

# 5. Healthy Country, Healthy Mob

This chapter was originally prepared by the Central and Gippsland Region Sustainable Water Strategy Traditional Owner Partnership for the release of the discussion draft for public comment.

The Partnership members represent the following Registered Aboriginal Party groups:

- **Bunurong Land Council Aboriginal Corporation**
- **Gunaikurnai Land and Waters Aboriginal Corporation**
- **Wadawurrung Traditional Owners Aboriginal Corporation**
- **Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation**

The chapter progresses from the discussion draft, and reflects the insights, main messages and recommendations developed by the Central and Gippsland Region Sustainable Water Strategy Traditional Owner Partnership. We gratefully acknowledge the time, energy and expertise of partnership members: Dr Rohan Henry, Uncle Lloyd Hood, Tim Paton, Lisa Hocking, Michael Cook, Jordan Smith, Karmen Jobling, Sean Sexton, Greg Robinson, Matthew Chatterton, David Tutchener and their organisations. It includes a statement from the Traditional Owner Partnership in response to the Government's **Chapter 6** Water Justice for Traditional Owners. This statement is presented at the forefront.

## 5.1 Statement from Traditional Owner Partnership in response to the Government's Chapter 6 - Water Justice for Traditional Owner



Wurundjeri  
Woi-wurrung  
Cultural Heritage  
Aboriginal Corporation



*Statement prepared on behalf of the Bunurong Land Council Aboriginal Corporation, Gunaikurnai Land and Waters Aboriginal Corporation, Wadawurrung Traditional Owners Aboriginal Corporation, and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation: the central and Gippsland region sustainable water strategy Traditional Owner Partnership.*

We thank the Victorian Government for the opportunity to co-design how we participated in the Central and Gippsland Region Sustainable Water Strategy. The Central and Gippsland Region Sustainable Water Strategy Traditional Owner Partnership was formed mid 2019 by four of the five Traditional Owner corporations on whose Country – land and waters - the Central and Gippsland Region Sustainable Water Strategy is based. We determined from the outset the governance structure we required to help ensure our participation at this granular level was most collaborative with Government on several layers, but with empowerment at its core.

Through being embedded, we sought to realise our respective Traditional Owner corporation objectives, and to amplify the First Nations People's voice in policy development from its commencement, through to sign off by the Minister.

While we were a Partnership, each Traditional Owner Corporation represented had its own priorities on behalf of its members – these needed to be protected so outcomes weren't homogenised at the expense of Nation building.

However, there were strong commonalities, and water ownership was one. Of each Traditional Owner corporation represented on the Partnership, from the outset we communicated the objective to have water returned in regulated, semi-regulated, unregulated systems:

*Sovereignty and self-determination in water is foundational to enabling Traditional Owners to care for Country and cultural heritage (tangible and intangible). Through sovereignty and self-determination, Traditional Owners can choose how to exercise their own water rights, guided by their own laws and cultural protocols. This is best achieved by Traditional Owners owning water and can be progressed by empowering Traditional Owners through changes to instruments and tools and having a seat at the table when decisions are being discussed and made by Government and its agencies.*

- Central and Gippsland Region Sustainable Water Strategy Traditional Owner Partnership presentation to the Consultative Committee, Meeting four (30th April 2021)

We applaud the Victorian Government for committing in this policy document to return water to Traditional Owners through **Chapter 6. Water justice for Traditional Owners** in the Strategy.

We anticipate all waterways with unallocated water will have water returned, as Traditional Owner Corporations apply for it, as a matter of urgency. We refer to the table we included in the

Traditional Owner Partnership **Chapter 4. Healthy Country, Healthy Mob** in the Central and Gippsland Region Sustainable Water Strategy discussion draft, (released 7th October 2021 by the Victorian Government). We would like to reiterate the Traditional Owner corporations we represent seek water return of groundwater as well as surface water.

**Table 5.1: Volumes of unallocated water available on Country**

Water system	Name	Volume of unallocated water (ML)
Rivers and creeks	Aire River	300
	Albert River	300
	Bass River*	300
	Cann River	500
	Dividing Creek	300
	Lung Lung (Franklin River)	300
	French Island*	200
	Johanna River, Milanesia Creek and Brown Creek	300
	Parker River to Skenes Creek	300
	Powlett River	500
	Shady Creek & Nine Mile Creek	300
	Ber'rawn (Tambo River)	1,500
	Ten Mile Creek	300
	Wangangarra / WyYung (Mitchell River)	2,000
	Otways other	90
Genoa River	500	

<b>Water system</b>	<b>Name</b>	<b>Volume of unallocated water (ML)</b>
<b>Rivers and creeks (continued)</b>	Gellibrand River	1,000
	Lang Lang River*	500
	South Gippsland Coastal*	100
	South Gippsland other	500
	Far East Gippsland other	500
<b>Groundwater Management Unit</b>	Leongatha	4,687
	Frankston	994
	Boneo**	800
	Werribee (Cut Paw Paw)	3127
	Werribee (Merrimu)	441

\* For catchments in the Central and Gippsland Region Sustainable Water Strategy area that were outside of the 2011 Gippsland and Western Region Sustainable Water Strategy areas, including the Bass River and Lang Lang River catchments, the volumes of unallocated surface water available have been revised consistent with the approach taken in the 2011 strategies. This includes consideration of the risks posed by climate change, and a range of sustainability principles (refer to Policy 3.1 of the 2011 Gippsland Region Sustainable Water Strategy). The revised volume available is 300 ML in the Bass River catchment, 200 ML for French Island and 100ML for the coastal catchment between Lang Lang River and Bass River catchments. The revised volume available in the Lang Lang River catchment is proposed to be 500 ML

\*\*Subject to Minister declaration of Boneo permissible consumptive volume

We would like to confirm that in addition to the waterways mentioned in **Chapter 6**, there is immediate interest in the Bass River, groundwater in Boneo, Leongatha and Frankston from the Bunurong, and interest in the Franklin River from both Gunaikurnai Land and Waters Aboriginal Corporation and Bunurong Land Council Aboriginal Corporation.

We look forward to unallocated water being returned unencumbered, upon application by Traditional Owner corporations and Section 40 requirements being assessed by the water corporations without delay. We welcome the water sharing principles outlined in **Policy 6-1**, and confirm they align with the Central and Gippsland Region Sustainable Water Strategy Traditional Owner Partnership principles.

The Government's commitment to ensure fees and charges are not a barrier to Traditional Owners holding water (**Section 6.5**) is an important policy commitment which will better enable Traditional Owners to self-determine how they wish to use cultural water where it is not used for commercial purposes.

The Central and Gippsland Region Sustainable Water Strategy Traditional Owner Partnership worked closely with Government to have a quadruple-bottom-line assessment incorporated into the Strategy. This is a significant step to cement the rights of Traditional Owners through fulsome consideration of cultural values in decision making, including water augmentation decisions. We have through the **'Framework: Multiple benefits of ownership and management of water by Traditional Owners', attached to the Strategy** (the framework) sought a strong evidence base of the benefits of restorative water justice for Traditional Owners, and an accompanying methodology to be tested. We are pleased to see this well represented in the Central and Gippsland Region Sustainable Water Strategy.

The framework identifies the multiple, intergenerational benefits from Traditional Owner management and ownership of water in a way that can inform government decision making, through measurement that meets the three dimensions of Healthy Country, Healthy Mob, Sovereignty and Self-determination.

Sovereignty and self-determination in water is foundational to enabling Traditional Owners to care for Country and cultural heritage (tangible and intangible). Through sovereignty and self-determination, Traditional Owners can choose how to exercise their own water rights, guided by their own laws and cultural protocols. This is best achieved by Traditional Owners owning water and being empowered to manage water, and is progressed through changes to instruments and tools, and giving Traditional Owners a seat at the table when decisions are being discussed and made by Government and its agencies.

We see the Strategy as a very important step toward reform – but it is still a step. For lasting reform, the change needs to be institutionalised. We have built some strong relationships through the Central and Gippsland Region Sustainable Water Strategy Consultative Committee, but water justice must not be dependent on relationships and goodwill. Cultural water must be granted, managed, and held and accessed without compromise through an entitlement and management framework that rejects the concept that water is a commodity. Water is not a commodity, water is life. No-one knows this more than the Traditional Owners who have managed water on Country for tens of thousands of years.

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*As Gunaikurnai, we see our land (Wurruk), waters (Yarnda), air (Watpootjan) and every living thing as one. All things come from Wurruk, Yarnda and Watpootjan and they are the spiritual life-giving resources, providing us with resources and forming the basis of our cultural practices. We have a cultural responsibility to ensure that all of it is looked after.*

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*Bunurong people belong to Country, as a part of Country water is integral to this belonging. Bunurong people belong to the water of a place.*

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*Bunjil's brother, Palliyang, the Bat, created Bagarook, women, from the water. Since our beginning it has been known that we have an obligation to keep the Birrarung alive and healthy—for all generations to come*

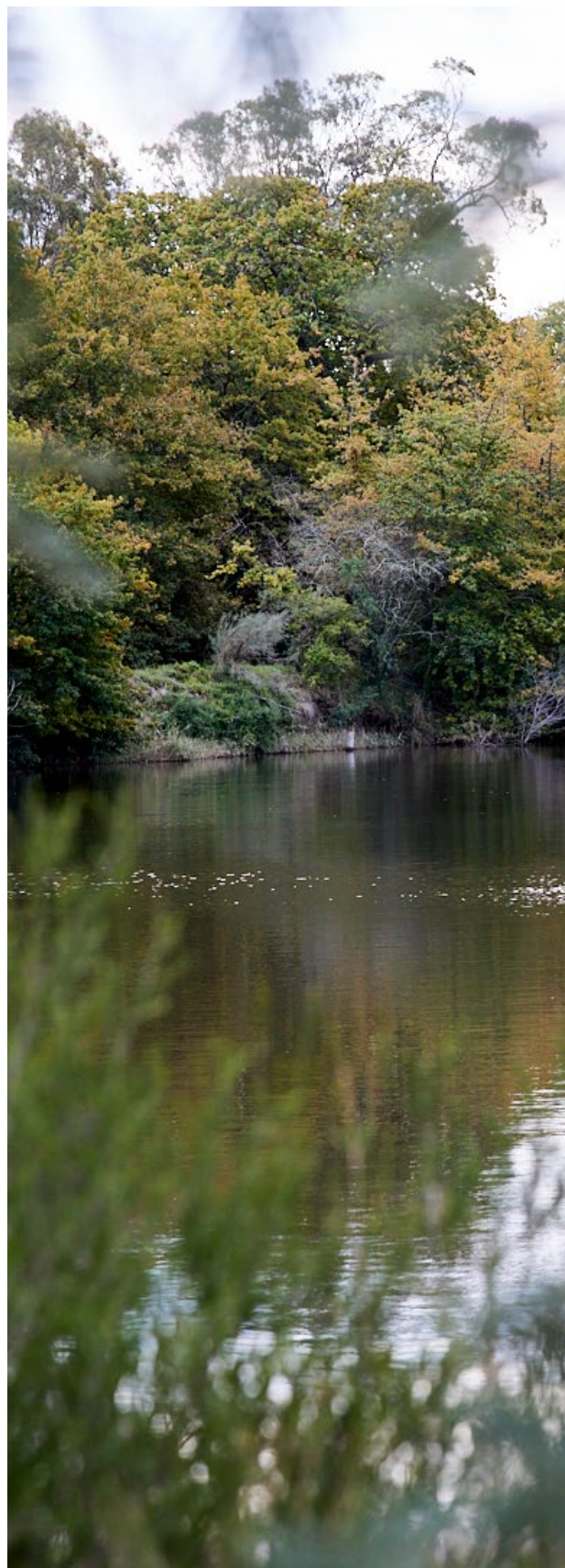
**– Wurundjeri Woi Wurrung**

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*Caring for our Country, land, sky, and waters, and continual cultural practices are core to our identity as the Traditional Owners of Wadawurrung Country.*

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*We have asked the Healthy Country, Healthy Mob chapter be re-presented in the final.*



**Image:** Wangangarra / WyYung  
(Mitchell River), Bairnsdale

## 5.2 Water rights for Traditional Owners

### Water is life

The land, water, and waterways of the Bunurong, Gunaikurnai, Wadawurrung and Wurundjeri Woi-wurrung are living entities. They should be recognised as such, and treated accordingly under Victorian law, associated guidance material, letters of obligation and policy.

Traditional Owners know that water is essential to life, and to Creation. The Sustainable Water Strategy Traditional Owner Partners, and the communities they represent, have Dreaming stories and/or Ancestral beings associated with water. The cultural, spiritual, physical, and economic health of the Bunurong, Gunaikurnai, Wadawurrung and Wurundjeri Woi-wurrung peoples cannot be separated from the health of their respective Countries, including their water and waterways. Any benefits realised by the Traditional Owner Partnership to improve the health of their Countries will benefit all communities residing within their borders. Healthy water, waterways and Country are good for all.

In order to improve the health of the Traditional Owner communities and Countries represented by the partnership, the legal entitlements to the ownership of water, which have since (un)Settlement almost entirely been denied, must be reinstated, unencumbered by fees. Water entitlements transferred to member organisations of the Traditional Owner Partnership must be sufficient to achieve substantial and measurable outcomes as determined by the communities represented by the partnership.

Concurrent with the transfer of legal titles to water, Bunurong, Gunaikurnai, Wadawurrung and Wurundjeri Woi-wurrung peoples must be resourced to undertake critical foundational work to develop strategies and implementation plans to achieve their respective objectives.

Water is life. No-one knows this more profoundly than the Traditional Owners. In the Central and Gippsland Region, Traditional Owners have managed water on Country for more than 50,000 years, making sure there was enough water to go around for healthy Country, and healthy mob.

Nowadays, government — through its water corporations and catchment management authorities, and its regulators responsible for water quality and pricing — decide how and where water goes, how much, when, and for how long, and Traditional Owners until very recently have been completely denied the right to have a say about water on their Country.

This chapter acknowledges the Victorian Government policy of returning water entitlements to Traditional Owners and has been developed to guide the reinstatement of such rights and decision-making for Traditional Owners represented by Bunurong Land Council Aboriginal Corporation, Gunaikurnai Land and Waters Aboriginal Corporation, Wadawurrung Traditional Owners Aboriginal Corporation and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. It presents Six Principles and other actions to progress Traditional Owner access to water through both entitlement and authority, and to embed on-Country monitoring, evaluation and research designed and undertaken by Traditional Owners in a manner that meets Traditional Owner objectives and, in turn, cultural obligations. It also highlights the need for the water sector to have an obligation to report back to Traditional Owners on how they are meeting those objectives.

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*Bunurong people belong to Country, as a part of Country water is integral to this belonging. Bunurong people belong to the water of a place.*

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*Caring for Country also has a flow-on effect for Bunurong people. By keeping Country healthy and in balance, Country would then also care for the people. As Country is not passive it is able to provide everything required to survive and thrive. However, if Country is not cared for it can also cause harm to the spiritual and cultural health and mental wellbeing of Bunurong people.*

— Bunurong Land Council Aboriginal Corporation

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*Water is very important — I suppose it's important to everyone now today, but it's always been the very core of our existence.*

— Uncle Lloyd Hood, Gunaikurnai Land and Waters Aboriginal Corporation

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*We hold moral obligations to the health of Country, it's what we're taught from a young age.*

— Michael Cook, Wadawurrung

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*For me walking in these sands is recreating and walking in the footsteps of my ancestors in the past. It's about connecting, reconnecting, and their spirits guide you and take you to these places that they've accessed and used for over forty thousand years.*

— Robert Ogden, Bunurong

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*Balliyang, barnumbinyu Bundjilal, banyu bagurk munggay. Ngarn gunganyinu nhanbu nyilam biik, nyilam kuliny — balit biik, balit kuliny: balitmanhanganyin manyi biik ba Birrarung. Balitmanhanganyin durrungu ba murrupu, ba nhanbu murrondjak! (Bunjil's brother, Palliyang, the Bat, created Bagarook, women, from the water. Since our beginning it has been known that we have an obligation to keep the Birrarung alive and healthy — for all generations to come).*

— Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation

Image: Sale Common wetlands, Gunaikurnai Country





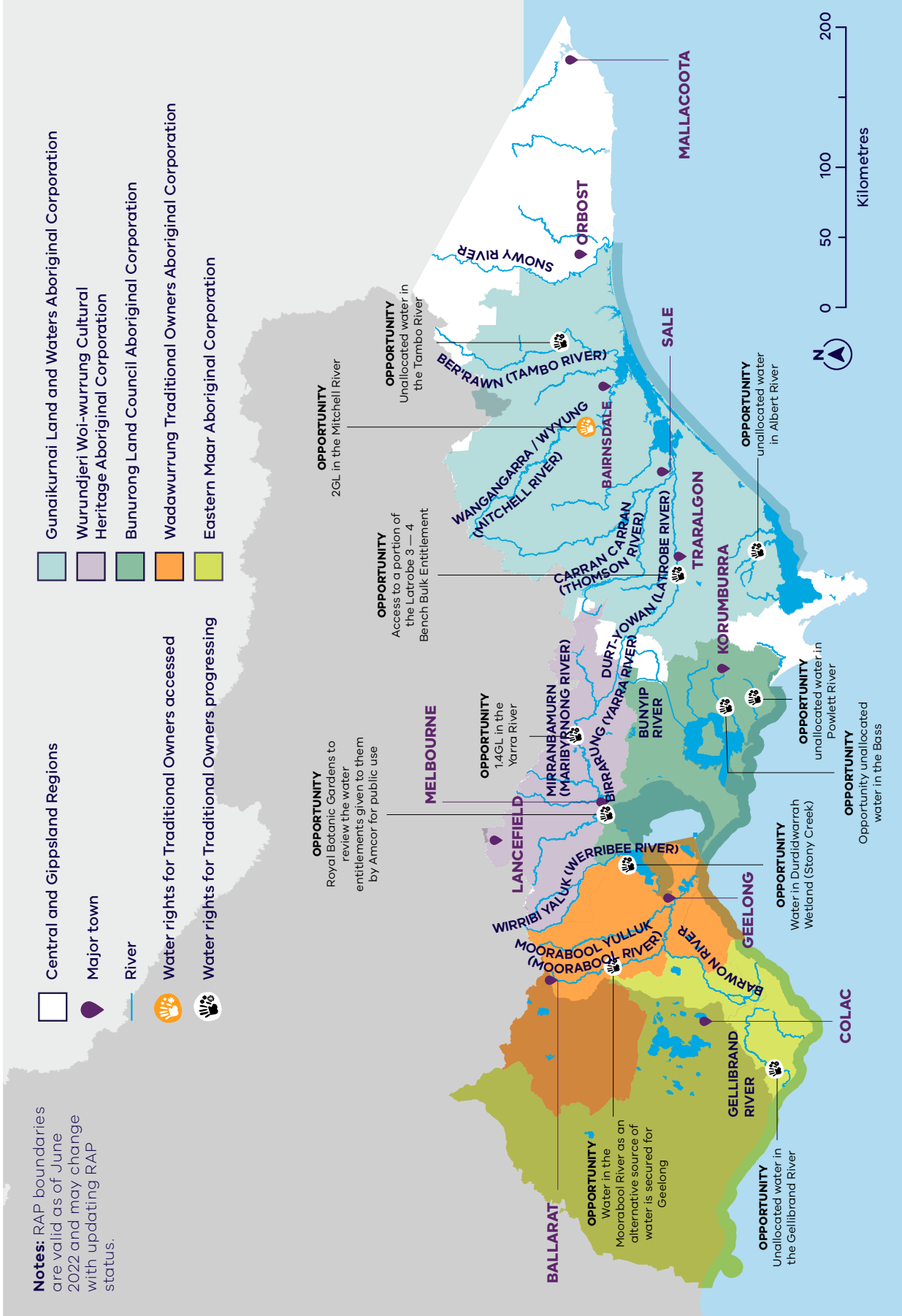


Figure 5.1: The Registered Aboriginal Parties (RAPs) of the Central and Gippsland Region Sustainable Water Strategy. The RAP boundaries are current at June 2022

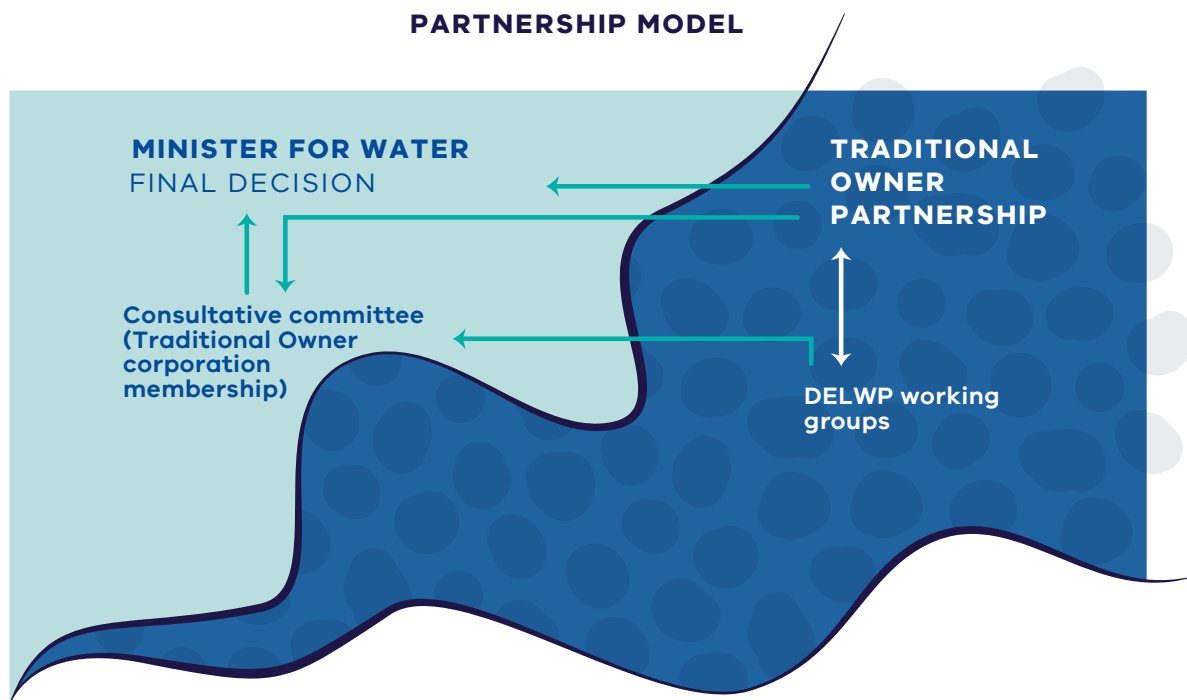
## The Traditional Owner Partnership

The Central and Gippsland Region Sustainable Water Strategy is the first Sustainable Water Strategy to formally include Traditional Owners as members of the consultative committee, alongside other representatives from the water sector, the Victorian Environmental Water Holder and the Department of Environment, Land, Water and Planning. This chapter has been written by the Traditional Owner Partnership, formed by Bunurong Land Council Aboriginal Corporation, Gunaikurnai Land and Waters Aboriginal Corporation, Wadawurrung Traditional Owners Aboriginal Corporation and Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

Through the Strategy, the Victorian Government and the Traditional Owners of the region have worked together to ensure that the water needs of the Traditional Owner corporations represented are

considered alongside those of other water users in the discussion about water availability and sharing. In its role in the Strategy, the partnership has endeavoured to:

- amplify Traditional Owner voices and perspectives in the Sustainable Water Strategy
- identify and express barriers to Traditional Owners holding water in Victoria's consumptive-based water-entitlement framework
- work with government to determine what changes to instruments and tools are required for water to be held and used flexibly by Traditional Owners
- identify what needs to occur to protect any ensuing Traditional Owner water entitlements from competing pressures
- help government articulate how 'Health Country, Healthy Mob' and self-determination will be realised in government legislation, agreement-making, policy, and Strategy implementation.



**Figure 5.2: Traditional Owner groups are embedded in all levels of the Central and Gippsland Region Sustainable Water Strategy governance structure**

The Traditional Owner Partnership identified the main aims to include in the Strategy in line with each Traditional Owner Corporation's water objectives and to progress the Victorian Government Aboriginal Water Policy. No policy in the Strategy should dictate a path for individual Traditional Owner groups. Instead, the Strategy should enable each Traditional Owner group to realise its priorities for water in a way and within a timeframe that best suit the priorities and objectives of that group, and the Traditional Owner community it represents.

Each Traditional Owner group has and will continue to work directly and independently with the government regarding place-based discussions about their Country.

### Redressing an unjust history

The Bunurong, Gunaikurnai, Wadawurrung and Wurundjeri Woi-wurrung peoples have never ceded rights to land and waters. Cultural responsibilities to care for Country have been denied by the historical segregation of Traditional Owners from water policy, management and planning in Victoria. This has had severe and compounding ramifications for healthy Country and for the health and wellbeing, including the economic wellbeing, of all Traditional Owners, and has contributed to unsustainable water management practices — which affect everyone.

Across Australia, Aboriginal peoples have had rights to water taken away. In Victoria it is estimated

that Aboriginal people own less than 0.2 per cent of all water rights. Without water rights, including water entitlements, Traditional Owners are unable to exercise self-determination. Without water entitlements, Traditional Owners cannot mandate where or how water can be used to support cultural, spiritual, environmental, or economic outcomes. This exclusion denies Traditional Owners the right to care for Country, which is the essence of Aboriginal social, spiritual, economic, and physical wellbeing, and the basis of cultural lore.

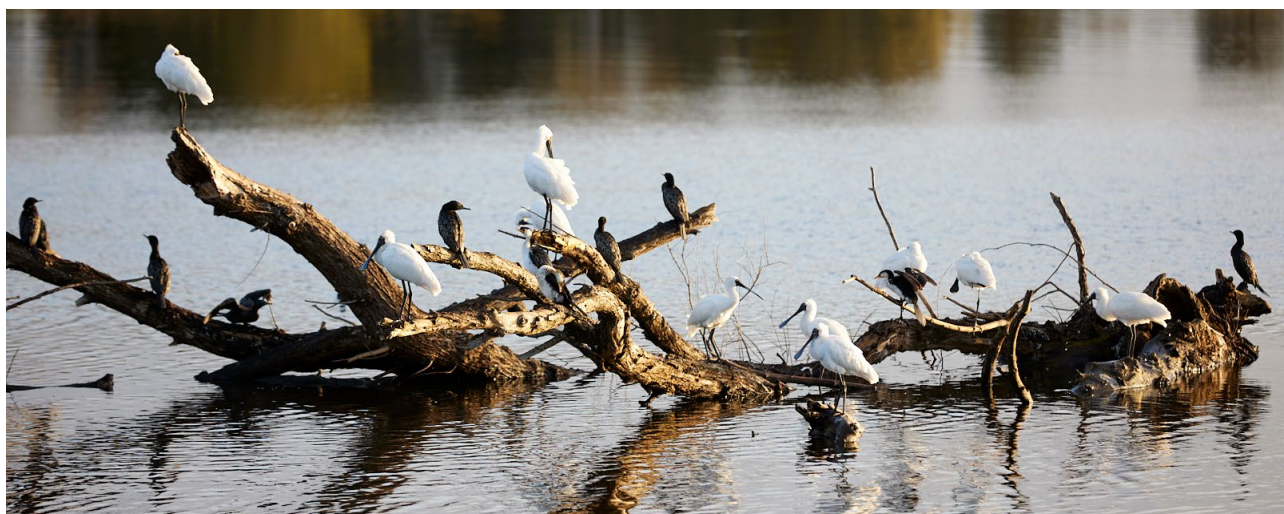
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*Traditional Owners are not the first in line with the bucket. We're way down behind everyone else. So, we're not even considered most of the time. All the time. And we need to change that. We want to be first in line.*

— Uncle Lloyd Hood, Gunaikurnai Land and Waters Aboriginal Corporation

Victoria has begun the process of handing water entitlements back to Traditional Owners (**Figure 1.3**). The Sustainable Water Strategies are an important tool to enable the Victorian Government to work in genuine partnership with Traditional Owners, to understand and decide upon actions to achieve tangible benefits for Traditional Owners, including restoration of water rights. The Central and Gippsland Region Sustainable Water Strategy will reflect the value of water to the health, wellbeing, and economic outcomes of Traditional Owners, by enabling self-determination in water management.

**Image:** Royal spoonbills and cormorants perched on tree in the Mitchell river, Bairnsdale, Gunaikurnai Country





**Image:** Troy McDonald, Chair of Gunaikurnai Land and Waters Aboriginal Corporation (Credit: Gunaikurnai Land and Waters Aboriginal Corporation)

In November 2020, the first formal hand-back of water rights to Traditional Owners by the Victorian government was accomplished. Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC) will receive 2 GL on the Mitchell River in south-eastern Victoria. This is a 'momentous outcome' (Roger Fenwick, CEO GLaWAC) and an essential first step towards water justice.

This water will be in the form of 51 'winterfill' licence (meaning that water can only be extracted from the river during the high flow winter-spring period). Roger Fenwick, GLaWAC CEO said that this commitment

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*'recognizes the importance of gaining rights to water to restore customary practices, protect cultural values and uses, gain economic independence and heal Country.'*

In committing to this transfer of water to GLaWAC, Lisa Neville, the then Minister for Water reiterated her commitment to Aboriginal participation in water management:

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*'I want to see the water sector and Traditional Owners working closely together, with water entitlements supporting business, cultural, recreational and environmental outcomes for Aboriginal communities and the broader region.'*

The then Minister also acknowledged Traditional Owners' long history of sustainable water management:

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*Traditional Owners have cultural, spiritual, and economic connections to land, water and resources through their relationship with Country - having managed land and water sustainably over thousands of generations.'*

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**Figure 5.3: Water handback to Gunaikurnai on the Wangangarra / WyYung (Mitchell River)**

## 5.3 Sovereignty and self-determination

Traditional Owner sovereignty and self-determination in water are a foundation for water management in Victoria. Each Traditional Owner expresses this relationship with water slightly differently. Some examples from each of the partnership organisations are set out below.

### Bunurong

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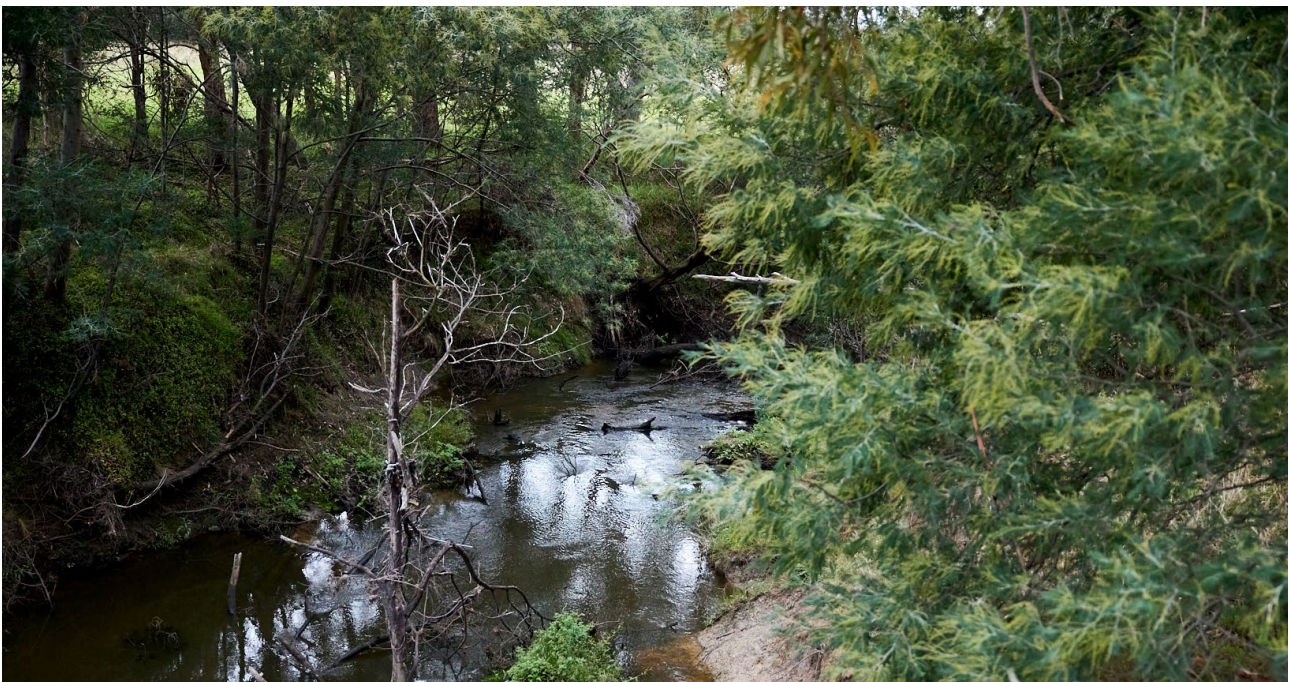
*As Traditional Owners, we never considered our right to water until that right was taken away. Australia has one of the biggest water markets in the world, worth billions, yet for a long time it seemed Aboriginal water entitlements continued to shrink. While we make up around 3% of the population, we retain rights to a much smaller percentage of available water. If we want to live on our own Country, we must buy land back from those who benefited from its theft. If we want water, we must pay companies that have impacted our land and cultural sites by piping water here and there, for the convenience of*

*their customers.*

*The Government's overall management of that water has led to diminished volumes, higher prices, lower quality of life for people in many areas and a biodiversity imbalance. Aboriginal people deserve to also be able to enjoy the benefits of water rights as not only a basic human right, but as part of their obligation as Traditional Owners, or custodians of Country. Our custodianship is a human right, but it's also an inherited obligation we have as Aboriginal people. For us to have water rights within Bunurong Country, means that once again we can continue to care for Country in ways we were not able to before; bringing cultural flows back to dry creeks and tributaries and assisting with the biodiversity issues caused by bad planning and decision making in the past. It also allows us to take part in the broader water economy, which is long overdue. We can't live without water and Country cannot function without water. For Bunurong people to have water rights, is a turning point; a marker in time that shows us that our role on Country is respected, and important, and as one part of the oldest continued culture on this planet.*

— Bunurong Land Council Aboriginal Corporation

Image: Bass River, Bass, Bunurong Country



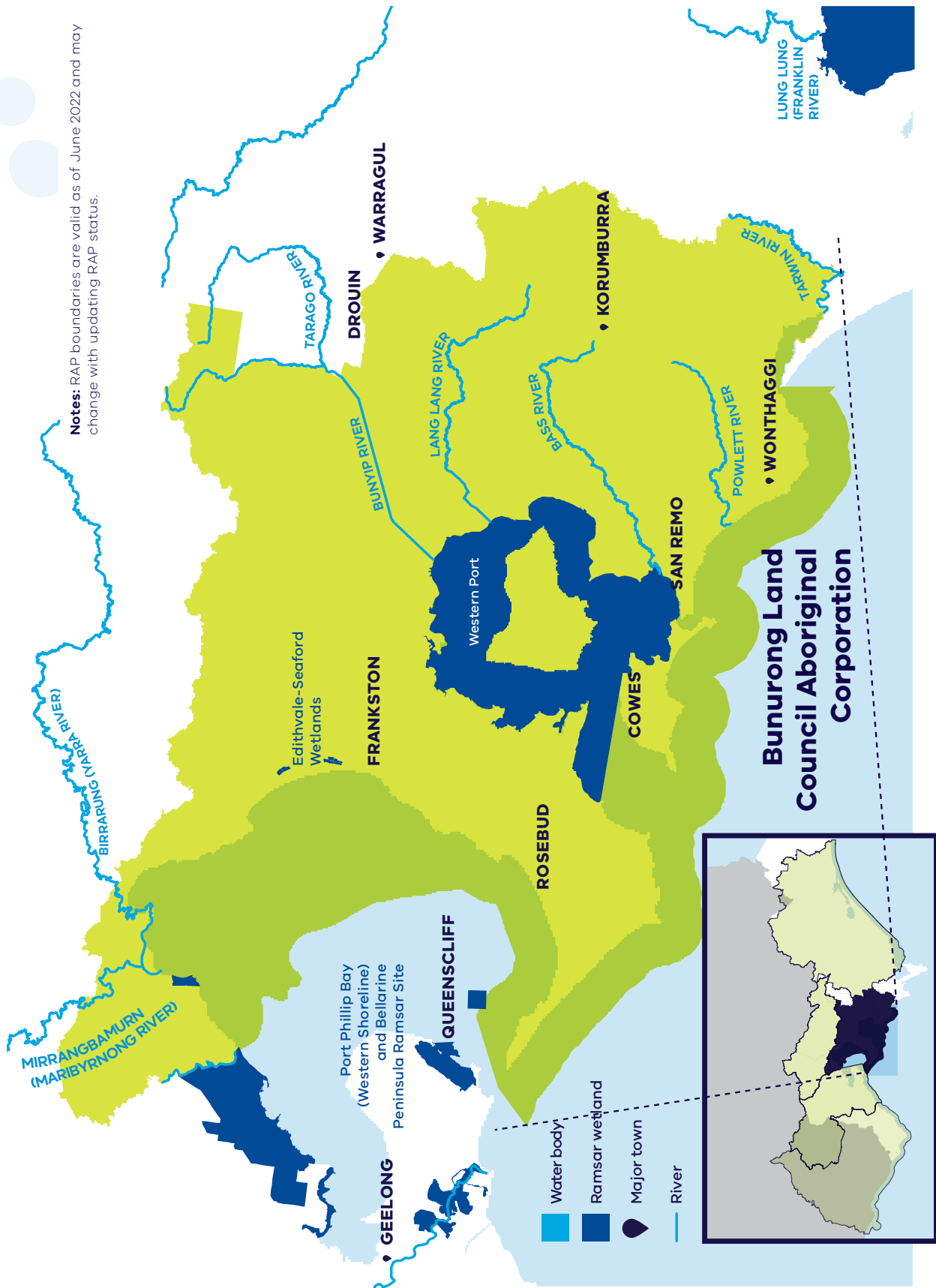


Figure 5.4: The Registered Aboriginal Party (RAP) area of Bunurong Land Council Aboriginal Corporation. The RAP boundary is current at June 2022

## Gunaikurnai

*As Gunaikurnai, we see our land (Wurruk), waters (Yarnda), air (Watpootjan) and every living thing as one. All things come from Wurruk, Yarnda and Watpootjan and they are the spiritual life-giving resources, providing us with resources and forming the basis of our cultural practices. We have a cultural responsibility to ensure that all of it is looked after.*

— Gunaikurnai Whole of Country Plan, 2015

Image: Mitchell River, Gunaikurnai Country



# Gunaikurnai Land and Waters Aboriginal Corporation

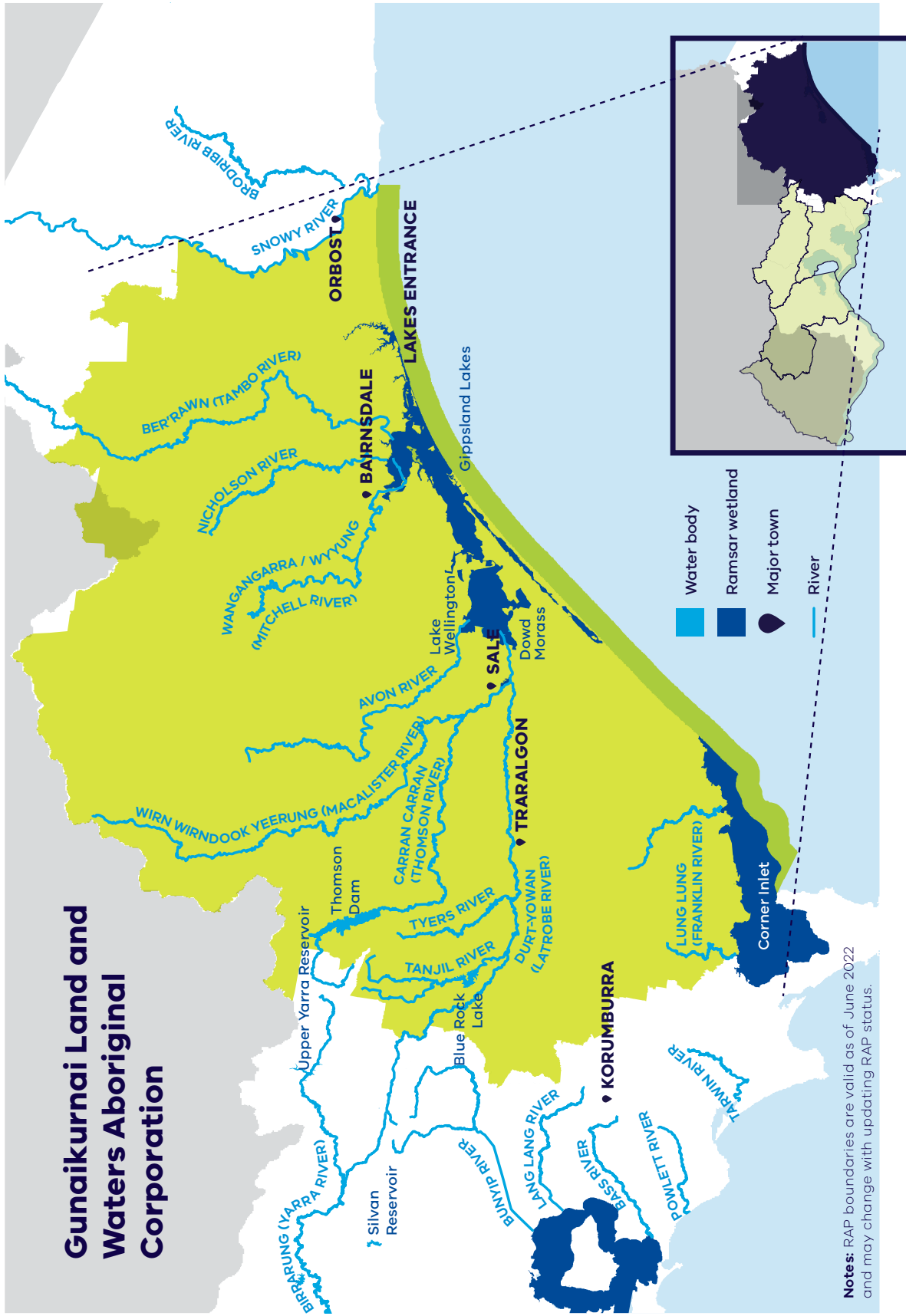


Figure 5.5: The Registered Aboriginal Party (RAP) area of Gunaikurnai Land and Waters Aboriginal Corporation. The RAP boundary is current at June 2022



## Wadawurrung

*Our main river systems are the Barwon/ Moorabool, Yarrowee and Leigh rivers or Barre Warre Yulluk. Yulluk (great river) that runs from the Barre (mountains) to the Warre (ocean), and our stories tell of these connections. The name Barwon is derived from Parwan meaning 'magpie' or 'great wide.'*

*The chain of ponds from the Barre Warre Yulluk (Barwon River) to Reedy Lake, Hospital Lake, Lake Connewarre and Estuary Bay is connected through water and our Connewarre (Black Swan) Dreaming. The Connewarre Wetland Complex is internationally significant for wader and shoreline birds and forms part of the Port Phillip*

*Bay (Western Shoreline) and Bellarine Peninsula Ramsar Site.*

*Our waterways were like our highways, they were how Wadawurrung people moved around Country.*

*Our people used canoes or in calmer waters, Murriyans bark floats, or punts pushed by long poles to gather the abundance of food. On the natural rises along the waterways our people camped and caught eels, other fish and waterbirds to eat. Important decisions were made on the banks of these waterways by our Ancestors. They were important living and meeting places. Just as they are today.*

— Paleert Tjaara Dja, Let's make Country good together 2020–2030 (Wadawurrung Country Plan)

Image: Moorabool River, Wadawurrung Country



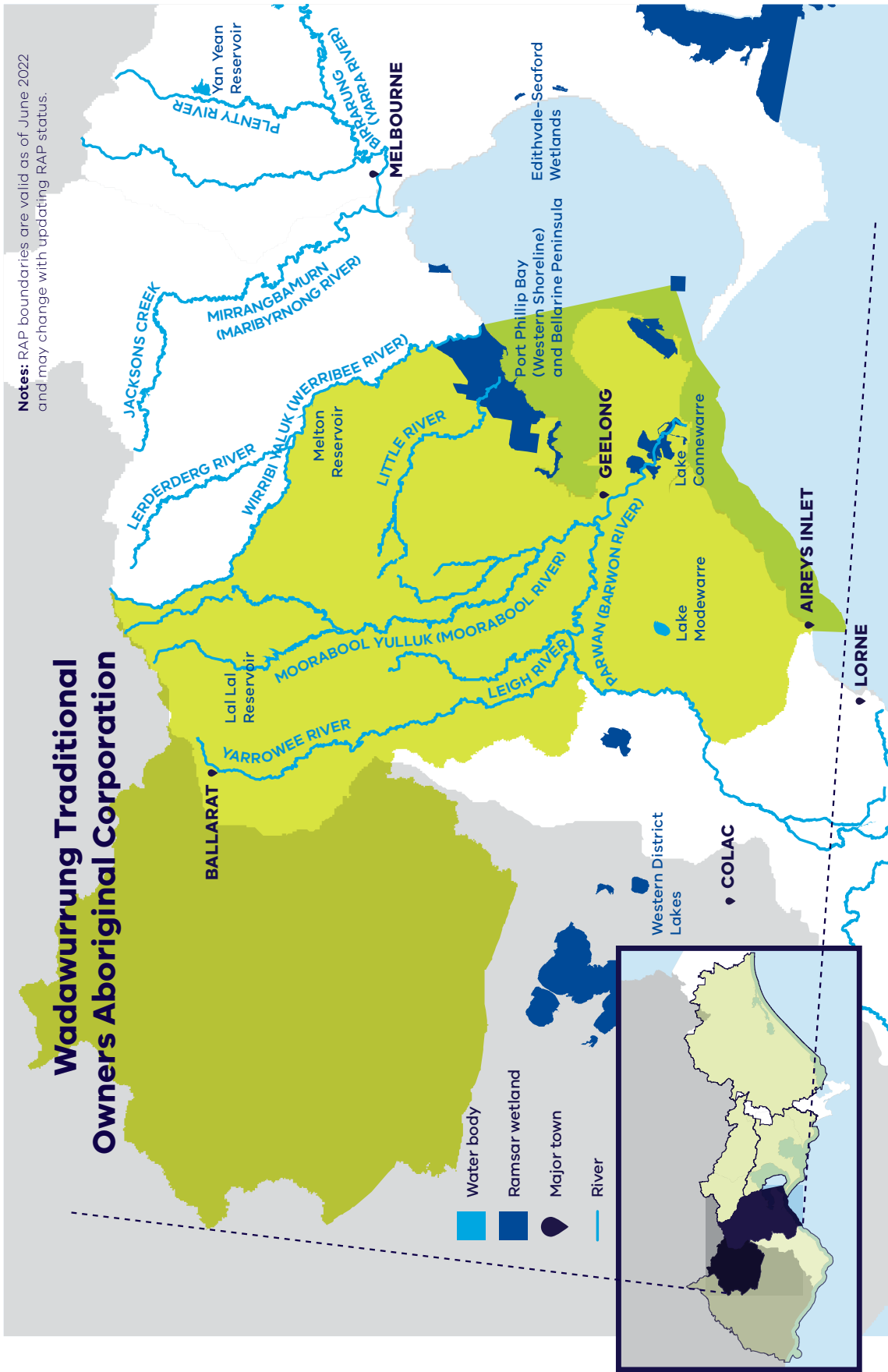


Figure 5.6: The Registered Aboriginal Party (RAP) area of Wadawurrung Traditional Owners Aboriginal Corporation. The RAP boundary is current at June 2022

## Wurundjeri Woi-wurrung

*Woiwurrungbaluk ba Birrarung wanganyinu biikpil. Yarrayarrapil, manyi biik ba Birrarung, ganbu marram-nganyinu. Manyi Birrarung murrondjak, durrung ba murrup warrongguny, ngargunin twarnpil. Birrarungwa nhanbu*

*wilamnganyinu. (We, the Woi-wurrung, the First People, and the Birrarung, belong to this Country. This Country, and the Birrarung are part of us. The Birrarung is alive, has a heart, a spirit and is part of our Dreaming. We have lived with and known the Birrarung since the beginning).*

— Yarra River Protection (Wilip-gin Birrarung murrn) Act 2017, preamble from Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation

Image: Dights Falls on the Yarra River, Abbotsford, Wurundjeri Woi-wurrung Country



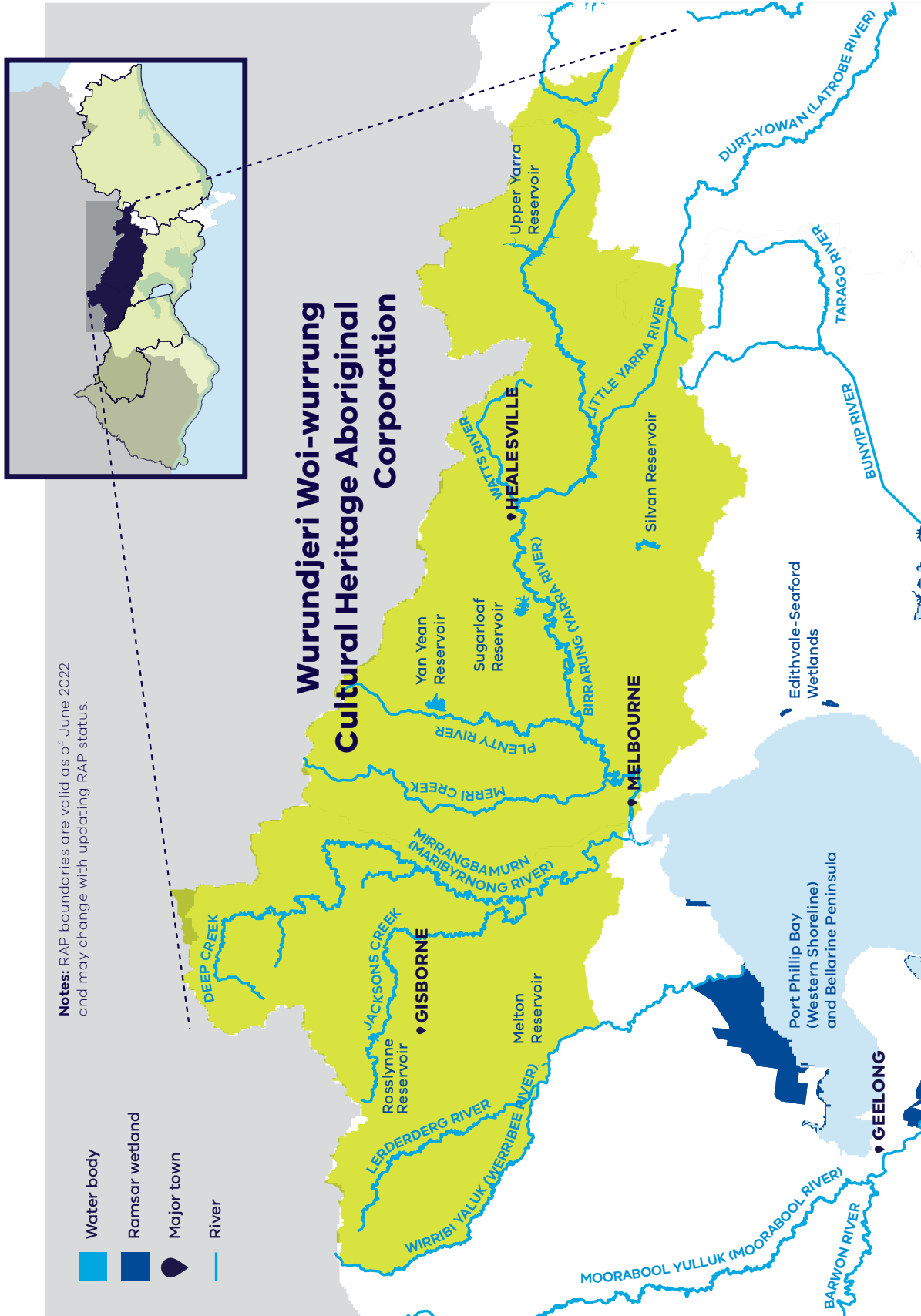


Figure 5.7: The Registered Aboriginal Party (RAP) area of Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. The RAP boundary is current at June 2022

## The quadruple-bottom-line

Managing water holistically to care for Country and people brings great benefits to everyone living in the region: healthy rivers, happy and healthy people, and thriving towns and regions. The Traditional Owner Partnership is developing a framework to express the wide range of benefits that flow from increasing Traditional Owner ownership and management of water in the Central and Gippsland Region.

The quadruple-bottom-line approach takes into account not only economic or financial results or benefits, but also social, environmental, and cultural factors and outcomes. Consideration of all four elements should bring community wellbeing, prosperity, and jobs (Figure 5.8).



Figure 5.8: The elements of the quadruple-bottom-line approach

Caring for Country, including its waterways and water bodies, is the custodial obligation of Traditional Owners, handed down over countless generations. Managing the health of Countries (and governing communities) has been a foundational responsibility of Traditional Owners. However, these rights have been largely denied in the Central and Gippsland Region since European (un)Settlement.

All Victorians and water users must work together to secure water for the 50-year planning period of the Strategy, and beyond. Long-term planning is required. No-one knows this better than Traditional Owners, who managed Country sustainably for tens of thousands of years.

Caring for Country, which includes caring for water and waterways, benefits all Victorians. Traditional Owners have successfully cared for Country for many thousands of years. When Country is cared for, it is healthy, its resources are shared equitably, it supports healthy people and economies, and it provides an environment that can be enjoyed by everyone.

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*It's part of us, we're taught not to take more than we need.*

— **Tim Paton, Gunaikurnai Land and Waters Aboriginal Corporation**

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*That's part of our Aboriginal upbringing. Don't take too much of the fish stocks, don't take too much because there's always other people that would come behind. We travelled a lot, there was always another clan group coming behind us, so it was important that there was something left. And they would then do the same for others.*

— **Uncle Lloyd Hood, Gunaikurnai Land and Waters Aboriginal Corporation**

The Strategy will play a significant role in returning water entitlements to Traditional Owners, as well as strengthening and developing agreement-making between Traditional Owners, water authorities and other government agencies. To do so, the proposed Strategy actions will:

- increase Traditional Owner access to water entitlements
- remove barriers to Traditional Owners' use of water
- support partnerships between Traditional Owners and water managers
- establish longer-term goals for place-based, integrated land and water management.

## 5.4 Six Principles to guide allocation of water to Traditional Owners

As water becomes available, the Strategy should guide the return of water to Traditional Owners. The following Six Principles have been developed by the Traditional Owner Partnership, and endorsed by the Strategy's consultative committee as actions for the Strategy:

Water sharing principles<sup>18</sup>:

1. Each Traditional Owner will receive entitlements to water in rivers and aquifers on their Country for their self-determined use.
2. Where a water source is shared between more than one Traditional Owner group, water rights from that water source (a river, or aquifer) will be similarly shared.
3. Where more than one party claims an interest in new water entitlements for a river or aquifer (via water substitution, unallocated water and formerly allocated water), Traditional Owners will receive a negotiated and equitable share of the available water.
4. The share of unallocated water going to Traditional Owners should be allocated as a priority (without waiting for remaining shares to be allocated via auction processes or similar) (see [Action 4-7](#), [Action 4-8](#) and [Action 4-9](#)).

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<sup>18</sup> Note these principles do not seek to override the required process and considerations under the Water Act for any decisions about how water is allocated.

5. Water substitution arrangements that free up water in rivers for Traditional Owners should be pursued in water systems on the Country of each Traditional Owner group.
6. As new water supplies are built (such as recycled water systems and desalination plants), the Victorian Government will seek to provide Traditional Owners with access to a share of these new supplies, directly or via substitution for river water. The share will be determined on a case-by-case basis based on a business case developed in partnership with Traditional Owners, and other relevant parties, and using the Cultural Benefits Framework to quantify Traditional Owner benefits (see **Figure 6.3** and **Action 9-1** and **Action 9-6**).

## 5.5 Introducing the Cultural Benefits Framework

The Traditional Owner Partnership, with support from DELWP, embarked on a project to identify and communicate the multiple benefits that can be achieved from enabling Traditional Owner management and ownership of water. The purpose of the project was primarily to inform government and its delivery partners' decision making, providing a framework to demonstrate how changes in ownership and management can result in benefits across multiple scales, and to introduce a methodology to both identify and estimate the expected benefits.

Understanding the benefits and having a process for assessment elevates the quadruple-bottom-line assessment. While commodity-based claimants to water resources (e.g. irrigated agriculture, mining, urban users) have relatively well-accepted ways of measuring the benefits that come from water access, a means for assessing the benefits for water ownership and control for Traditional Owners has not been undertaken in Australia. It is particularly important to both not monetarise the assessment, nor subject water restorative justice for Traditional Owners to a populace approach. The cultural benefits framework shows that while Traditional Owners have not been afforded access to water – which of course leads to a lack of any evidence base in measuring the benefits of reversing this historic injustice – that benefits from rights restoration has been demonstrated in Australian and international literature, and that these benefits are likely to result in spill over benefits for the wider community.

Bringing this evidence together into a framework demonstrates how changes in ownership and management can result in benefits at the scale of individuals, at a Traditional Owner Nation level, and also creates a ripple effect that extends to the wider community and, in some cases, the whole of Victoria and Australia.

### Identifying the multiple benefits

The framework identifies and communicates the multiple benefits from Traditional Owner management and ownership of water in a way that can inform government decision making whilst ensuring these benefits are expressed and measured in ways that are meaningful for Traditional Owners, through the three dimensions of Healthy Country, Healthy Mob, Sovereignty and Self-determination. It is intended that this framework (Cultural Benefits Framework, Traditional Owner Partnership and Alluvium, 2022) be used by government departments (including the Department of Treasury and Finance and the Department of Environment, Land, Water and Planning), other public sector bodies (such as water authorities and catchment management authorities), and delivery partners to guide decisions that would have impact on Traditional Owner access to water, including restoration of water rights, and management of water, including through the Central and Gippsland Region Sustainable Water Strategy.

The objectives of the framework when applied is to demonstrate:

- The health, wellbeing and economic benefits for Traditional Owners associated with the ownership and management of water.
- Benefits (including water security) to other water users (e.g., the environment, recreational users, irrigators and others) as a result of Traditional Owner ownership and management.
- The flow-on implications for quadruple-bottom-line (see **Section 9.1**) outcomes for the Central and Gippsland Region.
- Contributions to mobs as well as meeting Government priorities and obligations such as the Treaty process, Closing the Gap, the Victorian Self-Determination Reform Agenda and legal obligations.

<b>AFFECTIVE VALUES</b>	Qualities of the resource that sustain important affective qualities, such as aesthetic appreciation, ambience, inspiration, sensory responses, ecological appreciation, spiritual realisation and emotional well-being,
<b>CUSTODIAL VALUES*</b>	Moral or cultural obligations for the care of the landscape for present and future generations. Custodial values include values associated with bequest, future options and the transmission of knowledge and learning.
<b>FUTURE USE VALUES*</b>	Includes commercial or enterprise development aspirations.
<b>IDENTITY VALUES*</b>	Sites or features of the resource that contributes to self or group identification.
<b>PLACE-BASED VALUES*</b>	Places that are dependent upon the resource that are significant or valuable for their existence.
<b>PRACTICE-BASED VALUES</b>	Qualities of the resource or location that is necessary to support personally, socially or culturally important practices, such as recreational use, resource harvest or spiritual and ceremonial practice.
<b>RELATIONAL VALUES</b>	Contributions of a site or feature of the resource that sustains, represents or embodies a relationship to historical or spiritual connections with the landscape, identity, genealogy, law and custom as a whole.
<b>SOCIAL COHESION</b>	Sites or qualities of the resource that contribute to community connectedness, social interaction, trust, inclusion, sense of belonging and the reduction of conflict within a community.
<b>WELL-BEING VALUES</b>	The qualities of the resource or location that contribute to physical and mental health, therapeutic activity and quality of life.

Figure 5.9: Values adopted by the Traditional Owner Partnership



The values in **Figure 5.9** can be grouped into three key themes: Healthy Country, Healthy Mob and self-determination and sovereignty. Some values occur in more than one category. These three themes are also adopted in the *Cultural Water for Cultural Economies report* (O'Donnell et al 2021).

### Healthy Country

Country is the lifeline that sustains Mob. It is the source of all life and provides all the essential resources for survival. Everything on Country is connected. There is no separation between landscapes, waterways, natural and cultural resources and people. In order for Country to keep providing the resources and sustaining life as it has always done, Country needs to be healthy. The health of individual species is important but because everything is connected, Healthy Country is critical. Having Healthy Country means individual species and resources of value will be looked after. Traditional Owners have cultural and moral obligations to care for Country. To protect and heal the damage of the past and to protect Country for future generations. Obligations to care for Country connect people across communities and language groups and extend across the landscape (MLDRIN et al. 2017)

Country is the connection to the past, to ancestors, to history and to the future. This connection is ongoing and has never been broken. Features on the landscape provide a direct connection to ancestors and the past. Maintaining values and sites on Country are important to maintain this connection to the past. Culture is embedded in Country and is foundational to identity. Continuing cultural practices link people to ancestors through shared customs. To continue these cultural practices, it is essential that Country is healthy. Many resources used in cultural practices rely on healthy Country and the protection of important places to make them available for use.

### Healthy Mob

The wellbeing of Mob is about more than just physical health and security. There are many elements to wellbeing. A key pillar of wellbeing is maintaining strong spiritual and cultural connections to Country. This can only be done through the ongoing practice of culture which is dependent on a Healthy Country. The wellbeing of Mob is also dependent on having stable and secure employment and housing. Caring for Country can provide opportunities to secure the future economically and contribute to wellbeing.

### Self-determination and sovereignty

Victorian Traditional Owners maintain that their sovereignty has never been ceded (*Advancing the Treaty Process with Aboriginal Victorians Act 2018*). Traditional Owners have a cultural obligation to care for Country and invaluable knowledge of Country through sustained traditional practices and management approaches. Country that is managed in harmony with traditional practices is healthy, having sustained people for thousands of years. This long-standing knowledge of and occupation of Country provides the basis for Aboriginal rights to use, manage and control Country. Through these rights, work can be progressed to heal and protect Country, to improve the wellbeing of Mob, to maintain and pass down cultural practices and traditions. The right of Aboriginal groups to use, manage and control Country ensures that Country can be managed utilising traditional knowledge which inherently results in sustainable use. Self-determination is a key component of the United Nations Declaration on the Rights of Indigenous Peoples.

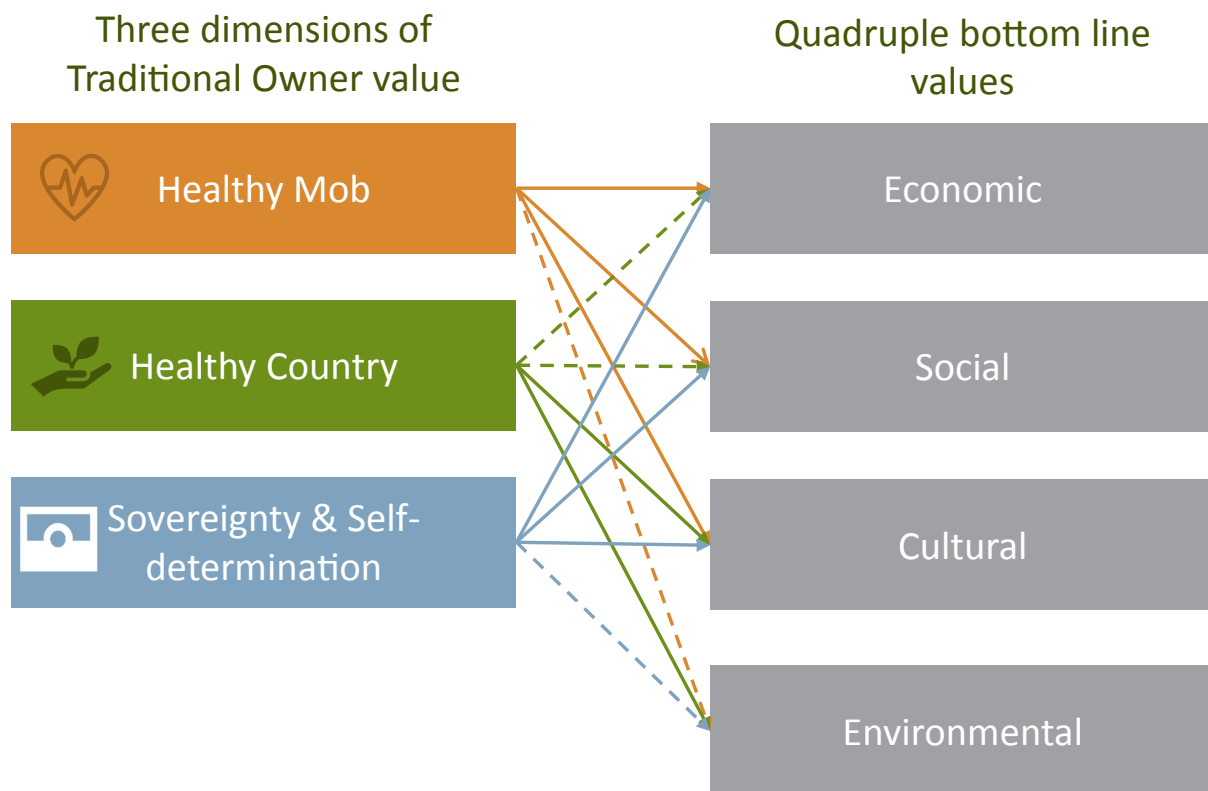


Figure 5.10: Alignment with the Quadruple-Bottom-Line Approach

## 5.6 Water rights

*Access to water for Wadawurrung Traditional Owners is a major aspiration for us. It enables economic development for the Wadawurrung but it also meets obligations around the overall health of the Country. This also contributes to self-determination.*

— Michael Cook, Wadawurrung

Cultural flows are water entitlements that are owned or managed by Traditional Owners in accordance with their own laws and cultural protocols. Each Traditional Owner group will determine how to use its own water entitlements, including caring for Country and cultural heritage, providing for healthy people and wellbeing, and delivering economic benefits and sustainable development.

Groundwater, like all water sources, is very important to Traditional Owners. However, to date, discussions with government on cultural values and uses of water have focused on surface water, not groundwater. This does not reflect the cultural value of groundwater. The Strategy gives the opportunity to acknowledge the cultural importance of protection of groundwater to Traditional Owners and bring this important natural resource into the discussion. It is proposed that Traditional Owners must be included in the assessment of any future applications for groundwater extraction and transfer (both within and between Traditional Owner Countries).

## Water rights and entitlements in Victoria

Water rights are defined and allocated under Victoria's *Water Act 1989*:

- **section 8 rights** — the right to take water from a waterway, groundwater bore, spring, soak or dam on or adjacent to the landholder's property, for domestic and stock purposes (no fees and charges).
- **section 8A rights** — the right of Traditional Owners to take water from a waterway, groundwater bore, spring, soak or dam on or adjacent to land that is the subject of a Traditional Owner Settlement Agreement, for purposes related to the cultural values and uses specified in the agreement (no fees and charges). These rights are expressed in Traditional Owner Settlement Agreements. Currently none of the Traditional Owner Partnership corporations is able to access section 8A rights, as the process requires both having a Recognition and Settlement Agreement and having section 8A rights written into that agreement.
- **section 51 licence** — the right to take water from a waterway, dam or groundwater bore under the conditions specified on the licence (including a specific location for use). This licence can be transferred to another user (traded) and includes fees and charges for water use.
- **water share** — the right to receive water allocations in a declared water system (such as the Thomson-Macalister system). Water share owners do not need to own land, water shares can be transferred (traded), and there will be annual fees for water share ownership.
- **water allocation** — the physical water available under a water share, allocated by a water corporation in a declared system. Water allocation owners do not need to own land (unless they wish to use the water on land), water allocation can be transferred (traded), and there will be annual fees for water use.

Other rights may also be necessary (such as a water-use registration, which enables water to be used on land; a works licence, which enables infrastructure such as a water pump or a groundwater bore to be constructed; or a delivery share, to receive water through a water corporation's infrastructure).

## 5.7 Traditional Owner share of water

### Unallocated water

Across Victoria, most surface and groundwater systems are fully allocated, which means that no new water rights can be issued without:

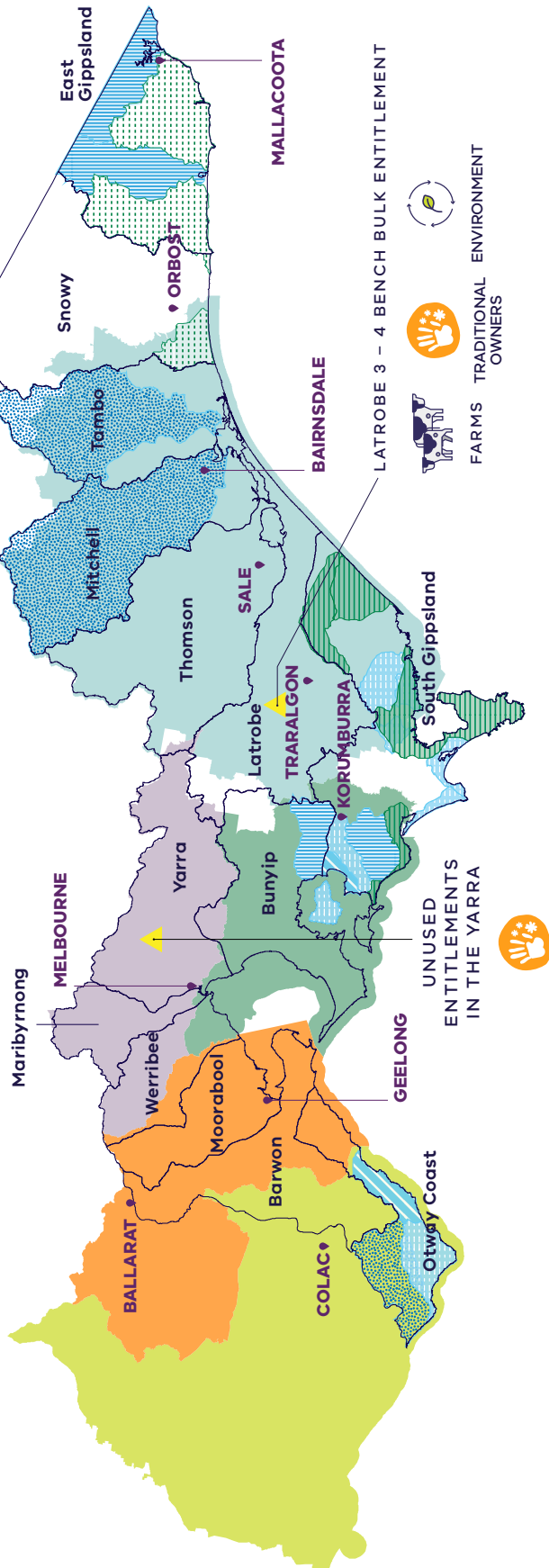
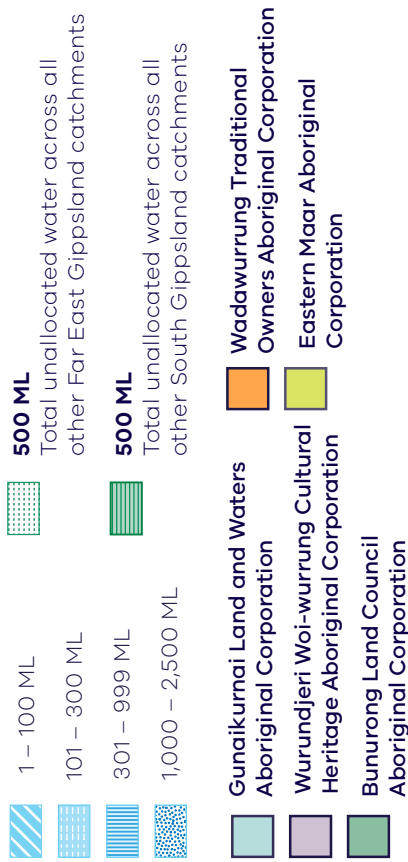
- compromising the future sustainability of the water resource
- freeing up surface water and groundwater through substitution
- reallocating water that was allocated for a purpose that no longer exists.

Unallocated surface water volumes are illustrated in **Figure 5.11**. Unallocated groundwater volumes are illustrated in **Figure 5.12**.

**Notes:** The volume of unallocated river water is the total volume of unallocated water available across the catchment area. The distribution of available water within each catchment will vary, and a local assessment is required to determine if there is any unallocated water available at any particular location.

For catchments in the Central and Gippsland Region Sustainable Water Strategy area that were outside the 2011 Gippsland and Western Region Sustainable Water Strategy areas, including the Bass River and Lang Lang River catchments, the volumes of unallocated river water available have been revised, consistent with the approach taken in the 2011 strategies. This includes consideration of the risks posed by climate change, and a range of sustainability principles (refer to Policy 31 of the 2011 Gippsland Region Sustainable Water Strategy). The revised volume available is 300 ML in the Bass River catchment, 200 ML for French Island and 100 ML for the coastal catchment between Lang Lang River and Bass River catchments. The revised volume available in the Lang Lang River catchment is proposed to be 500 ML.

## UNALLOCATED RIVER WATER AND ENTITLEMENTS AVAILABLE FOR REALLOCATION



**Figure 5.11: Unallocated river water in each river basin across the Central and Gippsland Region and the location of water entitlements (held by public agencies) that are no longer needed for their current purposes**

**Notes:** RAP boundaries are valid as of June 2022 and may change with any updates to RAP status.

- Gunaikurnai Land and Waters Aboriginal Corporation
- Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation
- Bunurong Land Council Aboriginal Corporation
- Wadawurrung Traditional Owners Aboriginal Corporation
- Eastern Maar Aboriginal Corporation

**GROUNDWATER MANAGEMENT UNIT UNALLOCATED VOLUME**

- < 300 ML
- 301 – 1,000 ML
- 1,001 – 3,000 ML
- 3,001 – 6,000 ML
- 6,001 – 10,000 ML

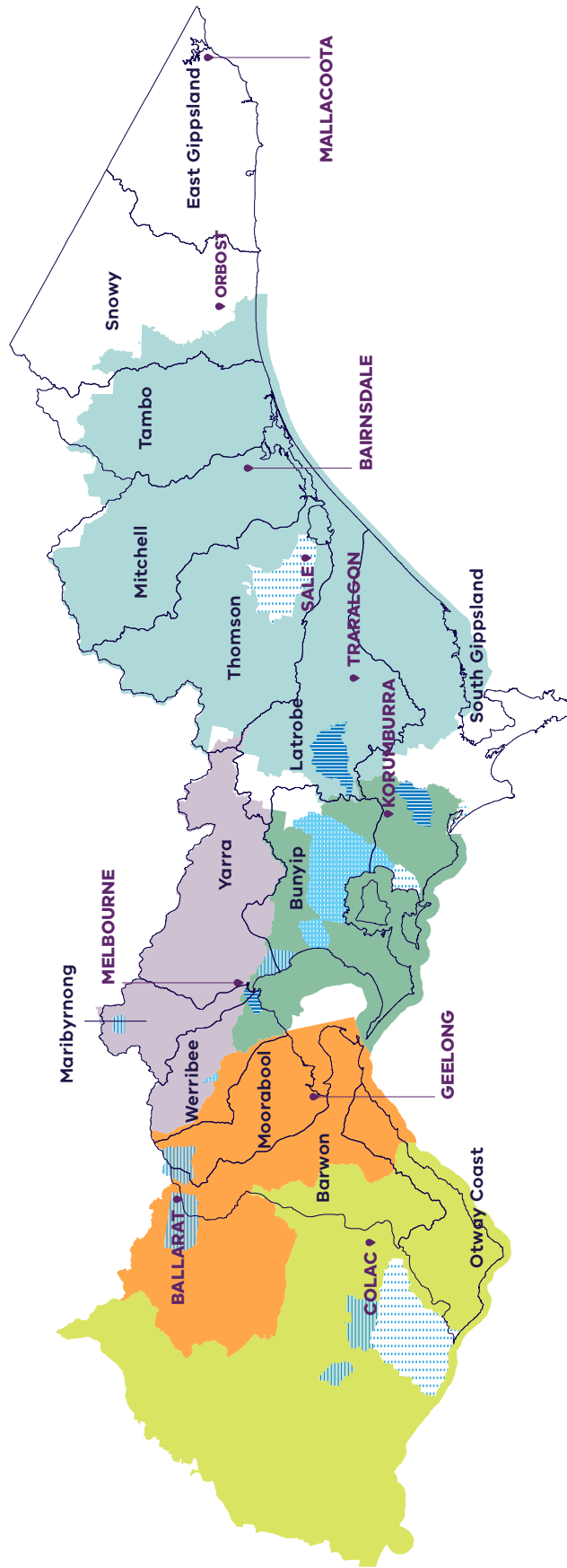


Figure 5.12: Unallocated groundwater volumes across the Central and Gippsland Region

### Proposal 5-1:

- **It is proposed that the Strategy determine the share of the unallocated water in each of these locations that will be allocated to Traditional Owners, in accordance with the Six Principles.**

Unallocated water exists at many locations across the Central and Gippsland Region. **Chapter 6** outlines proposed principles to guide the allocation of water to Traditional Owners as water becomes available across the Central and Gippsland Region.

After the share of the volume for Traditional Owners has been determined, this is to be allocated to the relevant Traditional Owners as a matter of urgency — if necessary, in advance of other water allocation processes. This water will be allocated to Traditional Owners as the most appropriate form of water entitlement, most likely under a section 51 licence, as cultural water (unless otherwise specified by the relevant Traditional Owners).

In addition, future studies may identify further volumes of water that can be allocated. To remedy the historical exclusion of Traditional Owners from water rights, after the share of the volume available to Traditional Owners has been determined, the relevant water corporation will complete the process by allocating this water to the relevant Traditional Owners under the appropriate licensing system.

### Water handback opportunity: the Birrarung

*The Birrarung has always been central to our identity. In addition to supporting Wurundjeri Woi-wurrung people's social, spiritual, and cultural wellbeing prior to European contact, the river provided a basis for our trade and economic prosperity. Moving forward we will be seeking support from the State Government ... for a dedicated water allocation. Once attained, this water will be used to support Wurundjeri Woi-wurrung people's cultural and economic health into the future.*

— Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, 2017

Water entitlements can be returned to Traditional Owners by 'gifting' water rights currently held by other parties or individuals. In 2012, after the Amcor facility (paper mills) on the banks of the Birrarung (Yarra River) in the Melbourne suburb of Fairfield was decommissioned, the company sought opportunities to gift its water licence of 2.2 gigalitres. In 2015, 0.1 gigalitres of this was transferred to the Royal Botanic Gardens and, in 2017, 0.7 gigalitres was transferred to the City of Melbourne. Rights to the remaining 1.4 gigalitres are currently held by the Department of Environment, Land, Water and Planning.

Wurundjeri Woi-wurrung have formally expressed their interest to the Department of Environment, Land, Water and Planning and Melbourne Water in the remaining 1.4 gigalitres. They have also requested a review of the decisions to allocate water to the Royal Botanic Gardens and the City of Melbourne, on the grounds that they have never ceded their rights to water, and at least one of these allocation decisions (City of Melbourne) occurred after Water for Victoria required water corporations to notify Traditional Owners when opportunities to obtain water entitlements arise. Wurundjeri Woi-wurrung are consequently requesting that the full 2.2 gigalitres be allocated to the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

### Proposal 5-2:

- **It is proposed that entitlement to 1.4 gigalitres of water in the Birrarung be returned to Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, and that the Victorian Government complete a formal review of the allocation decision for the remaining 0.7 gigalitres.**

### Water substitution

Water substitution arrangements enable water from new sources (recycled water, treated stormwater and future desalinated water) to be used instead of river water. **Section 4.1** of the Strategy identifies an adaptive approach for water substitution arrangements as part of water supply augmentations to meet emerging and future supply and demand requirements.

There is a strong case for increasing Victoria's reliance on new, climate-independent water sources. As noted by the Victorian Government's long term water resource assessment, water

security across the Central and Gippsland Region is already declining significantly. In a future where water resources are becoming more and more scarce, climate-independent water sources will be increasingly valuable.

New climate-independent sources of water (recycled water and desalination) are being prioritised for industry, irrigation and urban use, to reduce reliance on river flows. To avoid repeating the mistakes of the past, through which Traditional Owners were excluded from water ownership, it is necessary to ensure that Traditional Owners also have access to climate-independent sources of water should they wish, to support self-determination and economic development in the future.

For these reasons, it is proposed that Traditional Owners be considered as recipients of a portion of these new, highly reliable water sources as they become available, if Traditional Owner groups are interested. This share would not necessarily be an equal share as outlined in the Six Principles but would be determined on a case-by-case basis, taking into consideration the restorative justice approach of the Strategy and the size and purpose of the augmentation.

#### Proposal 5-3:

- It is proposed that all future business cases for investment in new sources of water include a commitment to hand back a proportion of water to Traditional Owners on the completion of these substitution projects. The timeline for the completion of these projects will be included in the Sustainable Water Strategy implementation plan.

#### Proposal 5-4:

- It is proposed that water returned to rivers and creeks as a result of substitution by alternative water sources will be shared equally between the environment (the Victorian Environmental Water Holder) and Traditional Owners.

**What this means:** Where new, climate-independent water sources are created to serve towns, irrigation and industry, this water will not only be used to meet future water needs but will also be used to reduce the volumes of water extracted from creeks and rivers.

## Water substitution on the Werribee and Lerderderg rivers

One of the proposals in this draft Strategy includes using treated, fit-for-purpose recycled water to substitute for irrigation in the Werribee Irrigation District and the Bacchus Marsh Irrigation District (see [Chapter 4](#)). The water that was once used for irrigation would become available for urban, environment and Traditional Owner uses (Wadawurrung and Wurundjeri Woi-wurrung). Traditional Owner entitlements should be realised through this process, and a quadruple-bottom-line assessment could bring about a fair and equitable entitlement split of any water made available. The benefits to Traditional Owners, as well as to the wider community, from increasing Traditional Owner water ownership and management will be expressed as part of the new framework being developed by the Traditional Owner Partnership.

#### Proposal 5-5:

- It is proposed that the business case for the recycled water substitution project in the Werribee and Bacchus Marsh irrigation districts include the benefits to Traditional Owners of receiving an equitable proportion of water saved as a result of water substitution.

## 5.8 Removing barriers to water rights

The range of water rights that Traditional Owners may hold in Victoria under the Entitlement Framework (see [Section 5.6](#)) come with constraints over how the water can be held and used by Traditional Owners.

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*We have to navigate this system that's been established by a society that has impacted our Country. And at the end of the day, that Country used to belong to us, and now we have to jump through these hoops to secure water, and it's not fair.*

— Michael Cook, Wadawurrung

Even when water entitlements are held by Traditional Owners, current Victorian law places significant barriers in the way of Traditional Owners using that water.

Most fundamentally, Victorian water law treats water as a commodity. This disconnects water from Country and from its Traditional Owners and is a profound problem for Traditional Owners' management of water.

In the Central and Gippsland Region, the section 51 licence water right requires reform, in order to remove significant impediments for Traditional Owners, such as:

- short-term ownership — Traditional Owners require water rights in perpetuity
- fees and charges — fees and charges are set according to economic return. Traditional Owners' use of water may not produce either a direct or commensurate financial return, which makes it impossible to pay these fees
- land access — section 51 licences must be associated with land, and a single point of take. Not all Traditional Owners have land rights, and even where Native Title or a Traditional Owner Settlement Agreement does exist, these arrangements must be more flexible, rather than fixed to one take-and-use point, in order to bring cultural benefits.

Our greater understanding of the barriers that prevent Traditional Owners from holding water under a section 51 licence has come largely from the handback of water to the Gunaikurnai. For the Strategy to remove barriers in ways other than through a section 51, the Traditional Owner Partnership will work with the water sector to develop actions as part of the Strategy.

### Proposal 5-6:

- **It is proposed that the Traditional Owner Partnership work with the water sector to recommend ways to remove barriers to water rights, including section 51 licences.**

### Fees and charges

Water licences and water shares require the payment of annual fees. Traditional Owners use water in numerous ways, many of which do not generate a direct financial return. This makes it very difficult for Traditional Owners to pay fees and charges associated with water use. In other states of Australia, this has led to a decline in an already low level of water entitlements held by Traditional Owners, who have had to sell their water to cover these fees. Where water is used for cultural purposes, which are defined as being not purely commercial uses (such as irrigation as part of an established, for-profit enterprise, or the temporary trade of water), Traditional Owners should not be charged water-use fees. This is currently the agreed position of Southern Rural Water through a board decision made in 2020 before the handback of 2 gigalitres of water to the Gunaikurnai on the Wangangarra / WyYung (Mitchell River). This waiving of fees is an essential step towards water justice and self-determination for Traditional Owners in the Central and Gippsland Region.

### Proposal 5-7:

- **It is proposed that, where Traditional Owners in the Central and Gippsland Region hold section 51 licences expressed as 'cultural water', there will be no annual fees or water usage charges.**

### Access to land

Applications for section 51 licences require the applicant to specify the land on which the water will be used. However, not all Traditional Owners have rights to land, which can be Native Title, freehold land or Traditional Owner Settlement Agreement.

There needs to be an urgent review of section 51 licence regulations to create more flexibility for Traditional Owners to nominate the land with which the licence would be associated. In the short term, Traditional Owners should also be able to establish an access agreement with a landholder (such as Parks Victoria, the Department of Environment,



Land, Water and Planning, local government, a water corporation, or a private landholder) for the purposes of allocating water to Traditional Owners under a section 51 licence.

#### Proposal 5-8:

- It is proposed that, where Traditional Owners do not hold rights to land (via Native Title, Traditional Owner Settlement Agreement or freehold), they may nominate land for the purposes of the section 51 licence to which they have an access agreement with the landholder (such as Parks Victoria, the Department of Environment, Land, Water and Planning, local government, water authorities or private landholders).

#### Proposal 5-9:

- It is proposed that, where Traditional Owners do not have existing access agreements, this process be expedited as part of the SWS.

## 5.9 Enduring partnership agreements with Traditional Owners

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*Through the SWS process I think we can achieve these goals together. At the moment, we rely on partnerships and support, but at the end of the process we kind of hope that we won't need any more support to secure water for us and our family.*

— Michael Cook, Wadawurrung

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*Our aspiration is to be structurally involved in each level of government regarding the decision making and management of our lands and waterways. We want this to be standard practice, not the exception.*

— Aunty Margaret Gardiner, Wurundjeri Woi-wurrung Elder

Water for Country is about much more than the ownership of water by Traditional Owners. The Traditional Owner Partnership has developed a wide range of objectives for sustainable, long-term water management across the Central and Gippsland Region. The heart of this transformative approach is the creation of true partnerships between water authorities and Traditional Owners. This is the only way to ensure that Traditional Owners are genuinely understood to be, and treated as, rights holders — not stakeholders — and to comply with the Department of Environment, Land, Water and Planning's policies on Aboriginal self-determination and the Treaty process. Traditional Owners have managed water sustainably in Victoria for tens of thousands of years, and we want to bring our knowledge and skills to participate fully, as partners, in water resource management.

The way water is managed and used will not return to the ways of pre-colonial days. The Traditional Owners represented by the partnership recognise this but seek an equal say in how water is managed on Country. This includes an equal say at legislative, policy, planning, implementation, and practice levels. To participate at each of these levels requires acknowledgment of, and management towards, the recognition, preservation, and promotion of culturally significant values.

Having an equal say on how water is managed on Country also requires adequate and continuing resourcing, so that Traditional Owner groups can work alongside legislators, policy makers and land managers to embed culturally appropriate objectives and outcomes in the management of Victoria's water.

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*We have a different view on our waterways through the management of water, based on the plants and animals that need it to survive, based around our heritage, that's part of our responsibility for caring for Country.*

— Tim Paton, Gunaikurnai

#### Proposal 5-10:

- It is proposed that new funding be allocated to employ Traditional Owner cultural water rangers, to care for Country on Native Title, Traditional Owner Settlement Agreement and Registered Aboriginal Party land.

The Strategy will also include an implementation plan that sets out priority water-related actions for the next 10 years. This program of work provides an opportunity to not only establish long-term, meaningful partnerships between water authorities and Traditional Owners, but also to adequately resource Traditional Owners to undertake the necessary work of implementing the Strategy.

The Strategy should establish clear expectations that all water corporations and government agencies involved in managing water resources or monitoring the health of Country will enter partnership agreements with each Traditional Owner group on whose Country the agencies are working. These partnership agreements should include formal resourcing arrangements so that Traditional Owners can plan and manage the work in a sustainable and continuing way.

#### Proposal 5-11:

- It is proposed that there will be further reform to the *Water Act 1989* to require the establishment and resourcing of Traditional Owner Partnership agreements between water corporations, catchment management authorities, and other government agencies involved in managing Country and Traditional Owners.

There should be a clear expectation that government and its delivery partners agree upon arrangements with the Traditional Owners on whose lands they operate.

#### Proposal 5-12:

- It is proposed that water corporations, waterway managers, government agencies and public land managers enter into specific partnership agreements with the Traditional Owners of the Country on which they operate. These partnerships will be developed and resourced in a holistic way with each Traditional Owner group, with new funding for implementation of Strategy actions on Country.

**What this means:** As more government agencies begin working with Traditional Owners, the responsibilities of and expectations on Traditional Owners have increased. Formalising these arrangements through partnership agreements with each Traditional Owner group ensures that Traditional Owners can adequately plan and resource the necessary work.

The current statements of obligations under the *Water Industry Act 1994* require water corporations and catchment management authorities only to report on their involvement with Traditional Owners.

#### Proposal 5-13:

- It is proposed that the Department of Environment, Land, Water and Planning, together with the appropriate Traditional Owner groups, review all water corporation statements of obligation (under the *Water Industry Regulatory Order*) to ensure that they explicitly include requirements to resource Traditional Owner participation in water planning, management, and monitoring work.

**What this means:** Water authorities are currently required to seek approval from the Essential Services Commission for their pricing proposals, which are tied to their formal obligations. Ensuring that these obligations include the necessary resourcing of Traditional Owners will enable both water authorities and Traditional Owners to carry out this work in a sustainable way in the long term. However, in order to understand the resourcing needs of Traditional Owners, there must be an initial investment in each Traditional Owner community to map out objectives and associated costs. It is not possible, or appropriate, for water corporations to undertake this work. Traditional Owners must be empowered to undertake this work.

## 5.10 Water justice in the long term

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*The rivers that flow on Gunaikurnai Country, we believe belong to Gunaikurnai People, and we should then have a huge say in who gets what and how. We should be the first people invited to the table ... We think that we can look after the rivers better. When you have a look at some of the rivers that have irrigation, it's all mud. It's full of carp. That's not what we're about. We used to be able to drink out of that, our people. We may never go back to that, but we just want a larger say in how things work on our Country. I don't know if we're taken seriously by governments, and we should be.*

— Uncle Lloyd Hood, Gunaikurnai Land and Waters Aboriginal Corporation

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*We hope that the SWS can support a just reform agenda.*

— Water Unit, Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation

### All Country is connected

The Central and Gippsland Region Sustainable Water Strategy is a tremendous opportunity to transform the foundations of water resource management in a way that recognises Traditional Owner rights and interests in water. The combination of increasing Traditional Owner water rights and entitlements and meaningful and well-resourced partnership agreements between Traditional Owners and government agencies involved in water management and monitoring the health of Country will be a significant step towards self-determination and restorative justice.

However, the Strategy is also a forward-looking document, with a plan for the next 10 years of water management and a broader vision for the future. The Traditional Owner Partnership has developed a wide range of objectives to bring water justice in the long term, and to enable Traditional Owner decision-making and management of water on Country in the Central and Gippsland Region.

The Strategy includes a cultural landscape approach to water decisions and measurement, including better integration between land and water policy and competing land uses. Management systems based on Western science typically deal with land and water in a fragmented way: separate efforts to preserve threatened or endangered species, and segmented management of land, water, and competing land uses. Traditional Owners consider that all Country is connected, and that water cannot be considered in isolation of the land around it — for example, an upper reach is connected to the lower wetlands and beyond.

### Proposal 5-14:

- It is proposed that waterways named in the Strategy will include Traditional Owner names (as directed by each Traditional Owner group on a case-by-case basis).

### Place-based connected land and water management

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*Our involvement with the Wilip-gin Birrarung murrong Act has raised expectations amongst our community about what is possible if we work together in partnership.*

— Aunty Margaret Gardiner, Wurundjeri Woi-wurrung Elder

Victoria has two pieces of place-based legislation that specify Traditional Owners as rights holders (including preambles in many languages): the *Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017* and the *Great Ocean Road and Environs Protection Act 2020*. Both statutes establish the foundations for partnership arrangements with Traditional Owners in a modern collaborative governance model that is framed around the protection and management of revered, iconic landscapes, in a way that integrates the management of land and water.

The Traditional Owner Partnership considers that place-based legislation reflects the connection to Country of Traditional Owners, and the laws and cultural protocols of Traditional Owners, which have been developed over millennia of caring for

Country. The partnership is not advocating for the exact replication of the two existing statutes, as each has strengths and weaknesses, but rather is emphasising that this model of legislating for connected land and water governance should be widely adopted within the Sustainable Water Strategy region and developed in partnership with each Traditional Owner on Country.

**Proposal 5-15:**

- **It is proposed that each Traditional Owner group be resourced to participate in the development of place-based legislation, named in relevant place-based legislation, and resourced to undertake prescribed responsibilities.**

**Image:** Bass River, Bass, Bunurong Country

