

Case study

First Nations water rights and interests in national water reform

A vibrant and flourishing democracy requires decision-making processes that include the voices of all stakeholders. Indeed, ensuring meaningful stakeholder participation in water policy processes is central to Watertrust's mission. However, many groups have historically been excluded from decision-making processes related to water management and have not had a say in matters that affect them.

First Nations people are one such group. First Nations inclusion is critical to our democracy and to making water policy equitable for all Australians. However, where there they have been engaged it has often been superficial, that is 'over-consulted and under-listened to'. Recently, things have started to change - there is growing recognition that it is imperative for First Nations to have an authoritative role in water decision-making processes to avoid future deadlocks and for those decisions to be regarded as more inclusive, legitimate and fair for all.

For this reason, Watertrust has been supporting national leaders in First Nations water issues explore ways to improve First Nations' participation in water policy reform processes. This case study shows how Watertrust's three streams of work came together in our 'First Nations water rights and interests in national water reform' initiative, and how the work is now transitioning to be a First Nations led initiative.

Engage

Watertrust initially convened an interim working group of First Nations leaders from across Australia to shape and participate in a roundtable with Hon Tanya Plibersek (Minister for the Environment and Water) and government representatives in December 2022.

Through continued engagement following the roundtable, the role of the working group evolved. Realising there was a need for more comprehensive engagement between First Nations, governments, and non-Indigenous water users in upcoming national water policy reforms, they sought Watertrust's support to explore options for making that happen.

Innovate

Watertrust responded by supporting the working group to better understand the opportunity to improve First Nations participation in water policy decision-making, and ways to seize it. This included developing background papers on:

- how First Peoples' voices might best influence the national water reform agenda, including a set of principles, protocols and practices for supporting self-determination and free, prior and informed consent for First Peoples' participation
- previous First Nations water policy reform initiatives and the status of water statutes across all jurisdictions, including the provisions made for First Nations' water
- a 'landscape map' that provides an overview of organisations with a role in First Nations water rights and interests.

These syntheses, and discussions with the working group and other stakeholders, highlighted a gap between the few organisations with a national focus on First Nations water interests and the many organisations working on Country with First Nations. It is this gap the working group sought to fill in a way that complemented existing organisations.

Empower

The background papers provided a timely and important evidence base to support the working group's consideration of future options to best influence upcoming national water reforms. As they progressed, we enabled conversations between the working group, government and government agencies.

Having started as an ad hoc and single-purpose body, the working group is now formalising governance arrangements to become a more-enduring, independent and First Nations-led body. We anticipate this will ultimately enhance First Nations participation in water decision-making processes, and make a valuable contribution to water policy decisions that are seen to be more fair and more legitimate.

Watertrust's independent status and its focus on process rather than outcomes, combined with the leadership of Professor Yu, meant it was ideally placed to build the trust needed to form, convene, support and then transition the working group of First Nations leaders in water.