

I would like the IPC to read the following and put it into the context of this proposed project.

Thank you



Media Statement: NELA's Response to the UN Resolution on the Right to a Healthy Environment

In an historic resolution, the United Nations General Assembly has declared that everyone on the planet has a right to a clean, healthy and sustainable environment. The resolution – passed last Thursday and received overwhelming support, with 161 votes in favour and eight abstentions.

NELA welcomes the resolution and recognises it as an important step in combating the rapid degradation of the natural world. Whilst the resolution ultimately is good news, it is important to recognise it is not legally binding and therefore does not directly change Australian law. However, it supports the growing argument that the right to a healthy environment is customary international law, which emerges from established international practices rather than a formal written source, and is legally binding.

Despite having immediate, practical effect, the resolution does clarify that the right to a healthy environment should be universally recognised and protected. ***Further, the resolution reinforces the fact that environmental issues are also human rights issues, and elevates the climate and biodiversity crises in global politics. The resolution may also influence governments as they engage in environmental decision-making as well as Australia courts that rule on those decisions. Corporates should take note of the resolution and take more seriously the development and implementation of their net zero, ESG and climate risk mitigation strategies. Significantly, the resolution may act as a catalyst for new or revised environmental and human rights legislation, and policies that aim to recognise and implement this new right.***

Whilst the resolution has the potential to increase political pressure and progress cultural change in Australia, law-makers still have much work to do. While over 150 countries now have the right to a healthy environment enshrined in their Constitutions or in other legal frameworks, Australia remains one of a few countries without this right in law.

Notably, Australia does not have a Bill of Rights at a federal level and only three of the Australia States of Territories – Victoria, Queensland and the Australian Capital Territory – have passed legislation formally recognising human rights. However, those Acts do not include a right to healthy environment or environmental rights more broadly.

In those Australian jurisdictions with existing human rights legislation, there is an opportunity – and arguably, a growing global imperative – to enshrine the right to a healthy environment. However, in the absence of human rights frameworks in other Australian jurisdictions, a greater change is needed to ensure national recognition and protection of the right. Whilst this latest UN resolution indicates that the right to a healthy environment is within the purview of parliaments, both human rights and environmental debates need significantly more attention in Australian politics for the resolution to gain traction here.

NELA recommends that jurisdictions around Australia integrate the right to a healthy environment into new or existing environmental and human rights laws, ***in order to better protect the fundamental ways that human health and security are dependent on healthy ecosystems and resilient environments.***

Dr Katie Woolaston,

The former Special Rapporteur on human rights and the environment, John Knox, stated that

‘[w]ithout a healthy environment, we are unable to fulfil our aspirations or even live at a level commensurate with minimum standards of human dignity.’⁵⁹

Knox has drawn a link between environmental harm and threats to a vast range of human rights, including rights to life, health, property, home and family life, food, water, culture and self-determination. While those jurisdictions that enjoy recognition and protection of human rights generally may have the ability to argue substantively for the right to a healthy environment to be protected within other rights (eg the right to life), recognizing the right to a healthy environment directly in our legal instruments will have multiple benefits. Clear recognition of the right can lead to broader recognition of our dependence on the health of the environment for our own health, more effective environmental laws and governance around environmental decision making, and improved environmental justice. Ideally, Australia would entrench this right, along with all basic human rights, in our national Constitution. However, given that this seems unlikely in the current political climate, ***states and territories are encouraged to consider introducing the right to a healthy environment, along with other human rights where not already recognised, into their legal frameworks. This would enable all citizens to gain the benefits that a legislated human right to a healthy environment can bring for communities around Australia, and the environments we all depend on.***