



Implementation Pathways to Achieve Ngunnawal, First Nations Peoples and Australian Capital Territory Government Treaties

June
2022

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First published July 2022

ISBN: 978-0-6454810-1-3

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Cover photograph: Uriarra, Brindabella National Park, ACT by Hugo Kneebone on Unsplash

Suggested citation: Arabena, K. 2022, *Implementation Pathways to Achieve Ngunnawal, First Nations Peoples and Australian Capital Territory Government Treaties*, Karabena Publishing, Melbourne.

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Funding: Karabena Consulting was funded to undertake this work by the Australian Capital Territory Government.



Acknowledgments

**Dhawura nguna, dhawura
Ngunnawal.**

**Yanggu ngalawiri,
dhunimanyin Ngunnawalwari
dhawurawari.**

**Nginggada Dindi
dhawura Ngunnawalbun
yindjumaralidjinyin.**

This is Ngunnawal Country.

**Today we are gathering on
Ngunnawal Country.**

**We always pay respect to
Elders, female and male,
and Ngunnawal Country.**

We would like to thank members of the United Ngunnawal Elders Council (UNEC) and their families for coming together and considering ways in which Treaty can facilitate self-determination for the Traditional Owners of the unceded lands and waters of the region over which the Australian Capital Territory (ACT) boundaries lie. We are grateful for the opportunity to consult UNEC, the members of which advocated for Treaty between the Australian Capital Territory Government and Traditional Owners. We respect the strength of those gone before and their forward vision for the generations to come.

We are also grateful for the early engagement and commitment from both the ACT Chief Minister and the ACT Minister for Aboriginal and Torres Strait Islander Affairs for funding these early discussions and for taking up the challenge of delivering a Treaty within their terms of office.

For those family members aged 14 and above who completed the survey, we want to thank you for contributing your voice to a vision for the future in which Ngunnawal culture is valued, Ngunnawal languages are revitalised, and every Ngunnawal person can access resources needed to create a secure life of which they can be proud.

Ngunnawal people want to be recognised as the hosts of other First Nations people on their lands. Thus, we have included additional considerations for a reimagining of the ACT Aboriginal and Torres Strait Islander Elected Body (ATSIEB). We believe this is a powerful mechanism that could be re-established as the ACT Treaty Commission, which could support the implementation of the Ngunnawal and ACT Government Treaty. Such a Commission could also engage in strategies to achieve a Treaty that would benefit all Aboriginal and Torres Strait Islander people living in the ACT. In doing so, we want to acknowledge all who have served on the ATSIEB as well as those who have been part of its Secretariat.

Finally, to the staff within the ACT Government who have worked alongside the consulting team to ensure this project ran smoothly, and who also hold aspirations for Treaty. Thank you for your support and encouragement during this project: we would not have achieved as much as we have without you.

Limitations of this work

Although Ngunnawal families represented on UNEC and who attended workshops were involved in the preliminary consultations which generated this report, there has been considerable and vocal opposition from those not engaged in the process about the validity of this work. However, UNEC members have been staunch advocates for an ACT Government and Ngunnawal Treaty for more than a decade and have sought to articulate a way forward that benefits Ngunnawal families both living in the ACT and in other parts of Australia.

To engage with as many Ngunnawal people as possible, we used three interlinked strategies: face-to-face workshops, surveys, and interviews conducted by Ngunnawal Elders themselves. Karabena Consulting developed the Survey Monkey questionnaire and sent the Elders a link to forward through to members of their families, with respondents given a e-giftcard for completing it. Transcripts were taken on a recording application and sent through to Karabena Consulting staff who then compiled the results to inform our findings and recommendations.



Mechanisms needed to progress a Ngunnawal–ACT Government Treaty

Despite Karabena Consulting not being able to engage with all Ngunnawal families to the degree that they, and we, would like to have, the feedback we did receive from those taking part has enabled us to propose the following three key elements to the Treaty process.

- 1 Reparation** – to compensate the Ngunnawal Traditional Owners in the ACT region, and to establish a Ngunnawal Future Fund for Traditional Owners to resource their family aspirations.
- 2 Participation** – to initiate Truth Telling and other Treaty-related programs for the wider Aboriginal and Torres Strait Islander community.
- 3 Representation** – to install a Voice to Parliament, in this case, the ACT Legislative Assembly.

To achieve these three key elements of Treaty, the following mechanisms are needed.

A Ngunnawal ACT Government Treaty Unit

As Ngunnawal are sovereign people, with a right and a responsibility to negotiate on behalf of their constituents, we advocate for the ACT Chief Minister’s Office to establish a Ngunnawal Treaty Unit where Ngunnawal people can register their interest in being part of the Treaty process. From this group of registrants, it will be possible to facilitate decision making, governance, financial investment, and entrepreneurship opportunities through the Ngunnawal Future Fund.

A Ngunnawal Future Fund

This Fund should be established and paid for by contributions from a Ngunnawal Procurement Clause in all ACT Government contracts and a ‘pay the rent’ levy on all properties in the ACT. This is a legacy Fund for the Ngunnawal people to benefit from over time and can be accessed by families (and their descendants) who have registered through the ACT Treaty Unit. Its purpose will be to resource Ngunnawal future goals and care for Country initiatives, and promote opportunities to close all wealth, health, parenting, cultural and wellbeing gaps. It is proposed that a build-up of funds occur over the next 2–3 years, to allow as many Ngunnawal people as possible to become registered through the Treaty Unit and for families to develop plans to present to the Fund.

Reparations provided to Ngunnawal Elders

In mainstream Australia, wealth flows between generations from older people transferring wealth to their children. Various reports say that Australians are among the wealthiest in the world, with those in the 55–65 age group, on average, amassing more than \$1 million in wealth and having access to \$315,000 in unencumbered monies. To ensure that this generation of Ngunnawal Elders have wealth to pass on to their children, consideration could be given to a one-off payment commensurate with the wealth of the average aged person in the ACT. These funds – which could be paid to people’s superannuation fund, provided as a cash payment to Elders with free access to financial advisory services, or to purchase a home – could then ‘kickstart’ a Ngunnawal family wealth-generating process. This in turn would ease poverty drivers of discontent, and meet UNEC’s aspiration to transfer intergenerational wealth, not intergenerational trauma, to future Ngunnawal families.

Reparations provided to those affected by forced removals from Country and from families

In addition to the Ngunnawal Future Fund, dedicated funds should further be considered for those impacted by the ACT’s Stolen Generations practices or other harm perpetrated through engagement with ACT Government institutions.

ATSIEB transitions to become the ACT Treaty Commission

In 2008 the ACT Aboriginal and Torres Strait Islander Elected Body was enacted to provide First Nations ACT residents with a collective advisory voice to the ACT Government. ATSIEB consists of seven members, who are elected for three years, each with a portfolio, and who hold the office on a part-time basis. The Chair and Deputy Chair are elected by the majority vote of members.

ATSIEB is unique in Australia in that it is directly elected by ACT Aboriginal and Torres Strait Islander residents, with any First Nations person electorally registered in the ACT able to vote. This is a legislated mechanism that, through enhancement, could deliver both an ACT Treaty Commission and Treaty Commissioners, as ATSIEB members will have the opportunity of being elected to these positions once they have finished their current terms. The role of Treaty Commissioners, which will also be open to non-ATSIEB members, will be to promote self-determination and to provide greater independence in the Treaty process for Traditional Owners and First Nations residents in the ACT.



The Ngunnawal, First Nations People and the ACT Government

The Ngunnawal people are the Traditional Owners of lands that for tens of thousands of years have provided them with game, food and medicinal plants, furs, shelter and economic abundance according to a seasonal calendar. Ngunnawal collectives include family groups, totem and kinship groups and clans. Further, shared marriages, languages, cultural and spiritual expressions, sacred sites and seasonal gatherings of thousands of people (notably to harvest the Bogong moth) underpin distinctly Ngunnawal cultural and political identities and a sovereign Ngunnawal Nation.

The Ngunnawal history of contact with Europeans is recent and devastating. From 1820 onwards as the frontier spread westward from Sydney across New South Wales (NSW), Ngunnawal people resisted colonisation and fiercely defended their lands. However, introduced diseases, human and environmental violations associated with colonisation ravaged the population. Many Ngunnawal descendants live with the intergenerational impacts of their forebearers' suffering including from traumatic and forcible events such as:

- dispossession of and dislocation from Country
- relocation to reserves across NSW
- the removal of children from their families (the Stolen Generations).

Addressing these wrongs has been a key driver for generations of Ngunnawal leaders who, despite these historical challenges, continue to survive, thrive and flourish. Ngunnawal people have maintained their political, social and cultural identities and have – as set out in this report – aspirations for a thriving future. Out of respect to Ngunnawal people everywhere, and in acknowledgment of their past and of their aspirations for their future, we also reference the Ngunnawal diaspora living in other parts of Australia and elsewhere.

The Australian Capital Territory, which occupies an area roughly coincident with Ngunnawal Country, was transferred by NSW to the Commonwealth in 1910–11. Canberra, a Ngunnawal place name, began operating as the nation's capital in 1927, and the ACT became a self-governing entity in 1989. Despite their unceded sovereignty, Ngunnawal people were marginalised in negotiations around these developments and Ngunnawal–ACT Government relations further soured.

These relations were put on a new footing in a 2002 process that formed the United Ngunnawal Elders Council. Initially, this process was developed to facilitate Ngunnawal participation in the Council of Australian Governments (COAG) ACT trial site of a national initiative to facilitate whole-of-government strategies with First Nations communities. Today, the United Ngunnawal Elders Council advises the ACT Government on Ngunnawal heritage, culture and Country matters including through the Aboriginal and Torres Strait Islander Elected Body. ATSIEB was enacted in 2008 to provide First Nations ACT residents with a collective advisory voice to the ACT Government. As noted, UNEC is independent of, but participates in, this arrangement.

Many other First Nations people have moved to the ACT over the past half century. At the 2016 Census, 6,150 of about 400,000 ACT residents identified as Aboriginal, and around 350 as Aboriginal and/or Torres Strait Islander. As both the Ngunnawal and other First Nations people in the ACT are aggregated in data sets, quantifying the former's precise number or socio-economic situation is not possible. However, Ngunnawal families report experiencing significant inequality gaps relative to non-Indigenous people in the ACT, as do all First Nations peoples across Australia. These gaps are in:

- Housing – First Nations people are up to 10 times more likely to live in social housing, have houses that need maintenance, and use specialist homelessness services.
- Health – There is a 10-year life expectancy gap, with higher rates of chronic disease, mental health challenges and prevalence of trauma.
- Inter-generational wealth – Nowhere across Australia do First Nations people have relatively equal socio-economic status compared with non-Indigenous Australians.
- Institutional representation – intergenerational poverty, trauma and institutional racism contribute to the over-representation of First Nations people in the child protection and justice systems.


In 2018, the ACT Government began talks to progress a Ngunnawal Territory Treaty. In March 2022, it established a \$20 million Healing and Reconciliation Fund to help support this process, which included funding the preliminary-to-Treaty Healing Project facilitated by Karabena Consulting. From this project, there have been two interim reports: Toward a Ngunnawal and Territory Treaty Report 1: Let the Dreamers Dream... ('Report 1') and Ngunnawal Aspirations for a Territory Treaty ('Report 2').

This report, Implementation Pathways to Achieve Ngunnawal, First Nations Peoples and Australian Capital Territory Government Treaties, summarises these two earlier reports within a comprehensive First Nations–ACT Government Treaty proposal pathway, which is comprised of two stages:

Part 1: A Ngunnawal Territory Treaty – outlines UNEC's preferred pathway towards a Ngunnawal Territory Treaty. It is based on the Ngunnawal people's historical association with the lands and waterways of the ACT as Country, their historical self-governance, unceded sovereignty and

Traditional Owner status. It includes not only Ngunnawal ACT residents but also the Ngunnawal diaspora. Critically, this part of the report addresses reparative justice (or reparations) for human rights violations suffered by the Ngunnawal and associated with the colonisation of NSW, and later the ACT. To that end, reparations not only provide historical justice but also have the potential to help close some of the above gaps and support Ngunnawal aspirations for their communities, families and people.

Part 2: A First Nations Treaty in the ACT – considers pathways to a broader First Nations Treaty between the ACT Government and the wider Aboriginal and Torres Strait Islander population. Here, the focus is on Indigenous peoples' collective right to self-determination as applied in the ACT. It proposes a strategy that redefines the role and purpose of the Aboriginal and Torres Strait Islander Elected Body to enable the establishment of an ACT Treaty Commission. Reparations in the context of Closing the Gap (CTG) may also be considered through this Commission.



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Part 1 A Ngunnawal Territory Treaty

Ngunnawal people, both within and outside of the ACT, were broadly identified by a 2010–12 ‘Our Kin, Our Country’ ACT Government–Ngunnawal genealogy partnership. In total, 5000 individuals from the early nineteenth century to the present day are included, and the presence of a highly networked regional Ngunnawal population revealed. However, the project report and findings have never been made public.

Today’s Ngunnawal are otherwise understood to comprise the members of six lineages – the family groups of Bell/Brown, Monaghan, Lane, Carberry, King and Bulger – each of which is represented on UNEC. In 2003, UNEC issued its Ngunnawal Charter (extracted in ‘Report 1’), which gave voice to Ngunnawal aspirations for the future. In a facilitated process, further voice to these was provided by UNEC’s 2008 Living Web framework. Intended initially to support the COAG ACT trial site initiative, the framework maps out the domains of whole-of-government activity that UNEC would like addressed in an integrated way. These are: housing; education; justice; culture; employment; youth; health; and aged care.

The framework had broader uses, however. It also guided the Ngunnawal Bush Healing Farm model of care for implementation in a residential rehabilitation centre for First Nations people located on a 100-acre farm in Tidbinbilla, ACT. Addressing alcohol and other drug use through a combination of clinical and cultural programs, the centre is governed by Ngunnawal Elders who are engaged in healing, clinical and cultural programs. The realisation of this long-held vision by Ngunnawal Elders represents a tangible outcome of the COAG ACT trial site’s operations (see ‘Report 2’).

Further, in these consultations UNEC reaffirmed its commitment to the Living Web as a framework for identifying potential areas for reparations to Ngunnawal people. In revisiting the framework, UNEC members focused on aspirations held by Ngunnawal families living in the ACT and beyond. These included, but were not limited to, the following:

- fulfilling Ngunnawal family aspirations for home ownership
- investing in Ngunnawal businesses and entrepreneurship through local, domestic and international markets in tourism; language revitalisation; creative works; consulting, cultural and other services; manufacturing; agriculture and cultural heritage works; and exports
- recognising the Ngunnawal Native Title Claim
- paying reparations to families.

Reparations might include monetary compensation and a commitment for legal personhood status being accorded to places of significance as part of an updated Living Web. This strategy could facilitate the establishment of:

- bi-cultural councils to look after the interests of waterways – as with the Birrarung Council and the Yarra River in Victoria
- cultural heritage and biodiversity precincts – where all school-aged children could learn Ngunnawal language, connect to Country and adopt Ngunnawal totems to understand the life cycle of endemic species.

On 3 June 2022, the 30th Anniversary of the Mabo decision, Ngunnawal Traditional Owners announced their intention to lodge a native title claim over the entire ACT and parts of NSW, a claim that has been welcomed by the ACT Government.

The Ngunnawal Preferred Treaty Pathway

UNEC seek to progress a Ngunnawal Territory Treaty based on the following principles:

- 1 Centrality of culture** – to Ngunnawal life and wellbeing. Cultural differences and ways of knowing, doing and being must be respected and supported by the Treaty process.
- 2 Cultural safety** – all Treaty processes must be culturally appropriate, culturally safe and trauma informed as determined by the Ngunnawal people.
- 3 Inclusivity** – Ngunnawal people have different lived experiences of culture, cultural connectivity, and the cultural determinants of their health and wellbeing across varied ages, genders, sexuality, ability and other identities. All these diverse groups and the Ngunnawal diaspora should be included in Treaty negotiations.
- 4 Self-determination** – the transfer of government decision-making power to the Ngunnawal people to self-govern their lives with regards to a range of issues, such as housing, health and opportunity creation. Further, self-determination in a Treaty process means its pace and protocols are decided by the Ngunnawal people.
- 5 Co-design and co-implementation** – using the ‘self-determination in action’ methodology for Treaty and resultant policy, program and service design.
- 6 Reparative justice** – Treaty negotiations must acknowledge that many of the contemporary challenges that face the Ngunnawal people, such as intergenerational poverty and trauma, have their origins in the traumatic events of colonisation. To provide justice in this context, reparations must feature in a Treaty process.
- 7 Empowerment** – including the inter-related elements of individual and collective empowerment.

10 steps to a preferred Treaty pathway

The Ngunnawal preferred Treaty pathway is summarised in 10 steps. Steps 1–4 set the stage for negotiations around both the Ngunnawal Territory Treaty and the wider First Nations Treaty. For the former Treaty, UNEC's preference is

for the parties involved to be itself, the six Ngunnawal family groups and the ACT Chief Minister acting on behalf of the ACT Government.

1

UNEC and the ACT Chief Minister agree a Treaty partnership to benefit Ngunnawal people and their families in the ACT and beyond

2

UNEC, ATSIEB and ACT Government agree and implement a Treaty promotion campaign

3

ACT Legislative Assembly legislates an ACT Treaty Act as a legal foundation for the Ngunnawal Territory Treaty and the First Nations Treaty

4

ACT Chief Minister's office establishes a properly resourced Treaty Unit

5

UNEC agrees an internal mechanism for Treaty negotiations

6

A Ngunnawal family register is established in the Treaty Unit, and people eligible to take part in Ngunnawal Territory Treaty negotiations both inside and outside the ACT are identified

7

Under UNEC's leadership, the Treaty Unit develops and implements a participation program to maximise Ngunnawal involvement in Ngunnawal Territory Treaty negotiations

8

Under UNEC's leadership, the Treaty Unit develops and implements negotiation protocols based on those that governed the Healing Project

9

UNEC and the ACT Government, working through the Treaty Unit, negotiate a reparations package and broader Ngunnawal Territory Treaty

10

A monitoring and evaluation framework is developed as a part of the Treaty negotiation process

1

UNEC and the ACT Chief Minister agree a Treaty partnership to benefit Ngunnawal people and their families in the ACT and beyond

In addition to defining roles and responsibilities and agreeing meeting schedules, a Treaty partnership could include investment in resources to implement a two-staged process:

- 1** Define all elements of a Ngunnawal Territory Treaty. The ACT Chief Minister's Office could reconstitute UNEC with a responsibility to progress a Ngunnawal Treaty, develop Terms of Reference and put forward representatives from registered families as negotiators.
- 2** Facilitate First Nations Treaty in the ACT with a reimagined ATSIEB to act as a Treaty negotiator for the wider ACT Aboriginal and Torres Strait Islander community. This could be achieved through adjusting existing legislation to allow ATSIEB to become the ACT Treaty Commission.

The Treaty Commission needs to be co-designed with the Traditional Owners and ACT-based peak agencies through a 'community reimagining' consultation. This consultation could seek community input into developing the electoral and representative processes of the ACT Treaty Commission, and the roles and responsibilities of the Treaty Commissioners. Input would also be sought into community aspirations regarding the Uluru Statement from the Heart, Reparation and Truth Telling, and current CTG commitments.

To transition the role of ATSIEB members to become ACT Treaty Commissioners, we propose co-designing Terms of Reference that:

- a** invest in systems that support the aspirations of the Ngunnawal Territory Treaty
- b** create an understanding of the needs and opportunities in both the Ngunnawal Territory Treaty and a Treaty with the wider Aboriginal and Torres Strait Islander community.

2

UNEC, ATSIEB and ACT Government agree and implement a Treaty promotion campaign

The campaign will:

- change focus over the duration of the Treaty process, but will initially focus on Ngunnawal Territory Treaty elements, including those developed by Ngunnawal families
- include acknowledgment of the injustices and now-recognised human rights violations associated with colonisation and its intergenerational impacts
- feature media aimed at the ACT community and schools-based awareness and education campaigns
- include political lobbying as required.

3

ACT Legislative Assembly legislates an ACT Treaty Act as a legal foundation for the Ngunnawal Territory Treaty and the First Nations Treaty

The Act:

- acknowledges associated wrongs and injustices
- enables the ACT Government to identify not only what it is prepared to support/fund through Treaty and reparations, but the strategies needed to sustain investment in the UNEC-proposed Ngunnawal Future Fund
- empowers UNEC, ATSIEB and the Chief Minister to agree Treaties on behalf of their constituents.

4

ACT Chief Minister's office establishes a properly resourced Treaty Unit

The Treaty Unit:

- provides legal and consultant advice and Secretariat support to the parties over the duration of both stages of the Treaty process
- employs UNEC-approved Ngunnawal Treaty Engagement Officers with a specific task – to progress the Ngunnawal Territory Treaty.

The focus hereon is the Ngunnawal Territory Treaty; discussion regarding the broader First Nations Treaty continues in Part 2.

5

UNEC agrees an internal mechanism for Treaty negotiations

Options include a mechanism that allows for separate multi-generational negotiation streams with the six Ngunnawal family groupings within an overarching process. This includes agreeing:

- Terms of Reference
- position descriptions and delegations
- needs regarding Treaty-focused education, coaching and mentoring and planning to meet these needs
- financial support for representative participation
- employing UNEC-approved Ngunnawal Treaty Engagement Officers in the Treaty Unit with a specific task – to progress the Ngunnawal Territory Treaty.

6

A Ngunnawal family register is established in the Treaty Unit, and people eligible to take part in Ngunnawal Territory Treaty negotiations both inside and outside the ACT are identified

This includes:

- eligibility criteria agreed by UNEC/Chief Minister
- that the Ngunnawal genealogical records be used as part of the verification process and be made public – the community is asking for access to the ‘Our Kin, Our Country’ records
- the Treaty Unit issuing EOI for Ngunnawal Territory Treaty participants, including through national media to ensure as many Ngunnawal as possible are aware of negotiations
- the Treaty Unit verifies and registers all eligible Ngunnawal
- UNEC has the final say in case of disagreement
- ACT Government makes public the Our Kin, Our Country records to help provide transparency.

7

Under UNEC’s leadership, the Treaty Unit develops and implements a participation program to maximise Ngunnawal involvement in Ngunnawal Territory Treaty negotiations

The focus is on empowering Ngunnawal in the ACT and beyond, preferably by supporting and/or employing Ngunnawal businesses and people, to participate, including by providing:

- comfortable, sizeable, culturally safe meeting spaces
- online and social media participation options, suggestion boxes etc.
- leisure time and cultural activities to facilitate inter-participant trust, familiarity and confidence (and not only supporting ‘Treaty time’ per se)
- Whole-of-Ngunnawal-Community Treaty and related education opportunities
- financial support for participation if required
- administrative support.

8

Under UNEC’s leadership, the Treaty Unit develops and implements negotiation protocols based on those that governed the Healing Project

Negotiation protocols would likely include:

- comfortable, culturally safe negotiation spaces as determined by the Ngunnawal
- media spokespeople
- sharing ACT Government information with UNEC members
- payments for participating in negotiations
- Elder-led engagement with the Ngunnawal community on Treaty matters and developments
- respectful engagement with UNEC
- multigenerational self-care and trauma-informed strategies.

See Appendix 1 for Healing Project ‘Report 1’ extracts that discuss the above protocols and their potential application in Treaty negotiations.

9

UNEC and the ACT Government, working through the Treaty Unit, negotiate a reparations package and broader Ngunnawal Territory Treaty

The following should be considered:

- providing dedicated reparations for those impacted by the ACT’s Stolen Generations practices or other harm perpetrated through engagement with ACT Government institutions
- how the Ngunnawal diaspora are to benefit from reparations given their ancestors experienced the same injustices, and that the intergenerational impacts are not bounded within the ACT.

10

A monitoring and evaluation framework is developed as a part of the Treaty negotiation process

The framework will:

- assist in understanding Treaty and reparations impacts over time
- contain a mix of implementation and outcome indicators
- develop protocols around data gathering, data sovereignty, reporting and accountability.

Supporting Ngunnawal Aspirations through Treaty

Activating Traditional Owner status

UNEC aspires for the Treaty to 'activate' and support Ngunnawal Traditional Owner status in the ACT as per the following:

- A protocol whereby incoming ACT Legislative Assembly members are asked how they will use their power to support the Ngunnawal people
- UNEC to have the opportunity to ask questions of the ACT Government in the ACT Legislative Assembly during question time and in other public accountability processes
- All ACT Government contracts to include a Ngunnawal-specific clause detailing how the contractor will support and advance the interests of Ngunnawal people (for example, through employment)
- Ngunnawal to be involved in welcoming new citizens to their Country in ACT-based citizenship ceremonies
- Ngunnawal language to be taught in schools throughout the ACT
- All ACT Government directories and publications to acknowledge the Ngunnawal people as the Traditional Owners of the ACT
- Ngunnawal people to have two 'observer' seats in ACT Legislative Assembly processes
- The ACT Legislative Assembly to be opened every year in Ngunnawal language.

Activating self-determination

More broadly, Treaty has the potential to strengthen UNEC as a Ngunnawal self-determination vehicle, including by legislation-supported decision-making powers in key domains. Self-determination includes the right of Indigenous peoples to consent on a free and informed basis to developments that affect them and the lands on which they live. A requirement that the Ngunnawal provide such consent over relevant ACT Government proposals could be activated in a Treaty process.

Alternatively, the Ngunnawal could choose to formalise UNEC relations and/or to increase its participation and representation within ATSIIEB as an overarching vehicle for ACT First Nations peoples' self-determination (or other means as discussed in Part 2). These discussions should be facilitated by the Treaty Unit at the start of negotiations and remain integrated across both stages of an overall Treaty process.

Building the Living Web through Treaty reparations and a Ngunnawal Future Fund

The Living Web has, for the past 15 years, established the parameters of a regionalised system of interconnected government services that support Ngunnawal social, economic, cultural, political and other forms of wellbeing. Today it is recognisable as a Complex Adaptive Systems framework, one that relies on the interaction of its elements to achieve outcomes rather than being narrowly programmatic. Further implementation of the Living Web could be funded by Treaty reparations kept in a Ngunnawal Future Fund.

Such a fund would enable the following benefits around home ownership, wealth creation, employment and education, improving health outcomes, keeping people out of institutional settings generating business opportunities, and supporting culture.

Accelerating Ngunnawal home ownership

Complementing a Ngunnawal-initiated shift in community norms towards an expectation of home ownership, reparations/the Future Fund could support:

- increasing the housing supply available to Ngunnawal – particularly through the ACT Government, Ngunnawal and other First Nations' developers, investors and entrepreneurial partnerships that would also increase Ngunnawal employment in construction trades
- establishing a Ngunnawal-dedicated housing drive – potentially offering families rent-to-buy options in current social housing -funded homes, shared equity models and communal asset ownership in support of home ownership
- providing innovative home-financing – such as a Ngunnawal-controlled housing finance body to provide culturally safe loan application processes and multigenerational mortgages with up to 60-year (rather than 30-year) terms
- increasing access to home ownership – by subsidising or paying home deposits for Ngunnawal people, paying a percentage of home purchase prices, capping the price of housing to be purchased in the ACT by Ngunnawal people, waiving stamp duty on home purchases, waiving rates
- focusing on housing that is energy efficient and able to adapt to climate changes.

Supporting wealth creation on Ngunnawal Country

Noting that the Ngunnawal native title claim to the ACT announced in June 2022 will likely significantly expand their collective land and land usage assets over the next few decades, the following are examples of how this could be achieved:

- utilising planning and zoning regulation powers to affect the value of this and other land to favour Ngunnawal people and families
- using reparations/the Ngunnawal Future Fund to leverage the potential of existing Ngunnawal land assets, including the Ngunnawal Bush Healing Farm
- creating land development opportunities – growing crops, harvesting solar power and so on – to further support Ngunnawal housing, health and other projects, and to generate individual, family and collective wealth.

Caring for Ngunnawal Elders and people living with disability

Elders are critical to the health and wellbeing of the Ngunnawal community. Reparations/the Future Fund could be used to support the health and wellbeing of Elders through:

- culturally safe and responsive health care
- free transport and other support services
- home-based aged-care packages, including carer support for people with disability
- Ngunnawal-specific residential aged care options.

Building cultural centres and supporting culture

Ngunnawal language promotion and cultural tours and institutions – such as dedicated visitor centres, museums, galleries and archives – could be supported through the Treaty process. In addition to strengthening culture, they could also be sources of employment for Ngunnawal people.

As well as capital works, financial support to ensure young people can experience culture with Elders and other adults is important to building the Living Web. Such support could include combining Elder aged-care and child-care programs, and cultural revival activities around language, ceremony and so on.

Supporting educational and employment opportunities

Scholarships and other educational support could be provided through reparations/the Ngunnawal Future Fund. There is also substantial scope to grow, diversify and improve the quality and quantity of online learning, for example, by supporting Ngunnawal educational opportunities and attainment. Educational and employment opportunities could also be supported through the provision of subsidised or free child care.

Supporting future-facing and other business opportunities

What an ACT post-COVID environment will look like is still emerging. Amid significant challenges, there are also business opportunities that could be supported through reparations/the Ngunnawal Future Fund business start-up funding, coaching, mentoring and consulting services for Ngunnawal entrepreneurs.

At Treaty workshops, future-facing business opportunities identified include:

- technological innovations that could connect Ngunnawal businesses and entrepreneurs to engage with international supply chains
- ‘cultural tourism’ opportunities following the revival of the domestic market and the anticipated rapid recovery of domestic and international tourism
- Ngunnawal online educational programs for the ACT (for example, cultural programs for local businesses or the public service)
- supporting Ngunnawal participation, investment, employment and businesses in development
- promoting Ngunnawal knowledges in programs and employment that help to heal and sustain the ACT (and broader) environment.

These and other business opportunities could be further supported by the ACT Government through Treaty-negotiated:

- minimum Ngunnawal business procurement levels in government tender processes
- active promotion of Ngunnawal businesses in national and international markets.

Closing the health gap

UNEC-supported ideas include:

- subsidising private health coverage for Ngunnawal
- a brokerage fund for access to cultural healing services.

Supporting families and people in contact, or at risk of contact, with institutional settings

UNEC-supported ideas include the funding of:

- intensive wrap-around relationship and family support programs for those at risk of contact with out-of-home care, juvenile justice and justice settings
- a Ngunnawal ‘Elder-in-residence’ at the ACT’s Alexander Maconochie prison
- employment programs for those otherwise involved with the justice system
- Ngunnawal juveniles to be placed at the ACT Bush Healing Farm instead of detention centres.



Part 2 A First Nations Treaty in the ACT

Apart from the Ngunnawal, the Healing Project was not funded to consult with First Nations people in the ACT on a wider Treaty process. As such, Part 2 of this report should be considered akin to a discussion paper to support further consultations with the broader ACT First Nations community.

As noted, in 2008 the ACT Aboriginal and Torres Strait Islander Elected Body was enacted to provide First Nations ACT residents with a collective advisory voice to the ACT Government. Because of its established position, ATSIEB is proposed to be the wider ACT First Nations peoples' vehicle for Treaty negotiations.

On this basis, a potential Treaty process begins with Steps 1–4 of the Ngunnawal preferred treaty process discussed in Part 1. In sum, and for ease of reference, these 4 Steps are:

- Step 1: establish an ATSIEB–ACT Chief Minister partnership to negotiate a First Nations Treaty
- Step 2: promote Treaty through an education and awareness-raising campaign
- Step 3: provide a legislative foundation for Treaty
- Step 4: set up a Treaty Unit in the Chief Minister's Office to provide a Secretariat and other negotiation-process support.

Self-determination and First Nations peoples' participation, representation and power in ACT public life

The First Nations Treaty should be broadly aligned with ATSIEB's existing Vision of ensuring 'that all Aboriginal and Torres Strait Islander people living in the ACT are fully engaged in shaping and creating their future wellbeing'. In other words, it should enhance and/or activate ACT First Nations people's collective right to self-determination as Indigenous peoples in majority non-Indigenous settings, and as recognised in international law.

This could be achieved by ATSIEB's further empowerment by enactment or through a re-imagining process of what actualised First Nations self-determination in the ACT could or should be. It could be inclusive of Ngunnawal self-determination actualisation depending on negotiations. Examples of alternative mechanisms that might be negotiated through a Treaty process include:

- dedicated First Nations seats in the ACT Legislative Assembly
- an ACT Treaty Tribunal that could settle Treaty matters in dispute, or proactively intervene in matters and legislation that effectively negate Treaty obligations or, more broadly, ACT First Nations peoples' self-determination – particularly decisions where free, prior and informed consent is required of, but not sought by, the ACT Government

- an ACT First Nations regional authority with Treaty-negotiated decision making and self-governance powers.

As noted, in the 2016 Census approximately 6,500 First Nations ACT residents self-identified including the Ngunnawal. Treaty outcomes could include funding a campaign to encourage greater and more direct participation in an enhanced ATSIEB or other Treaty-negotiated self-determination vehicles. This could include incentivising participation and promoting online voting.

Reparations and Closing the Gap

An ACT wider First Nations Treaty would not include reparations in the sense that the Ngunnawal are entitled to these based on their dispossession and the other human rights abuses that occurred on their Country. Nonetheless, reparations are appropriate in the context of the nation-wide effort to 'close the gap' across Indigenous and non-Indigenous socio-economic outcomes.

The ACT is a signatory to the 2020 National Agreement on Closing the Gap. This is based, in part, on the recognition of the historical injustices associated with colonisation, and the attendant intergenerational legacies, that have affected all First Nations peoples in Australia. In this context, initiatives proposed in Part 1 as Ngunnawal reparations, such as subsidising private health coverage, have currency.

Conclusion

The Ngunnawal's preferred pathway to Treaty is without precedence in Australia and provides a model for subsequent State and Territory Treaty negotiations with single Traditional Owner groups. This includes with those who, for whatever reason, are not resident in the jurisdictions in which negotiations take place yet enjoy the same rights to reparations for the same historical injustices as those who are resident.

Further, the wider First Nations Treaty negotiation process, in activating the First Nations diaspora's rights to self-determination, promises to be highly instructive and with potentially transferrable lessons across Australia.

Both Traditional Owner-specific and other rights are enjoyed simultaneously by many First Nations peoples in different contexts around Australia. Working out how they operate together, provide reparative justice and support self-determination is a key challenge we all face as the nation finally moves towards a process of truth-telling about colonisation and its injustices.



Appendix 1 Extracted interim recommendations from the Healing Project

Toward a Ngunnawal and Territory Treaty Report 1: Let the Dreamers Dream...

On media

- 1 Ngunnawal families choose spokespeople from within their families to represent them in media engagement.
- 2 The contact details of Ngunnawal spokespeople be provided to the ACT Government in the negotiations around media releases.
- 3 UNEC Co-Chairs take responsibility for nominating who would be the best spokesperson in different instances on different topics.
- 4 Ngunnawal spokespeople (including family researchers) are provided with media and communications training to support and prepare them for public speaking on matters relating to Treaty and how best to represent the family plans in the Treaty process.

On project information sharing

- 1 UNEC Co-Chair Terms of Reference and processes be updated to include key tasks and responsibilities in moving towards Treaty.
- 2 The UNEC Secretariat responds to and embeds these protocols in its processes to ensure adequate support and timeliness issues are recognised, remunerated and attended to.
- 3 A pre-launch meeting be held between UNEC Co-Chairs, the ACT Chief Minister and the Minister for Aboriginal and Torres Strait Islander Affairs to discuss the recommendations and clarify statements.
- 4 At the end of each meeting at which UNEC members are present, a communiqué be shared on the ACT Government websites and linked to the work of UNEC.

On payments to UNEC members and families

- 1 UNEC Elders and families are recognised as co-contributors and consultants in the development and delivery of a Healing Project that unites families and progresses Treaty options for the duration of this project.
- 2 Karabena Consulting manages all aspects of paying for people's participating in this project through its current contracted agreement with the ACT Government.
- 3 Karabena Consulting forwards through evidence of these payments to the ACT Government, and these costs are kept track of through digitised copies of receipts, payments, transportation costs and other consulting work done by the families.
- 4 Karabena Consulting negotiates with the ACT Government for reimbursement of these costs.
- 5 Ngunnawal families are empowered and remunerated to maximise the contributions to their own family plans, and their peer researchers and family participants are supported and empowered to contribute to the best of their ability.

On Elder-led engagement

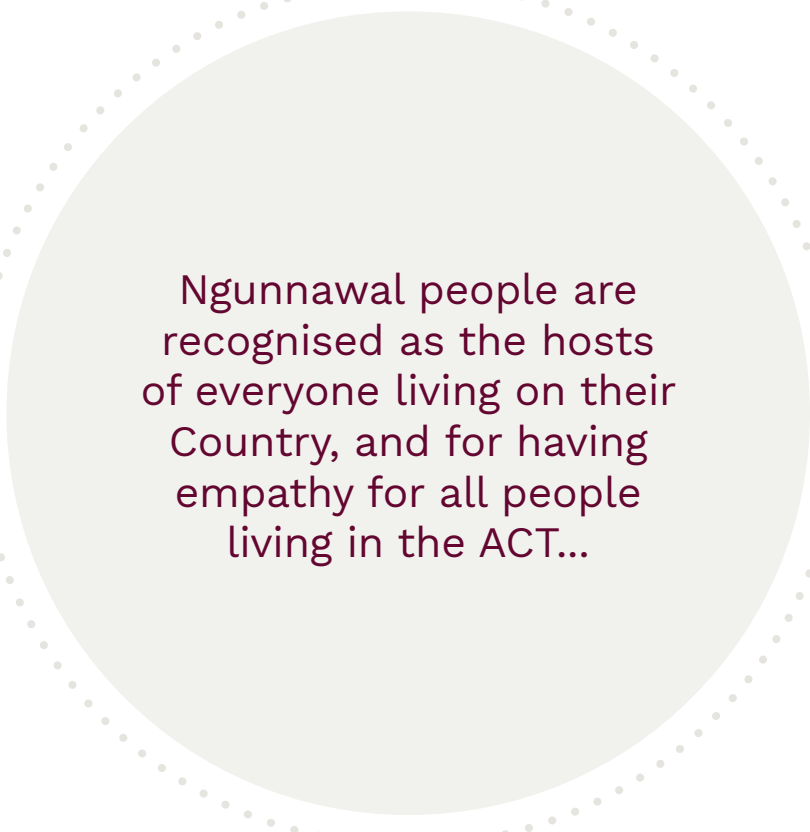
- 1 Elders are respected and resourced as enablers of their families' participation in Treaty processes.
- 2 An Elder's word on matters relating to their family and how their families engage is final and not to be challenged.
- 3 Key inclusions in family plans are determined by Elders.
- 4 Communiqués from UNEC in this 'sprint period' are agreed to by all Elders as heads of their families, so that UNEC Co-Chairs are being truly representative. This agreement-making is managed within Ngunnawal families and will not be interfered with by any external party.

On self-care and trauma-informed care strategies

- 1 Where possible and practical, Ngunnawal people are provided supports to overcome trauma, particularly in public forums where there is a strong risk of high exposure to trauma triggering experiences.
- 2 Where possible and practical, Ngunnawal people hold meetings in places and venues that make people feel culturally safe – for example, at AIATSIS or the Bush Healing Farm.
- 3 Counselling and coaching supports be made available to Ngunnawal people going through the process at no cost to them. This might be provided by people, organisations or businesses nominated by Ngunnawal people.
- 4 The ACT Government comes to Ngunnawal with a clear idea of what can be progressed immediately in the Treaty process, and the subsequent sequence of events to seek a timely resolution of Treaty negotiations.
- 5 The ACT Government to clarify that this is a Ngunnawal and Territory Treaty, and that other processes will be available for the wider Aboriginal and Torres Strait Islander population, who are hosted by Ngunnawal on their Country, to participate in self-determination and other strategies, such as that to progress a voice to Parliament.

Interim recommendations on strategies that ‘Heal Everyone’

- 1 Invest in healing strategies and resources, effective communication strategies and merchandise that catalyse an understanding and empathy for those involved in the Treaty negotiations.
- 2 The ACT Government to facilitate an expression of interest process asking what the non- Indigenous population of the ACT would want Ngunnawal people to experience because of achieving Treaty.
- 3 Trauma-informed and healing practices are introduced at the commencement of Treaty processes.
- 4 Cultural activities be engaged with on an understanding that culture is a protective factor for First Nations people.
- 5 Ngunnawal people are recognised as the hosts of everyone living on their Country, and for having empathy for all people living in the ACT and for those people who are experiencing genocide, displacement and war in other parts of the world, and who call the Ngunnawal lands their home.



Ngunnawal people are recognised as the hosts of everyone living on their Country, and for having empathy for all people living in the ACT...



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