



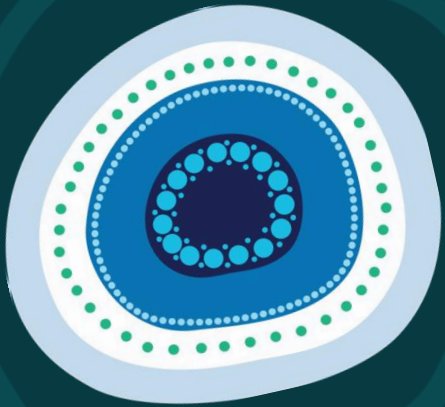
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Meaningful Engagement with Aboriginal and Torres Strait Islander Peoples on Inland Waters in Australia

October 2024





We acknowledge the traditional custodians of the lands and waters on which we live and, work and pay our respects to your Elder's and ours past and present.

From time immemorial traditional owners continue to practice laws, customs and languages, and nurture Country through spiritual, cultural knowledge and material connections to land, water and resources.

Through the strength, resilience and pride of First Nations people, our cultures, communities and economies continue to grow and thrive.

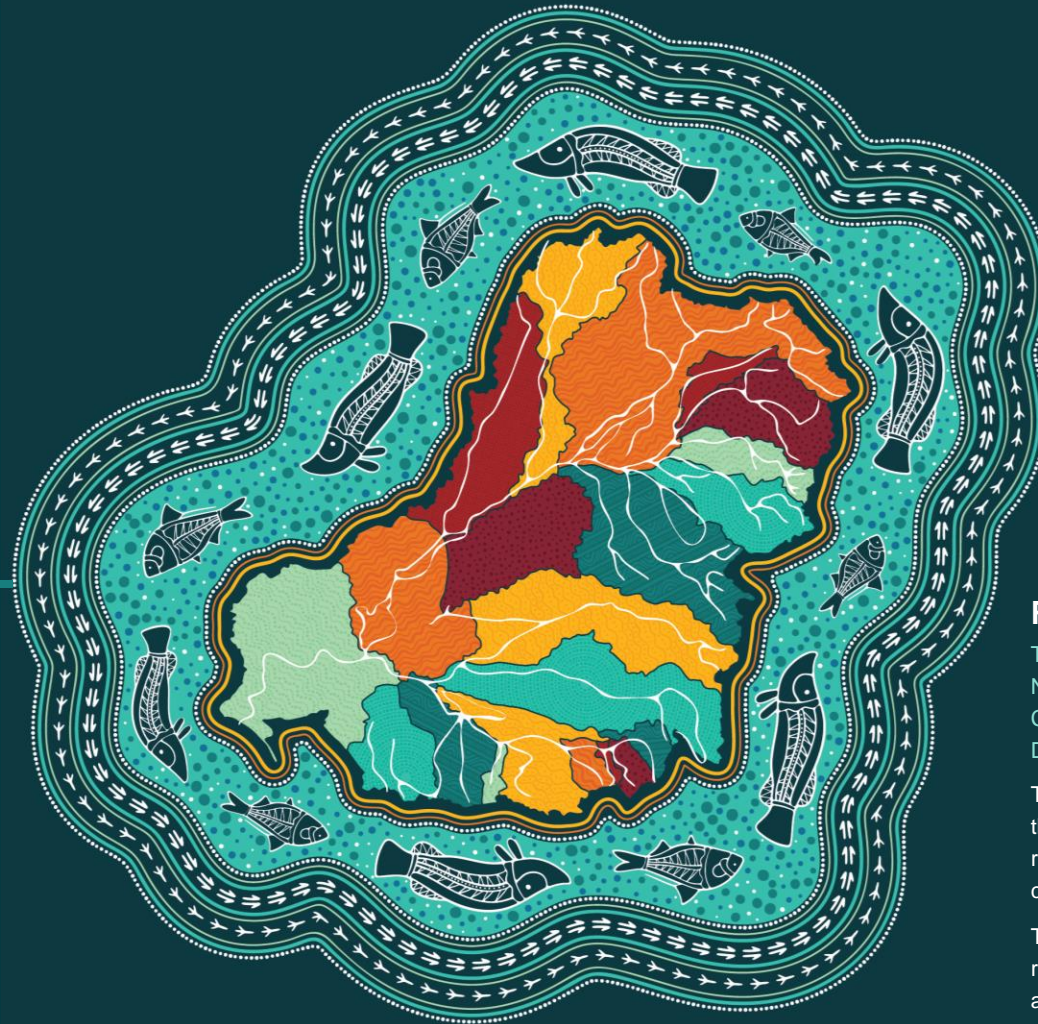
First Nations Water Branch



Sheryl Hedges
Walbanga



Brandon Etto
Darug/Gomerioi



River Flows

The artwork by Jordan Lovegrove, Ngarindjeri, of Dreamtime Creative, represents the Murray Darling Basin waterway system.

The white lines are the river and the coloured areas and patterns represent the different catchments.

The fish, bird and kangaroo tracks represent the different plant and animal species in the Basin.

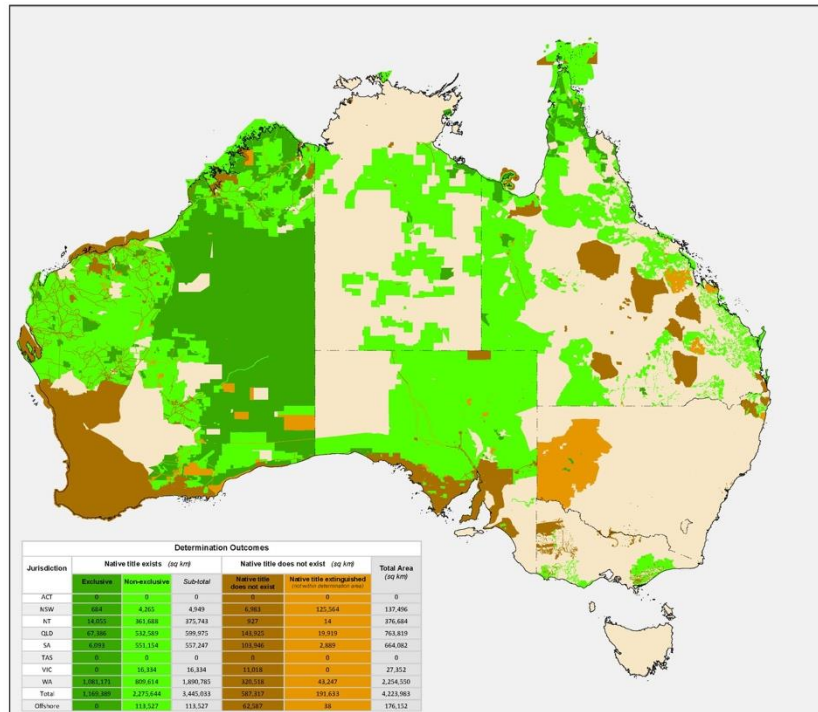


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First Nations Water Rights

- Aqua Nullius ‘water belonging to no-one’
- Over the past 29 years, some Aboriginal and Torres Strait Islander peoples have been able to regain title to their traditional lands under native title.
- Under native title legislation there is no clear right to take the water itself, other than small amounts for cultural purposes.
- Despite native title covering 40 percent of Australia’s land, Aboriginal people hold rights to just 0.2 percent of the surface water.



National Native Title Tribunal
Native Title Determinations

As at 1 July 2024

Determined Outcomes

- Native title exists (exclusive)
- Native title exists (non-exclusive)
- Native title does not exist
- Native title extinguished (plus within determination areas)

Prepared by:
Geospatial Services, National Native Title Tribunal (NNTT) 18/07/2024

Some or parts of some determinations may not yet be reflected on the National Native Title Register (NNTTR). The court may decide that the determination of native title will take effect conditional upon some future event occurring, for example, the registration of an Indigenous Land Use Agreement or the establishment and registration of a prescribed body corporate (PBC). In these cases the determination, or relevant part, will not be registered on the NNTTR until the condition has been met.

Source data sourced from and used with permission of:
Landlink (NSW), Dept of Resources (QD), Dept of Customer Service (VIC), Dept of Infrastructure, Planning & Logistics (NT), Dept of Planning, Transport & Infrastructure (SA), Dept of Environment, Land, Water & Planning (TAS), and Geoscience Australia, Australian Government. Reference to ACT also includes Jervis Bay Territory. © Commonwealth of Australia.

Areas have been calculated in square kilometres using Australian Albers projection (GDA2020).

With the exception of the Commonwealth Coat of Arms and other information, the map is provided under a Creative Commons Attribution 4.0 International License (http://creativecommons.org/licenses/by/4.0/).

While the National Native Title Tribunal (NNTT) and the Native Title Register (Register) have assisted due care in ensuring the accuracy of the information provided, it is provided for general information only and on the understanding that neither the NNTT, the Register nor the Commonwealth of Australia is providing professional advice. Appropriate professional advice should be sought rather than relying on the information provided. In addition, you must exercise your own judgement and carefully evaluate the information provided for accuracy, currency, completeness and relevance for the purposes for which it is to be used. The information provided is often supplied by, or based on, data and information from external sources. Therefore, the NNTT and Register cannot guarantee that the information is accurate or up-to-date. The NNTT and Register expressly disclaim any liability arising from the use of this information. This information should not be relied upon in relation to any matters associated with cultural heritage.



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Barriers to First Nations Water Rights In Australia

- **Limited access to safe and secure water** in remote and rural communities.
- **Decoupling of land from water rights** that affects ownership and use.
- **Lack of recognition and inclusion** of spiritual, social, economic, and environmental uses of water.
- **Impacts of climate change** on water availability and quality.
- **Increasing competition for water resources** among various stakeholders.
- **Insufficient processes for shared decision-making** and lack of meaningful consultation.
- **Limited involvement** of First Nations in water policy, planning, management, regulation, and compliance.
- **Lack of cultural competency** in water management practices.
- **Low formal knowledge** of water institutions and governance arrangements.
- **Inadequate access to financial services and capital** for economic development.



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Turning Barriers into Pathways: Empowering First Nations' Aspirations for Water Ownership

Principle: Nothing about us without us

Doing for:

- Creates dependency and limits self-determination.
- Leads to inequitable power dynamics where helpers may be seen as “better than” those they serve.
- Often results in a “rescuer” mentality, reducing the effectiveness and sustainability of initiatives.

Doing with:

- Promotes community self-determination, leading to better and more sustainable outcomes.
- Requires meaningful community and stakeholder engagement in all stages.
- Ensures the community has a voice in program development, delivery, and evaluation of success.

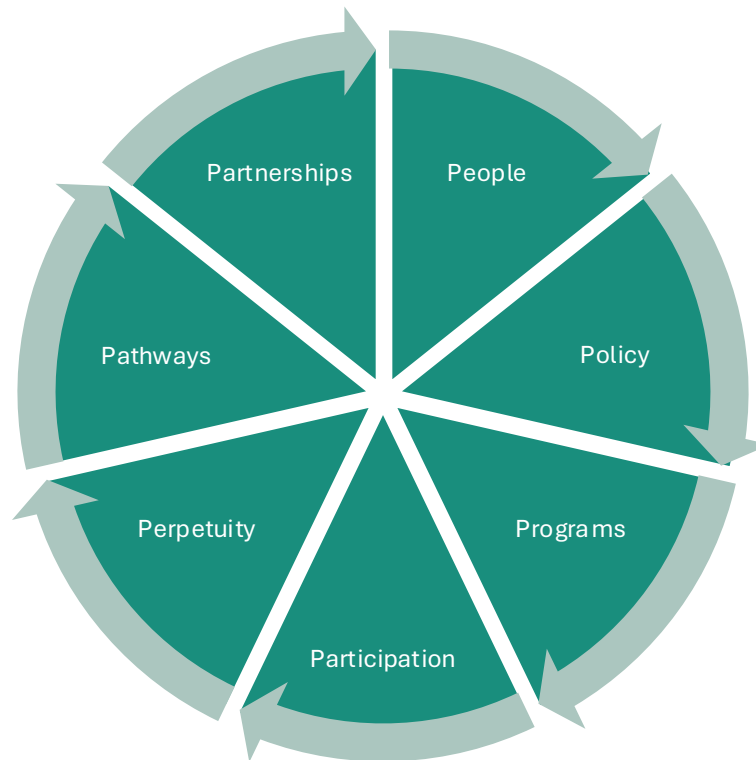


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Doing With: The Pace of Trust

*Yindyamarra. Be respectful. Be honourable. Go slow. Be polite.
(Wiradjuri)*





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Pathways to Empowering First Nations

Co-designing enduring First Nations water holding arrangements

Collaboratively establishing a model that ensure First Nations communities have secure water ownership in perpetuity.

Delivering the Murray–Darling Basin Aboriginal Water Entitlements Program

Facilitating the acquisition of \$100 million of water entitlements in partnership with First Nations.

Designing the Cultural Flows Planning for Cultural Economies Program

Investing \$20 million in grants to support the development of water management strategies that reflect and enhance the cultural and economic goals of Murray Darling Basin First Nations People.

Establishing the Closing the Gap Target for Inland Waters

Setting measurable goals to reduce disparities in water access and participation across Australia.

Developing the Land and Water Partnerships Strategic Acquisitions Framework

Creating partnerships that enable First Nations to strategically acquire land and water and recouple land and water where it has been separated.

Providing secretariat support for the Committee on Aboriginal and Torres Strait Islander Water Interests

Ensuring that First Nations voices are integral to national water policy discussions, supporting self-determination and advocacy in water reform.



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Murray Darling Basin Aboriginal Water Entitlements Program Background

\$40 million in funding announced for the Aboriginal Water Entitlements Program in 2018

Consultation with numerous organisations and groups have occurred since announcement

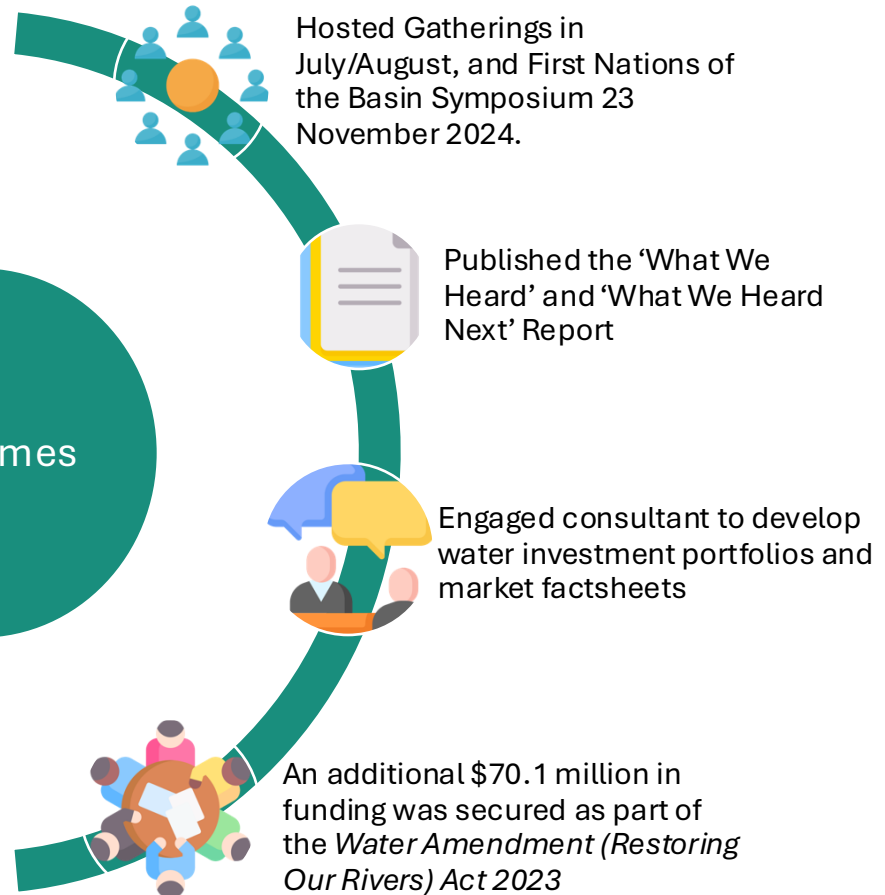
An additional \$70.1 million in funding was secured as part of the Water Amendment (Restoring Our Rivers) Act 2023



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Murray Darling Basin Aboriginal Water Entitlements Program - 2023





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Murray Darling Basin Aboriginal Water Entitlements Program 2024 & Beyond



Designed investment portfolio

Delegates were invited to provide their feedback on a preferred portfolio option

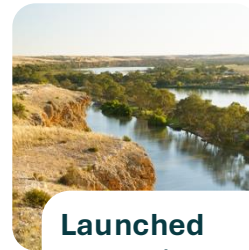
Preference were used to develop a purchasing strategy



Established interim governance

Model needed to be culturally safe and prioritise shared benefits

The Directorate makes water purchasing decisions, in line with the policies established by the Advisory Group



Launched strategic purchasing framework

Principle ‘connectivity underpinned by wealth generation’

Funds to be allocated equally between the north and south of the Basin



Co-designing enduring water holding arrangements

Nation led process to establish the statutory or non-statutory body have secure water ownership in perpetuity.



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Policy: Draft National Water Agreement

| | | | |
|--|--|-----|---|
| Aboriginal and Torres Strait Islander water interests | 3. A water management framework, underpinned by national and international human rights principles, which recognises and protects Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, environmental and economic water interests and values. | 3.A | Aboriginal and Torres Strait Islander Peoples are recognised and respected as the custodians and knowledge holders of the lands and waters of Australia. |
| | | 3.B | All Australian governments actively move toward establishing an enduring and respectful partnership and meaningful connection with Aboriginal and Torres Strait Islander Peoples in all facets of water use and management. This includes ensuring the provision of accessible and secure quality and quantity of water for Aboriginal and Torres Strait Islander Peoples |
| | | 3.C | Water reform elevates Aboriginal and Torres Strait Islander Peoples' Cultural, spiritual, social, environmental and economic water values and interests and delivers world-leading strategies that build capacity and provide meaningful opportunities for Aboriginal and Torres Strait Islander Peoples to honour their customary law and moral obligations as custodians to care for, manage, control and protect water. |
| | | 3.D | Aboriginal and Torres Strait Islander Peoples' control of inland waters – including rivers, wetlands, lagoons, billabongs, and groundwater aquifers – are increased through custodianship of inland waters and enabling reforms. |
| | | 3.E | Water management frameworks, informed by Aboriginal and Torres Strait Islander Peoples knowledges, ensure better social, Cultural and economic outcomes for Aboriginal and Torres Strait Islander Peoples. |
| | | 3.F | Aboriginal and Torres Strait Islander Peoples' scientific knowledge, data sovereignty, innovation and customs uniquely inform the development of water plans and provide a framework for Aboriginal and Torres Strait Islander Peoples to practice their inherent obligations to care for and protect water-dependent heritage sites, including waterways (highways) and anabranches (arteries and veins), submerged landscapes, wetlands (supermarkets), lagoons, billabongs and groundwater aquifers (old water). |
| | | 3.G | Water planning and management processes consider Aboriginal customary law and Torres Strait Islander Peoples' Ailan Kastom, encompassing Cultural, spiritual, social, environmental and economic rights in policy and decisions. |
| | | 3.H | All engagement with Aboriginal and Torres Strait Islander Peoples regarding water management embeds the principle of free, prior and informed consent. |

- New **proposed** NWA Objective and Outcomes for Aboriginal and Torres Strait Islander Peoples (pictured to the left)
- Consultation currently being undertaken
- For more info: <https://consult.dccew.gov.au/help-shape-a-new-national-water-agreement>



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Pathway: Closing the Gap Outcome 15 – Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters

Establish new Inland Waters Target 15c

A new inland waters target will accelerate progress towards securing Aboriginal and Torres Strait Islander legal rights and interests in inland water bodies under state and territory water rights regimes.

Considerations:

- Water rights in Australia are governed by a patchwork of state and territory laws.
- First Nations peoples have historically been excluded from formal water rights.
- Water is a scarce and highly contested resource.
- Achieving meaningful progress requires strong political commitment at all levels of government.



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Priority Reforms National Agreement for Closing the Gap

Formal Partnership and Shared Decision Making

- First Nations People are empowered to share decision-making authority

Building the Community Controlled Sector

- Strong and sustainable First Nations community-controlled sector.

Transforming Government Organisations

- Culturally safe and responsive, including through the services they fund

Shared access to Data and Information at a Regional Level

- Access to, and capability to use, locally-relevant data and information

www.closingthegap.gov.au



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Establishing the New Inland Waters Target 15c: How Are We Doing It?

Jurisdictional Focus:

Empower states and territories: Independent action to enhance water outcomes for Aboriginal and Torres Strait Islander Peoples.

Identify current water access rights and establish future goals.

Accountability: for increasing water ownership and management within jurisdiction.

Key Standards:

Jurisdictional Targets: Unique foundation metrics.

Partnerships: Close collaboration with Aboriginal and Torres Strait Islander Peoples.

Phased Implementation: Planning, Consultation, Consolidation.

Two-Tiered Focus:

Physical water access and ownership.

Enabling reforms to government practices.

Reporting:

Quantitative/qualitative tracking.

National reporting with a principles-based framework.



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Recap

- The pace of trust
- Work through the four-priority reform lens to support self-determination
- Nothing about us without us

An aerial photograph showing a wide, winding river with several large meanders. The river flows through a landscape that includes dense green forests, brownish hills, and agricultural fields with distinct rows of crops. A road or railway line runs parallel to the river in the lower right quadrant. The overall scene is a mix of natural and human-made environments.

First Nations Engagements

Setting/re-setting relationships and building trust by engaging in honest dialogue

An aerial photograph of a winding river flowing through a dense forest. The river is a vibrant blue, contrasting with the green and brown tones of the surrounding land. The landscape is a mix of forested areas and open fields, with the river meandering through the center. The lighting suggests a late afternoon or early morning setting, with a warm, golden glow over the scene.

Purpose

Our Learnings | Challenges and Experiences | Uncomfortable Conversations & Strategies | Saying No | Next Steps



Reflections



AWEP



Aboriginal Water Entitlements Program

AWEP is a \$100 million Australian Government commitment to support Basin First Nations communities' meet cultural water outcomes.

It aims to address the fact that First Nations organisations currently own a small fraction of available water entitlements in the Basin.

The program was announced in 2018. Delayed implementation of the \$100 million Australian Government commitment has prevented First Nations people from receiving tangible benefits since the program was announced.

The government is committed to delivering AWEP in this term of government.

The \$100 million AWEP investment is a significant and long-awaited first step towards addressing First Nations water injustices in the MDB. It alone, however, will not solve water injustice. Further investment, support, and policy and legal reforms are needed in the short, medium, and long term to empower Basin First Nations to achieve their water rights, needs, and aspirations.



-  More than one million square kilometres
-  Home to 2.2 million people
-  More than 40 First Nations
-  77,000 kilometres of rivers, including 4 of Australia's longest
-  More than 30,000 wetlands, 16 internationally recognised
-  Contains Australia's largest river red gum forest (66,000 hectares)
-  9,200 irrigated agriculture businesses generating almost \$9 billion gross value of irrigated agricultural production
-  Tourism industry worth \$8 billion annually
-  120 species of waterbirds and more than 50 native fish species







Terms



Lateral violence – is commonly described as infighting between people from the same group who have historically been oppressed. Examples include: sabotaging or undermining someone else's work

Walking In Two Worlds – The world of our Aboriginal identity, which shapes how we see and live in the world, and then there's the world of non-Indigenous constructs where we live, work and learn.

Intergenerational trauma – refers to trauma that is passed from a trauma survivor to their descendants. People experiencing intergenerational trauma may display symptoms, reactions, patterns, and emotional and psychological effects from trauma experienced by previous generations (not limited to just parents or grandparents).

BLAK Politics – Distinct political consciousness and activism rooted in the unique experiences of First Nations nations. Embodying an engaged and evolving identity that challenges stereotypes, asserts agency, and differentiates experiences.

Cultural load – refers to the expectation put on Aboriginal and Torres Strait Islander people to share our cultural knowledge, or our lived experience, in order to educate others

Things we did



Relationship
building

Prove
ourselves

Cultural
safety –
support
services

Investment
in local
economies

First Nations
women only
consultation

Decoding the
academia

Ability to
deliver

After hours
support line

Developing
a **Pace of
Trust**

Strategies for No



- Speak Clearly, Stay Respectful
- Show You've Done Your Homework
- Today's No, Tomorrow's Maybe
- Connect the Dots
- Find Common Ground
- Keep the Conversation Going

An aerial photograph of a wide river winding through a dense forest. The sun is low on the horizon, creating a vibrant orange and red glow that reflects on the water's surface. A large, rounded island is situated in the middle of the river. The sky is filled with soft, colorful clouds.

Questions

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Contact Us

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