is coming and that is in the form of development.

Joe Morrison – we should aim to work towards a collaborative voice in northern Australia to manifest something for the future.

NAILSMA's role, as a facilitator, is to assist Indigenous peoples of northern Australia to get into the game so that future generations have something to move forward to.

1.11 Forum Overview: Paul Josif

1. Establish clear recommendations from each groups work on Day 1 (ie. That the outcomes of the Workshop be...)
 - a. All groups review work and discuss/write recommendations about:
 - i. Indigenous Interests in water
 - ii. Aspirations for management and development
 - iii. Governance
 - iv. Needs for governance/management (at grassroots to corporate/government levels)
 - b. Add any new ideas/issues etc
 - c. Recommendations/Ideas about the new deal/ways of dealing with governments-governance.
2. Develop ideas (maybe as a vision) about what northern water systems will be like/How managed in 5 years/20 years/100 years!
 - a. We will then consolidate these into a single visionary statement
 - b. Maybe form a vision and/or a 'Mary River Statement'.
3. Principles: Each group working on your groups' findings/outcomes of Day 1. Develop and write up the principles that can govern an Indigenous water management arrangement.
 - a. Example of a Principle = Land and Water cannot be separated
 - b. As relates to your recommendations.

1.12 Indigenous Closed Session

Minutes from the closed session are not included for cultural reasons.

1.13 Groups report back with recommendations

GROUP ONE - Trish and Dean

Guiding principles

1. We belong to this country
2. Land, water and people are inextricably connected
3. Indigenous people across north Australia are united in dealing with water issues
4. We recognise our cultural and kinship responsibilities and obligations under customary law to look after water
5. We recognise that Traditional Owners have a right to be involved in the management and decision making over water use

Recommendations

- Local action – NT. Meet with water controller (under water Act) to discuss indigenous water issues and a process for engagement
- NAILSMA, taskforce and land councils facilitate a broader forum across north Australia – IWPG feedback to grass roots.
- Leadership: NAILSMA, taskforce and land councils REDIRECT their FOCUS and RESOURCES to deal with water rights and uses. Including funding and directing indigenous scientific research institutional body (separate ties to universities to protect indigenous cultural intellectual property). Cultural knowledge valued and recognised based on aboriginal research practitioners network
- For development (people water and land inseparable)
- Acknowledge and respect the fact that all indigenous people have water rights across north Australia – declaration and indigenous rights
- Market the successful economic developments across all of north Australia
- Use water as an economic development through sustainable practices ie develops sustainable economies, explore water trading opportunities
- Assumptions vs actual local knowledge. Government has history of repeating failed cropping ie based on water supply
- Negotiate on level playing field
- Governance
- New ways to deal with government
- Learn to sell yourself. Market yourself and your knowledge
- Control and ownership of your intellectual and cultural property (refer to mechanism in recommendation 3)
- Refer to guiding principles. Change western way of doing business equality across borders. Legislation to recognise and implement principles. Traditional, reinforce and practice traditional decision making processes and time lines.

GROUP TWO - Annette and Lillian

- Water rights

- Law and culture/traditional rights
- Water and land can not be separated. We look and care for country together not separate.
- Aboriginal law and culture never changes, where western law changes every time and a new government is elected. Aboriginal culture is passed on from generation to generation
- We need to establish a set of guiding principles for government to follow values
- Life
- Culture
- Country
- Traditional song and dance and stories
- Afraid developers won't listen and understand indigenous people views, cultural laws and rights to water.
- Australian law does not respect our cultural values, they only see \$value.
- They have and are still using the water without consultation to Traditional Owners.
- Excluding aboriginal people of their rights historically and now.
- Water is not going to change our cultural ways and beliefs.
- We want to participate but not at the cost of losing our cultural values.
- **We are not being consulted properly**

How can we engage and assert our rights to our land and water?

1. That we assert our ownership of water and a water share
2. Change our ILUAS under native title
3. Through hard renegotiation of water plans
4. Need to work together
 - a. Partnerships and joint ventures
 - b. Sharing resources in business for now and the future (eg tourism, mining, pastoral)
5. Training aboriginal people in governance in all kinds of seatings.
6. Aboriginal ownership of businesses gives control over resources even – water.
7. Many under pinning issues, like young people being taught back on country – continued cultural learning is very important. They are the future leaders and mentors – continuity
8. We know development will go ahead on land and sea no matter what but.....
9. Our main concern is for our usage of water and water systems for our cultural life.
10. Everything on our county depends on water.
11. Our development is in a small no destructive way.

Governance

1. We don't want to have to prove ourselves again like native title
2. Our water is part of our native title through our cultural and ceremonial practices that are art of the birds, animals, plants and us; we don't want younger generations to live with the same hardship we older ones did.
3. We trying to make it better for everyone
4. Water is one thing now but there are other big issues too – like carbon economy
5. We need to get a new way of making our points and negotiations (eg KLC gas agreement)
6. Understanding consequences
7. **Honesty counts**

GROUP THREE - Sam Savage and Tonya

Recommendations

1. Set up and interim group to start lobbying on behalf of indigenous peoples rights to water
2. All policy and legislation is done in accordance with international law:
 - a. The RAMSAR Convention on Wetlands²²
 - b. International Convention on Civil and Political Rights²³
 - c. International Covenant on Economic, Social and Cultural Rights²⁴
 - d. Convention on Biological Diversity²⁵
 - e. United Nations Declaration on the Rights of Indigenous People²⁶
 - f. IP (Refer to 6.1 Page 269)
3. Full implementation of recommendations from the 2008 Native Title Report on Indigenous Peoples and Water to be included in Report (Refer to p 209)
4. Develop a communication strategy that ensures community are able to actually participate and are fully informed on water policy issues and opportunities
5. Ensuring that the institutions feedback to community for a 2-way approach
6. Native Title Act is amended to include water as a use right to negotiate (other than just a customary use right. Included in other acts like C/S/T/G water act: ex. AB/TSI Cultural Heritage act 2003 and other local/state/fed/international. Include in future acts. Include a legal framework for negotiation
7. Inclusion of all freshwater systems whether on mainland or on sea country
8. Develop NT Indigenous Authority to resource management, allocate, monitor, evaluate plan (eg. High Level owner/manager
9. Support the NAILSMA process as the voice for north Indigenous Australian water policy. Ensure all other Indigenous institutions are working together.
10. Clearly define geographical boundaries of Northern Australia
11. Respect/acknowledge and support aspirations for development around achieving aspirations for development
12. Engage other lobby groups to develop partnerships that promote understanding, recognition and a common goal.
13. Provide support and resources to continue dialogue in the water planning in Northern Australia
14. Recognising and accounting for the (diversity/needs/aspirations) of urban, remote, regional areas
15. Increase in No of C+S centres/employment in Northern Australia
16. Establish Regional Basin authorities in Northern Australia
17. Establish Indigenous Water Commission
18. Development of a strategic plan to get Traditional Owners more involved in the process

Principles

1. Triple Bottom Line
 - a. Social/Cultural
 - b. Ecological (includes all flora and fauna)
 - c. Economic
 - d. Political sustainability (as a fourth element)

²² Ramsar: http://www.ramsar.org/cda/ramsar/display/main/main.jsp?zn=ramsar&cp=1_4000_0

²³ ICCPR: <http://www2.ohchr.org/english/law/ccpr.htm>

²⁴ ICESCR: <http://www2.ohchr.org/english/law/cescr.htm>

²⁵ CBD: <http://www.cbd.int/>

²⁶ UNDRIP: <http://www.un.org/esa/socdev/unpfii/en/drip.html>

2. Water Dealings based on Free, Prior, and informed consent and engagement with Indigenous community at all levels (ie. Representative bodies and local communities)
3. Principles of International Law (e. UNDRIP, RAMSAR) be the guiding principles for development of Indigenous People Engagement on water
4. Ensure the Indigenous community at ground level be fully informed and participate in process
5. Water allocation needs to be linked with best practice, sustainable, efficient use and environmental flows

GROUP FOUR - Waubin and Anne

1. No separation of land, water and Indigenous people (environmental flows, consumptive, commercial) we endorse the Garma statement;
2. Indigenous peoples have responsibilities and obligations in accordance with Indigenous laws and customs. We have responsibility for maintaining the rivers and the environment and ecosystem in their natural state so as to ensure their sustainability of this whole environment.
3. Indigenous people need to be the primary interface in this planning and development of water usage proposed and regulated.
4. New Authoritative (statutory requirement) governance arrangement between governments and Traditional Owners of the North. UNDRIP as the benchmark for establishing or building a new legal and cultural framework for doing business differently in the North with Indigenous Australians.
5. What will this body look like?
6. Recommendation: membership and governance of NAILSMA should be expanded to include the PBCs and OTHER CLAIMANT GROUPS (authority back to TOs living and working on country – build sustainable livelihood, water, land and NRM).

1.14 Development of a STATEMENT

It was decided at the end of the groups' feedback for the plenary to develop a statement that encapsulated all the key matters that emerged from the two days' sessions, and to establish a clear and unanimous position from the participants. The meeting decided after some discussion to appoint a small working group to develop a draft statement. This was done and the statement was read to the plenary several times. After some minor rewriting and amendments the Statement was unanimously accepted by the plenary.

1.15 CLOSING

Thanks were given by both Joe Morrison and Joe Ross to participants and visitors for attending the workshop Members of ONA were again thanked for their contributions to the proceedings. Richie Ah Mat acknowledgement the contributions and closed the Forum.

Appendix 4: Declarations

Garma International Indigenous Water Declaration

Précis

Indigenous peoples internationally share cultural and customary responsibilities to fresh water. This International Indigenous Water Declaration is a testament to the undersigned Indigenous peoples' connections to water and expresses the significance of Indigenous knowledge and water interests to the security of freshwater when water laws and systems are merging into an industry that portrays water as a commodity.

Introduction

In August 2008, a small group of Indigenous peoples from across the world convened in northern Australia at the site of the Garma Festival in north east Arnhem Land to share their experiences on issues and opportunities arising from emerging trends in mainstream water management systems. This exchange arose out of relationships between the North Australian Indigenous Land and Sea Management Alliance's Indigenous Water Policy Group and the United Nations University – Institute of Advanced Studies Traditional Knowledge Institute. It was anticipated that access to international experience and perspectives would broaden the frame of reference for participants in such a way that would enhance their capacity to identify and advocate around Indigenous interests in water. The exchange was successful in serving this purpose for all participants from Australia and around the world.

Particular attention was given to issues arising from emerging water trading and water property rights regimes and the increasing recognition by western science of the value of traditional knowledge for natural resource management. The meeting facilitated discussions around how best to achieve appropriate protection of Indigenous interests in water and explored how Indigenous knowledge can be recognised as expert knowledge and used alongside western scientific knowledge in water management systems.

Another outcome of the International Indigenous Water Experts Exchange and of significance to the 5th World Water Forum, as well as other relevant international fora, was the development and adoption of a statement and set of recommendations on Indigenous water knowledge and interests.

Declaration Preamble

Context

RECOGNISING and REAFFIRMING that the Indigenous Peoples of the World are and have been since time immemorial sovereign over their own lands and waters and that Indigenous peoples obtain their spiritual and cultural identity, life and livelihood from their lands and waters;

We assert that water has a right to be recognized as an ecological entity, a being with a spirit and must be treated accordingly. For the Indigenous Peoples water is essential to creation; Ancestral beings are created by and dwell within water.

We do not believe that water should solely be treated as a resource or a commodity. Nation-States, in asserting competing sovereignty over the lands and waters, have introduced and enforced unlawful and unjust mechanisms resulting in trespass of the legal entitlements of Indigenous Peoples to the ownership, use, management and benefit of the lands and the waters, without consultation, consent or just compensation where required by law.

Furthermore Nation-States have grossly mismanaged the lands and waters of Indigenous Peoples, causing ecosystem collapse, human induced climate change, severe water quality degradation,

extreme stress upon ecologies and species extinction at a scale and rate which is unprecedented; and Gross mismanagement of the lands and waters and denial of access of Indigenous Peoples to their lands and waters has caused severe, widespread and on-going detrimental impacts to all aspects of the lives and livelihoods of Indigenous Peoples. This includes significant disadvantages to the health, economy and social well-being of many Indigenous Peoples. Cultural and linguistic diversity has also been compromised, leading to loss of culture and life-ways of Indigenous Peoples. A contributing factor is the concomitant degradation and expropriation by Nation-States of significant landscapes and sites of spiritual and cultural importance to Indigenous Peoples.

Indigenous Peoples have responsibilities and obligations in accordance with their Indigenous Laws, Traditions, Protocols and Customs to protect, conserve and maintain the environment and ecosystems in their natural state so as to ensure the sustainability of the whole environment.

Acknowledgements

We acknowledge our ancestors and Elders who have honoured and maintained the land and waters to the highest standards.

We acknowledge the work of past Indigenous Peoples in drafting and implementing international instruments and customary international law that informs our work towards justice.

The Declaration

We the Indigenous Peoples of the World DECLARE that:

Water is not a commodity. Water is a spirit that has a right to be treated as an ecological entity, with its own inherent right to exist.

We further DECLARE that Indigenous Peoples of many Indigenous Nations:

Have inherent aboriginal, treaty and other rights to water and waterways for navigation, customary and cultural uses of water.

Have inherent and human rights to water for basic human needs, sanitation, social, economic and cultural purposes.

Have a right to access adequate supplies of water that are safe for human consumption, hygiene and cooking.

Must be fully involved in source water and watershed protection planning and operational processes including controlling Indigenous water licenses and fair allocation policies and practices; and

Have a right to access and control, regulate and use water for navigation, irrigation, harvesting, transportation and other beneficial purposes.

Indigenous Peoples also DECLARE that States must:

- Fully adopt, implement and adhere to those international instruments that recognize the rights of Indigenous peoples and our right to land and water. These include but are not limited to the:

International Convention on the Elimination of All Forms of Racial Discrimination 1965 (CERD);

World Heritage Convention 1972;

International Covenant on Cultural, Economic and Social Rights;

International Labour Organization Convention 169;

Rio Earth Summit Declaration;

Palenque Declaration;

Kyoto Water Declaration;

Ramstad Convention;

Convention on Biological Diversity 1992; and
United Nations Declaration on the Rights of Indigenous Peoples, specifically Articles 8, 20, 24,
25, 26, 27, 28, 29, 31 and 32.

International Covenant of Political and Civil Rights.

UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions
(2005)

UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001)

UNESCO Convention on the Safeguarding of Intangible Cultural Heritage (2003)

- Recognize that all traditional Intellectual Knowledge and interpretation of the knowledge is the property of the Indigenous peoples and knowledge holder(s); and
- Fully engage with Indigenous peoples and obtain their free prior and informed consent on matters affecting them. States shall engage with the Indigenous Peoples delegated representatives in accordance with Article 19 of the United Nations Declaration of the Rights of Indigenous Peoples.
- Continue adoption of major cuts to greenhouse gas emissions to combat human induced Climate Change, as well as other harmful compounds and chemicals that cause pollution of water sources.

Signed By:

Name Indigenous Affiliation Organization

Contacts:

Please send your endorsed copy of the declaration to:

water@cdu.edu.au (Independent Indigenous non government organization)



United Nations Declaration on the Rights of Indigenous Peoples

Adopted by General Assembly Resolution 61/295 on 13 September 2007

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to

peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights (2) and the International Covenant on Civil and Political Rights,2 as well as the Vienna Declaration and Programme of Action,(3) affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights(4) and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to

be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in

conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have 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.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have 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.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which

they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies,

including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.
3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

(2) See resolution 2200 A (XXI), annex.

(3) A/CONF.157/24 (Part I), chap. III.

(4) Resolution 217 A (III).

Appendix 5: Media Releases

Indigenous Voice on North Australian Water Futures

4th August 2009

Indigenous people from northern Australia are coming together to discuss their interests and views on water at a forum being held in Mary River 5-6 August.

The north Australian Indigenous Experts Water Futures Forum will convene up to 80 key Indigenous experts strategically involved in water.

Convened by the North Australian Indigenous Land and Sea Management Alliance, the Northern Land and Water Taskforce is seeking to consult with Indigenous people in north Australia on their water interests and issues.

Joe Morrison, CEO NAILSMA, highlights the forum as an opportunity for Indigenous people across the whole of the north to discuss a common way forward for the future of water on Indigenous land and sea estates.

“The forum allows north Australian Indigenous people to raise their interests and concerns about economic development and opportunities, the complexity of institutional roles and responsibilities and a proper process regarding development” he says.

“Water is a complex issue that needs strong leadership to integrate development and Indigenous disadvantage with Indigenous social, economic and cultural connections to water resources”.

Outcomes from the Forum will include a set of recommendations for the Taskforce on Indigenous interests, aspirations for sustainable development, relationships and governance arrangements and tools needed to put northern Australian Indigenous aspirations in place.

NAILSMA is an alliance of Kimberley Land Council, Northern Land Council, Carpentaria Land Council Aboriginal Cooperation and Balkanu Cape York Development Corporation.

Media Contacts: To arrange an interview with Mr. Joe Morrison, please contact Jessica Lew-Fatt.

Tel: 08 8946 7691

Fax: 08 8946 6388

Email: Jessica.LewFatt@cdu.edu.au

Indigenous Water Futures Forum hailed a huge success

12th August 2009

The north Australian Indigenous Experts Water Futures Forum that was held 5-6th August at Mary River in the Northern Territory was hailed a huge success.

Around 80 key Indigenous experts strategically involved in water convened to discuss their interests and views on future water development in northern Australia.

The Northern Land and Water Taskforce commissioned the North Australian Indigenous Land and Sea Management Alliance to instigate dialogue on Indigenous interests and views for development in the north. Institutional and governance arrangements needed to ensure sustainability of Indigenous rights in water were also discussed.

Joe Morrison, CEO of NAILSMA, hailed the forum as a huge success and reaffirms Indigenous people's as the inherent decision makers on these matters in northern Australia.

"I believe the forum was extremely successful as a starting point to commence strategic discussions around water and broadly, Indigenous development in the north", he says

"The level of engagement from participants confirms Indigenous people's ongoing responsibilities and obligations and connections to water through their management of inherent land and sea estates", he says.

As well as providing a clear set of recommendations to the Taskforce, the Forum was integral for the development of the Mary River Statement.

The Mary River Statement was written to stress the fundamental Indigenous principles of water and reinforces Indigenous people as being intrinsically entwined with land and water.

"The Statement offers testament to the seriousness of Indigenous peoples contribution and participation in policy decision making. It is also sends a message that Indigenous people cannot be on the margins of discussions about development in the north, but drivers of such", says Mr Morrison.

NAILSMA is an alliance of the Kimberley Land Council, Northern Land Council, Carpentaria Land Council Aboriginal Cooperation and Balkanu Cape York Development Corporation.

Media Contacts: To arrange an interview with Joe Morrison, please contact Jessica Lew-Fatt.

Tel: 08 8946 7691

Fax: 08 8946 6388

Email: Jessica.LewFatt@cdu.edu.au

Indigenous Water Futures Forum presents a new opportunity

24th August 2009

The North Australian Indigenous Land and Sea Management Alliance (NAILSMA) presented the Northern Land and Water Taskforce some of the recommendations on future water development in a meeting held in Darwin late last week.

The recommendations are an outcome from the North Australian Indigenous Experts Water Futures Forum that was held at Mary River Park, 5-6th August, where 80 Indigenous experts from northern Australia convened to discuss their water interests and issues.

Joe Morrison, CEO of NAILSMA, presented the Taskforce an Executive Summary last week. 'The Forum provided a watershed opportunity for Indigenous people in northern Australia to clearly articulate their opinions for economic development, potential impacts of development and the importance of securing appropriate governance and institutional arrangements to deal with development in northern Australia', he said.

'The meeting presented Indigenous delegates an opportunity to voice their aspirations regarding government water policy and management of water resources in northern Australia', says Mr Morrison.

"Importantly, a statement from the Mary River meeting was presented to the Taskforce that clearly articulates Indigenous peoples inherent rights and obligations as first peoples to the management of their lands and waters".

An interim Working Group was established at the Forum and is looking to engage at all levels to facilitate a broader dialogue with Indigenous groups across the north of Australia.

With the appropriate support, the Working Group will establish a set of guiding principles for governments that articulate the interests of Indigenous peoples across the north. The Working Group will engage other interest groups to develop partnerships that promote understanding, recognition and a common goal in water use and management.

Media Contacts: To arrange an interview with Joe Morrison, please contact Jessica Lew-Fatt.

Tel: 08 8946 7691

Fax: 08 8946 6388

Email: Jessica.LewFatt@cdu.edu.au
