


6. Water justice for Traditional Owners



Image: K road cliffs, Werribee River, Border of Wadawurrung and Bunurong Country



Together we have made significant steps toward strengthening the role of Traditional Owners¹⁹ in caring for Country but there is still much more to be done to enable self-determination for Traditional Owners and Aboriginal Victorians. Traditional Owners have cultural, spiritual, and economic connections to water, but have been largely excluded from water planning, management, and ownership since colonisation. This Strategy recognises these challenges and takes the next step by committing to return water entitlements to Traditional Owners without disrupting the rights of existing water entitlement holders.

Traditional Owners have never ceded rights to land and waters and should have the opportunity to determine where, when, and how they use water on Country. Consistent with commitments in Pupangarli Marnmarnepu (DELWP 2019a), the Department of Environment, Land, Water and Planning also recognises that Traditional Owners, including those not formally recognised under the Aboriginal Heritage Act 2006, Traditional Owner Settlement Act 2010 or Native Title Act 1993 (Cth), will set their own priorities, and the Department of Environment, Land, Water and Planning will respect their decision-making processes – this is often referred to as self-determination. Decisions on water management and planning relating to Traditional Owners should be based on their free, prior, and informed consent. Traditional Owners should be joint decision-makers

in water planning and management; they are not stakeholders. It is important to recognise that, as with land, a system of entitlements and rights has been applied to water without respect for Traditional Owners' ancestral rights and obligations to water.

Treaty in Victoria

The Victorian Government is committed to acknowledging the truth of Victoria's history and laying the foundations for new, positive relationships between the State, Aboriginal Victorians, and non-Aboriginal Victorians.

The State of Victoria will work with Traditional Owners and Aboriginal Victorians as equal partners on this journey. It is important for government not to pre-empt what may be in a treaty – instead, it must

¹⁹ The Department of Land, Water and Planning is committed to restoring water justice for Traditional Owners, inclusive of groups without formal recognition. While input was limited, we will continue to engage and provide support to enable Traditional Owners in the Far East Gippsland region to access the water management and ownership opportunities in the Strategy, in a self-determined way.

listen to the aspirations of Traditional Owners and Aboriginal Victorians expressed through the treaty process, and work together to deliver a treaty or treaties that will benefit all Victorians. Policies and actions in this Strategy will be regularly reviewed and updated in line with outcomes from the treaty process.

Treaty is an opportunity to recognise and celebrate the unique status, rights, cultures and histories of Traditional Owners and Aboriginal Victorians.

Closing the Gap

The National Agreement on Closing the Gap commits Parties to negotiate a new Inland Waters target. The Inland Waters target is expected to be agreed by Joint Council on Closing the Gap in July 2022. At the time of writing, the target was still being negotiated between the Commonwealth, states and territories and the Coalition of Peaks. The Strategy will play a key role in guiding local action to ensure Victoria achieves this target.

6.1 Our commitment to water justice

For countless generations, Traditional Owners have cared for Country and waterways, maintaining the health and flow of water, and sustaining connections to place, each other, animals, culture and Country. However, since the colonisation of land and waters, Traditional Owners have largely been excluded from the management, allocation, and ownership of water and water landscapes. Traditional Owners have never ceded rights to water, yet Traditional Owners in the Central and Gippsland Region own less than 0.2 per cent of water rights. As a result, Traditional Owner water values and uses have gone unrealised. This means that Victoria's water management and planning have been denied the benefits of traditional ecological knowledge in their use and application (see [Figure 6.1](#)).

The Victorian Government is committed to addressing this historical and ongoing exclusion through a restorative justice approach. We will do this by working with the water sector to strengthen the role of Traditional Owners in water planning and management and by returning water entitlements to Traditional Owners, from the limited available sources. This will be prioritised now and as water becomes available in future. Returning water and decision-making to Traditional Owners on their Country can help to revive culture and contribute to an improved sense of identity. This has wide-ranging

benefits that extend to the community and State (see [Section 6.2](#) below).

Returning water entitlements to Aboriginal ownership is part of addressing the historical and ongoing legacy of colonisation and Aboriginal exclusion from land and water ownership and management. This is called a restorative justice approach.

We will continue to work with Traditional Owners, and in the process consult with stakeholders, to determine ways to meet Traditional Owner objectives for water with a clear and immediate opportunity for where unallocated water is identified. This will also identify where infrastructure projects free up additional water through measures such as reduction in losses due to evaporation and seepage and, ultimately, where larger scale augmentation is brought online.

In our commitment to water justice, we will:

- prioritise opportunities to return water entitlements to Traditional Owners in the region, as water becomes available, without compromising the needs of other water users, including farmers
- confirm with water corporations to waive relevant fees where Traditional Owners hold water entitlements that do not add to the costs of water management in a system
- pay the associated fees and charges where Traditional Owners hold water entitlements that have inherent water management costs and water is not used for commercial purposes (see [Section 6.5](#))
- explore opportunities to express cultural values through returning water to the environment and involving Traditional Owners in the management of environmental water (see [Chapter 8](#))
- empower Traditional Owners' voice in all aspects of water management through the implementation of this Strategy
- consider how to reduce reliance on river water for urban supply to enable river water to be returned to the environment and Traditional Owners across the region as water corporations invest in water efficiency measures, IWM projects and as manufactured supplies come online (see [Action 4-2](#)).

6.2 What is cultural water?

Cultural water

Cultural water is water controlled or held by Traditional Owner groups to benefit a range of outcomes, as determined by each Traditional Owner group. A cultural water paradigm involves a holistic approach to managing and thinking about water, based on the rich, long-lasting history and knowledge of Australia's First Peoples. Cultural water management processes offer the potential to restore the condition of Country and deliver water justice to Traditional Owner groups who have been deprived of water rights and access.

A common misconception is that environmental water is interchangeable with cultural water and that simply transferring environmental water allocations to Traditional Owners is either adequate or appropriate in attempting to fulfil cultural obligations. This is incorrect. Outcomes for Country and culture are *in addition* to the positive effects of environmental watering. The cultural flows methodology is developed by and for Traditional Owners. It aims to help to embed Traditional Owners' water allocations in Australia's water management framework (O'Bryan, K. 2018). The methodology provides a powerful platform for Traditional Owner groups to assert their inherent rights to care for and make decisions about water.

Just as environmental flows are needed to sustain the ecological values of rivers, cultural flows are needed to support the cultural traditions and community development needs of Traditional Owners.



Figure 6.1: Possible benefits from cultural water

Legal obligations

The Aboriginal Heritage Act seeks to protect Aboriginal cultural heritage, including waterways and bodies of water as areas of cultural significance to Aboriginal people.

Aboriginal cultural heritage is vital to Aboriginal people and an important and irreplaceable asset for all Victorians. It carries the stories of generations long ago as well as those of people living here and now. Aboriginal cultural heritage values in our landscape are part of our identity and our legacy for future generations.

In partnership with Traditional Owners and other Aboriginal Victorians, the Victorian Government will continue to protect and manage Aboriginal cultural heritage through comprehensive planning, collaboration, and consistency in our actions. This partnership is based on mutual respect for Aboriginal cultural heritage and the cultural responsibilities of Traditional Owners.

We acknowledge that protecting Aboriginal cultural heritage goes hand in hand with land management and protecting Victoria's environment and diverse landscapes. This protection spans our waterways, coasts and alpine regions, our tall forests and heathlands, and all the biodiversity within.

RAPs are responsible for managing Aboriginal cultural heritage within their appointed areas. RAPs are appointed by the Victorian Aboriginal Heritage Council, a statutory body made up of Victorian Traditional Owners, established under the Aboriginal Heritage Act. RAP responsibilities apply to all land and waters in a RAP's appointed area.²⁰

6.3 The role of Traditional Owners in developing the Strategy

This Strategy is the first of its kind to be developed through a genuine partnership with Traditional Owners. Representatives from RAPs within the region formed a Traditional Owner Partnership that sat alongside decision-makers from government and the water industry and guided the development of the Strategy.²¹

The RAP groups within the region include (**Figure 6.2**):

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

²⁰ In addition, the Gunaikurnai Land and Waters Aboriginal Corporation is the recognised Traditional Owner entity representing Gunaikurnai people under the Traditional Owner Settlement Act. The Federal Court has also recognised that the Gunaikurnai people hold Native Title over much of Gippsland. The Eastern Maar Aboriginal Corporation manages Native Title rights for the Eastern Maar People and is currently (as of 11 May 2022) negotiating a Recognition and Settlement Agreement under the Traditional Owner Settlement Act.

²¹ All RAPs within the region were represented in the Traditional Owner Partnership, except for Eastern Maar, who self-determined to participate in waterway management and planning through other processes. Non-recognised groups in far-East Gippsland were also approached, but input was limited, however we will continue to engage and provide support to enable Traditional Owners in the Far East Gippsland region to access the water management and ownership opportunities in the Strategy, in a self-determined way.

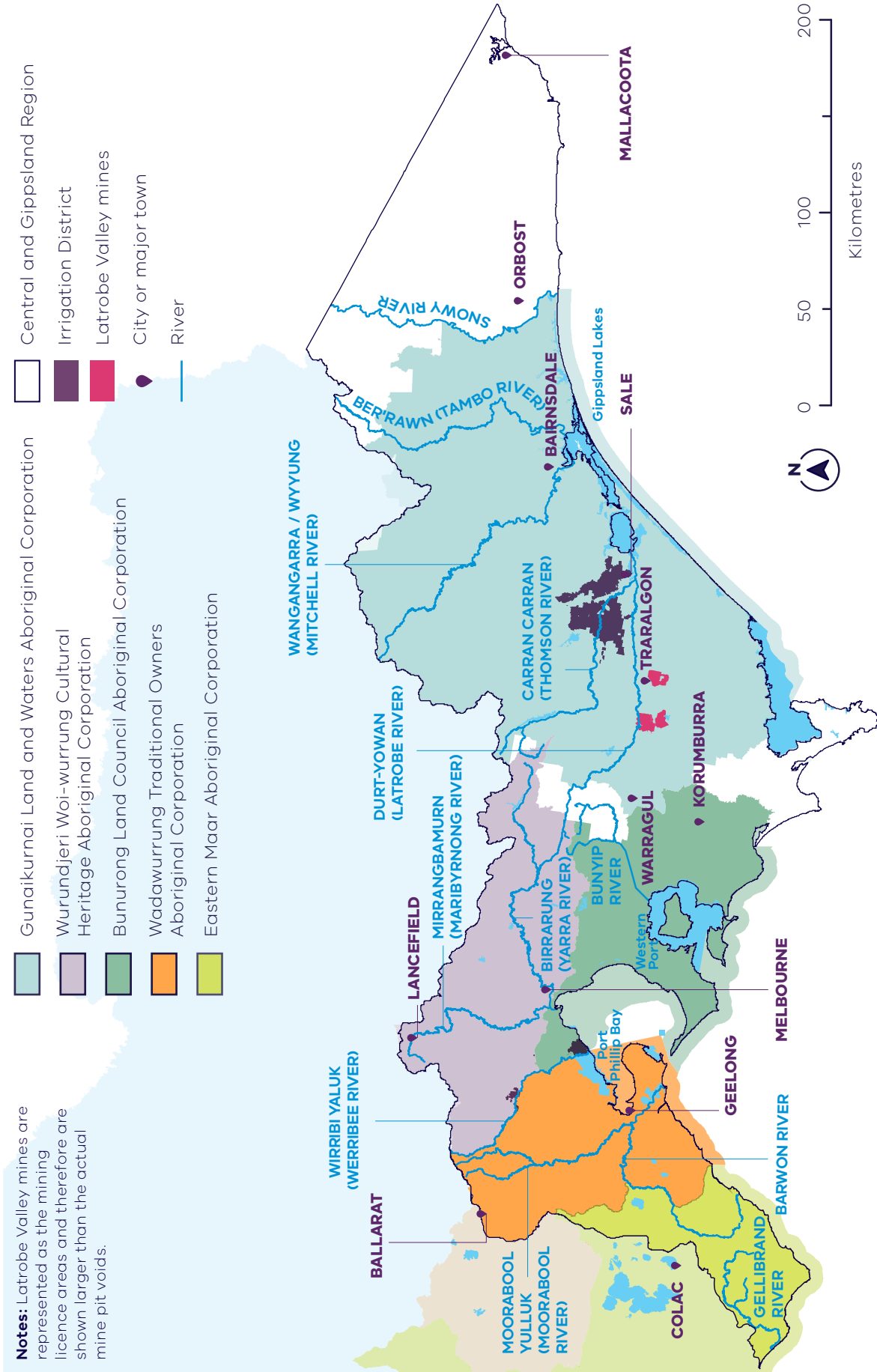


Figure 6.2: The RAPs of the Central and Gippsland Region

Reinstating Traditional Owners' meaningful voice

The Traditional Owner Partnership had a formal voice in the development of this Strategy, including representation on the Consultative Committee, policy working groups and a single nominated representative on the Independent Panel. Most significantly, the Traditional Owner Partnership wrote a chapter of this Strategy (an update of the Traditional Owner Partnership's chapter from the discussion draft of the Strategy) that sets out the expectations of Traditional Owners across the region (see [Chapter 5](#)).

The Traditional Owner Partnership identified the following key outcomes for this Strategy:

- 'water justice' is achieved in fully allocated systems
- Traditional Owner water entitlements created and protected
- Traditional Owners manage Traditional Owner water entitlements
- caring for Country is resourced in the water space
- water rules are changed, including removing barriers and increasing opportunities for Traditional Owners to own water
- future water policy and management practices incorporate input from Traditional Owners
- deliver shared benefits at a cultural landscape level
- cultural responsibility for caring for Country on waterways.

Action 6-1:
The Victorian Government will ensure that Traditional Owners are resourced in order to partner in the implementation of the Strategy's actions and policies in a self-determined way

Funding will be provided for Traditional Owners to partner and participate in a self-determined way in the implementation of this Strategy's actions and policies as they relate to Mob, Country and self-determination.



6.4 Benefits of Traditional Owner water management and ownership

Cultural values of water

Traditional Owners have a deep cultural connection with water under traditional laws and customs to care for Country under state legislation and policy. In 2008, the Australian Human Rights Commission noted that access to cultural water was vital for the wellbeing of Aboriginal people, and their ability to care for Country (Australian Human Rights Commission 2008).

In [Chapter 5](#), the Traditional Owner Partnership articulates the cultural values of water in the Central and Gippsland Region (see [Figure 5.9](#)). These cultural values include tangible natural resources and places, and intangible values such as obligations to care for Country, and the role of water in supporting physical and mental wellbeing. The values can be grouped into three themes – Healthy Country, Healthy Mob; and self-determination and sovereignty – and are the basis for the Cultural Benefits Framework described below.

Cultural Benefits Framework

A Cultural Benefits Framework ([Figure 6.3](#)) has been developed by the Traditional Owner Partnership for this Strategy, to highlight the wide-ranging benefits of Traditional Owners managing and owning water. It will be applied when water agencies across the region develop business cases for future water supply projects as part of the Water Grid Plan.

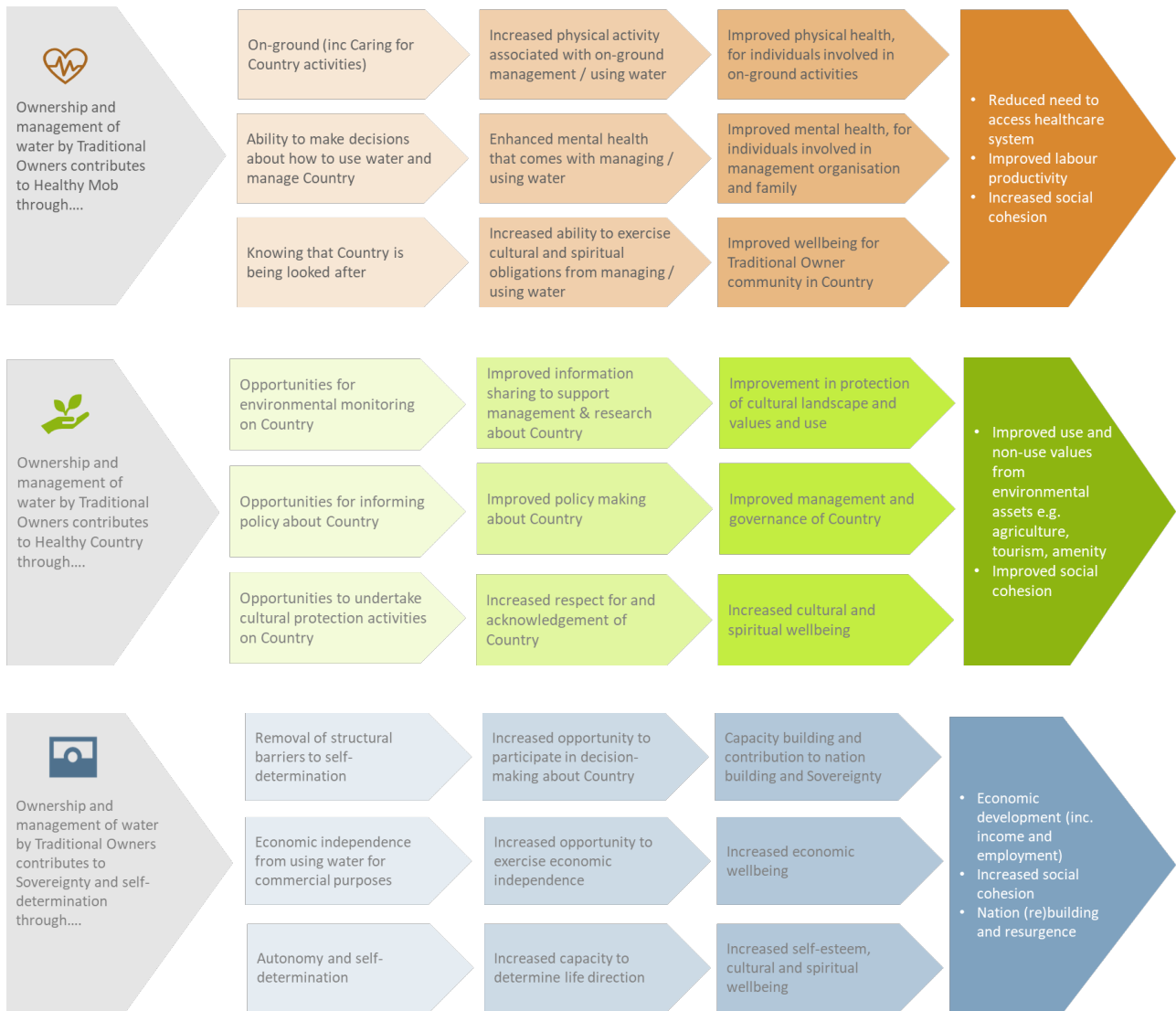


Figure 6.3: Cultural Benefits Framework (Traditional Owner Partnership and Alluvium 2022)

Action 6-2:

The Victorian Government will work with water corporations to amend their Statements of Obligations (General) to include the cultural benefits framework in water planning and management

The *Water Industry Act 1994* Statements of Obligations (General) will be reviewed, together with the appropriate Traditional Owner group(s), to develop amendments to resource Traditional Owner participation and inclusion of the cultural benefits framework in all water planning, management and monitoring work, for consideration by the Minister.



By 2025

As we continue to transition to manufactured water, water corporations consider how to reduce their reliance on river water for urban supply (see **Action 4-2**). This will enable river water to be returned to the environment and Traditional Owners across the region as they invest in water efficiency measures, IWM projects and as manufactured supplies come online.

6.5 Returning water to Traditional Owners and removing barriers to water access

Our plan:

- work with Traditional Owners to continue to identify and pursue opportunities to return water to Traditional Owners as it becomes available, without taking water off other water users, unless by agreement.
- proactively progress opportunities for Traditional Owners to access unallocated water in the region
- act to remove any barriers to enable cultural water to be held by Traditional Owners, including through short-term arrangements and longer-term proposals for legislative amendments or other changes to instruments and tools as required.
- continue to engage and provide support to enable Traditional Owners in the Far East Gippsland region to access the water management and ownership opportunities in the Strategy, in a self-determined way.

Principles guiding the return of water to Traditional Owners

Traditional Owners will access water under the existing entitlement framework. They will self-determine how this water is used, including for cultural water and caring for Country, providing for healthy people and wellbeing, and using water for economic benefits. To give greater certainty to the water sector and all water users, water entitlements for Traditional Owners will be allocated according to principles outlined below.

Image: Mouth of the Wangangarra / WyYung (Mitchell River), Gunaikurnai Country

Policy 6-1:

The Victorian Government, in partnership with Traditional Owners in the region, will apply these water sharing principles when allocating water to Traditional Owners, as water becomes available

Water sharing principles:²²

1. Each Traditional Owner group 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, or 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**).
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**, **Action 4-1**, **Action 4-2** and **Action 9-6**).



Ongoing

Action 6-3:

Implement a Traditional Owner led principle review process

The Victorian Government, in partnership with Traditional Owners, will ensure the Traditional Owner water sharing principles (see **Policy 6-1**) are being applied as intended and allow for an effective mechanism to review and update the principles as required



By 2025

Removing barriers to water access

There are many ways to access water in Victoria, but Traditional Owners tell us there are constraints and barriers to Traditional Owners using and holding water. For example, Traditional Owners want water rights in perpetuity to reflect their ongoing relationship to Country. However, water held under a section 51 licence, the most likely entitlement product available for Traditional Owners in this region, has a maximum 15 year term. Section 51 licences were not originally designed with the Traditional Owners' water rights in mind. We will continue to work with Traditional Owners to overcome these barriers and improve Traditional Owners' access to water.

²² 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.

Issues to be considered include:

- how to best meet the principles of self-determination
- potential uses of the water and how existing arrangements can support them.
- the physical and governance characteristics of the system
- types of entitlements already available to meet Traditional Owner needs
- removal of time limits on duration of ownership or management arrangements
- how water can be used on land where Traditional Owners do not have freehold title, Native Title, or other land use agreement
- streamline application process for river water or groundwater, to remove initial requirement for access to land
- whether the current legislation can support Traditional Owner needs
- the roles and responsibilities of each organisation involved in facilitating and delivering water justice.

Policy 6-2:
The Victorian Government will resolve issues that are limiting the ability of Traditional Owners to hold and use water

The Victorian Government will work through and resolve issues that are limiting the ability of Traditional Owners to hold and use water under their own legal entitlements.



Ongoing

Fees and charges

Melbourne Water and Southern Rural Water have committed to waiving relevant entitlement fees for Traditional Owners where their take and use of water does not add to the costs of water management in a system. Where Traditional Owners hold water entitlements that have inherent water management costs, the Victorian Government will pay the associated fees and charges to ensure that costs for other water users do not increase as a result of water entitlements being issued to Traditional Owners.²³

When Traditional Owners hold water entitlements and intend to use the water for purely commercial purposes that are not aligned to cultural values, the Traditional Owners will be responsible for payment of the fees and charges. This payment will take place after an agreed transitional period, during which time the Victorian Government will pay a portion of the fees and charges.

Unallocated water

We are committed to returning water to Traditional Owners. Access to unallocated water, where it exists (**Figure 6.4** and **Figure 6.5**), is one pathway to achieve this. We will work proactively with Traditional Owners to ensure they have the information and support they need to apply for unallocated water across the region (for example, identifying appropriate land parcels to be nominated in the application (see **Action 6-4**). There are recent examples where this has already taken place and water entitlements have been issued to Traditional Owners in the Wangangarra / WyYung (Mitchell River) and the Fitzroy River.

Additional guidance for decisions about unallocated water will be published to provide clarity and transparency on how all uses of water will be considered, including access to water for Traditional Owners (see **Action 4-7**). While this guidance is being developed, we will continue to facilitate applications for unallocated water by Traditional Owners. **Figure 6.6** has been developed to guide decision-making in the interim, which includes explicit consideration of Traditional Owners when applications for unallocated water are assessed.

23 A statewide policy is being developed through *Water is Life* (DELWP 2022e).

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

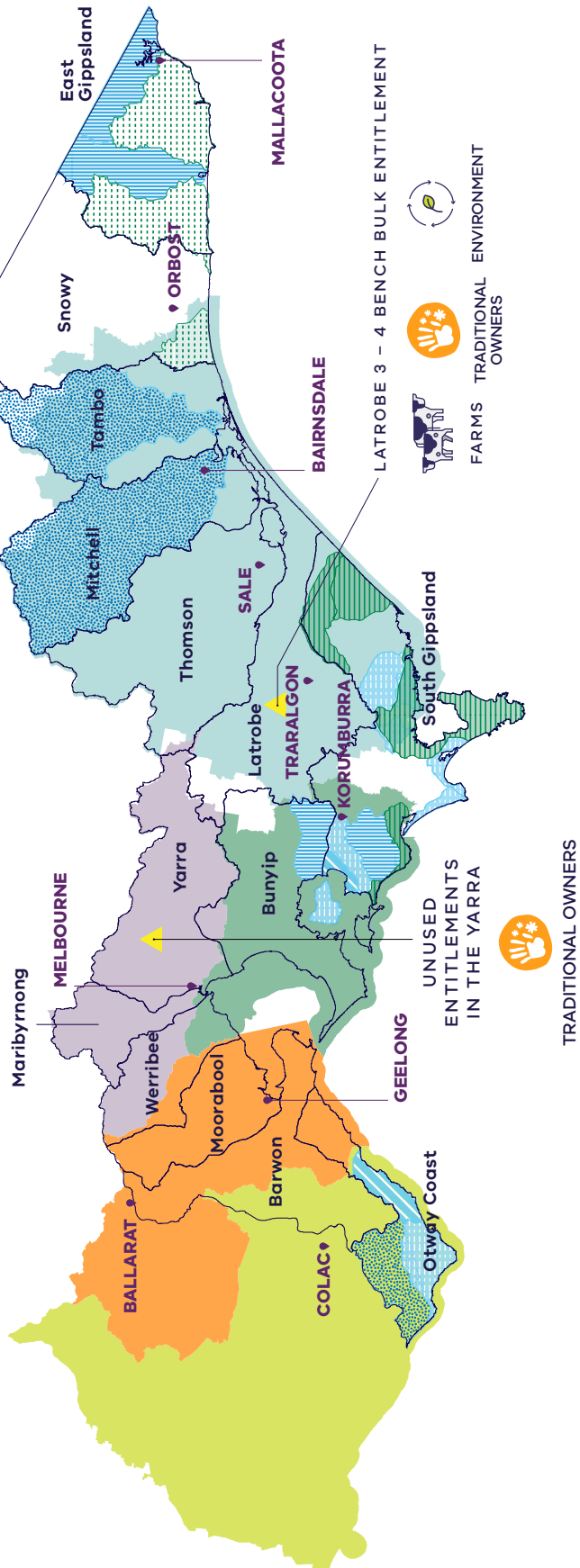
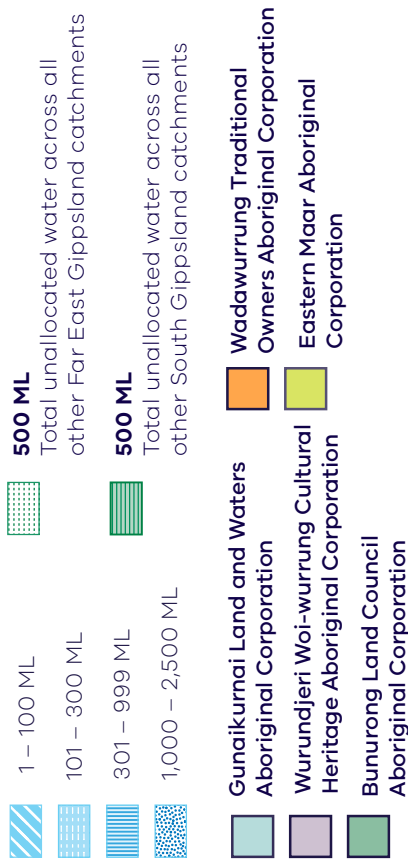
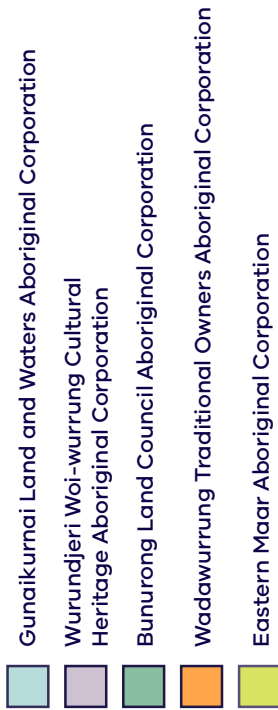
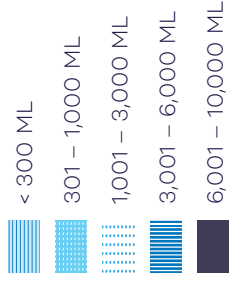


Figure 6.4: Unallocated river water in each river basin across the Central and Gippsland Region and the location of water entitlements (held by public agencies) that are no longer needed for their current purposes. The RAP boundary is current at June 2022 and may change with updating RAP status

**GROUNDWATER MANAGEMENT UNIT
UNALLOCATED VOLUME**



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

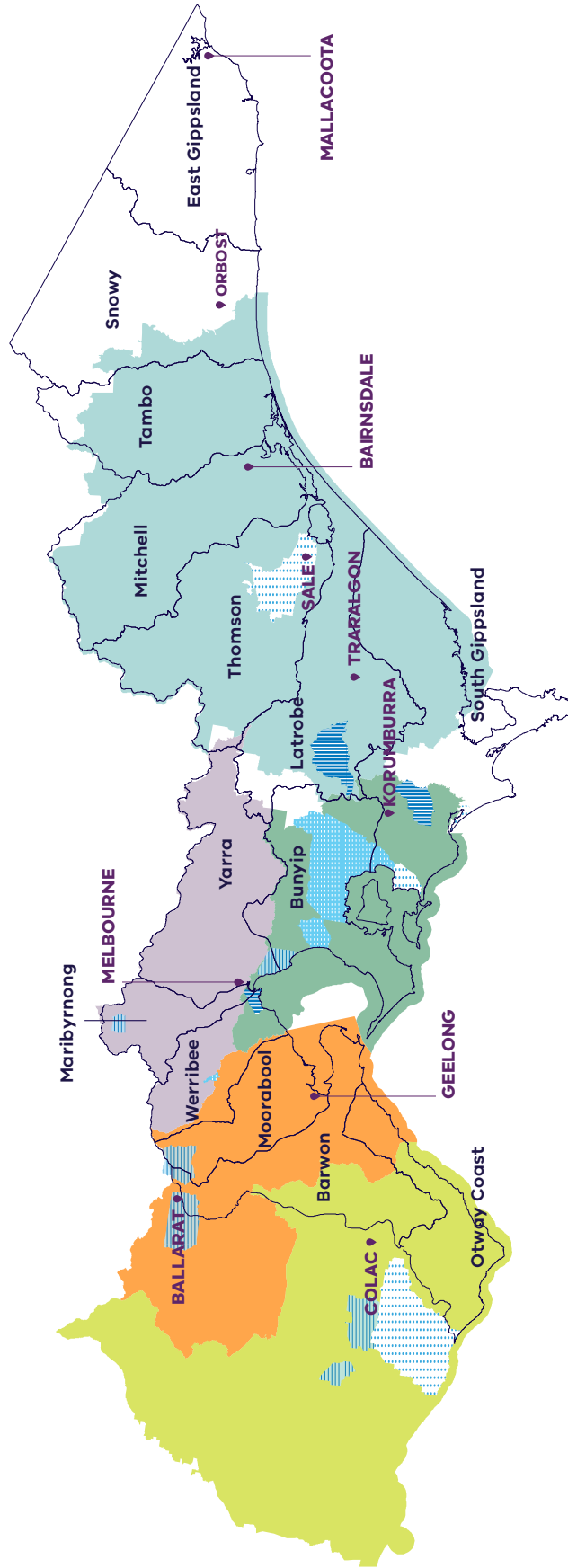


Figure 6.5: Unallocated groundwater across the Central and Gippsland Region



Figure 6.6: Proposed decision-making process for unallocated water

The structure of section 51 licences - which bundle the take and use of water to land - require the nomination of specific land parcels to support the assessment and decision-making for licence applications. To address this issue for Traditional Owners seeking entitlements for cultural in-stream use or in-aquifer use of groundwater, a review of current arrangements is required.

We will continue to work with Traditional Owners to overcome these barriers and improve Traditional Owners' access to water. This includes finding options in the short term for the assessment of any applications by Traditional Owners for take and use licences in undeclared and groundwater systems.

Action 6-4:

The Victorian Government will work to ensure that ownership of land is not a barrier to Traditional Owners applying for, or holding, water entitlements

The Victorian Government will provide more appropriate mechanisms within the entitlement framework to support access to water for Traditional Owners for cultural use purposes.


By 2025

In the interim, the Victorian Government will work with Traditional Owners and public land managers to support identification of appropriate land parcels that can be nominated for assessment and decision-making on applications for section 51 licences. This may include:


By 2022

- providing Traditional Owners with information on public land that can be nominated to enable the application and issuing of licences for cultural use and streamlining permissions with public land managers
- working with Southern Rural Water and Melbourne Water to streamline the existing approval requirements to reduce red tape for Traditional Owners wanting to apply for a section 51 licence.

6.6 Returning water to Traditional Owners

Returning water to Gunaikurnai Land and Waters Aboriginal Corporation

Policy 6-3:

The Victorian Government will return water to Gunaikurnai Land and Waters Aboriginal Corporation

The Victorian Government will enable the Gunaikurnai Land and Waters Aboriginal Corporation to access water entitlements from rivers and groundwater within their RAP boundary.



Ongoing

Over the next one to five years, the Victorian Government will:

Action 6-5:

Support Gunaikurnai Land and Waters Aboriginal Corporation applications for unallocated water, including in the Ber'rawn (Tambo River) and South Gippsland basin (including the Lung Lung (Franklin River) and Albert River)

Ensure Gunaikurnai Land and Waters Aboriginal Corporation can apply for unallocated surface and groundwater on and under Country.

This will support the government's commitment to providing access to water for Traditional Owners.



By 2022

Supporting actions

- Reallocating a share of the Latrobe 3 — 4 Bench bulk entitlement to the Gunaikurnai Land and Waters Aboriginal Corporation (see [Action 4-8](#)). The Gunaikurnai Land and Waters Aboriginal Corporation is seeking an equitable proportion of any water that becomes available.
- Develop a collaborative vision and works plan for the water future of the Latrobe Valley and its waterways for the optimal water infrastructure arrangements to meet emerging environmental, cultural, economic and social water demands (see [Action 4-15](#)).
- Improve the delivery of environmental water in the Durt-Yowan (Latrobe River) downstream of Rosedale (see [Action 8-16](#)).

Over the next 10 years, the Victorian Government will:

Action 6-6:

The Victorian Government will seek to return water in the Carran Carran (Thomson River) and Durt-Yowan (Latrobe River) to the Gunaikurnai Land and Waters Aboriginal Corporation

Seek opportunities to provide access to water in the Carran Carran (Thomson River) if new manufactured sources are brought online for the south-central system, to be used for self-determined purposes.

Pursue opportunities for entitlements in the Durt-Yowan (Latrobe River) as the Latrobe Valley transitions away from coal-fired power generation.



Long-term



Image: Lower Latrobe wetlands, Sale, Gunaikurnai Country

Returning water to Bunurong Land Council Aboriginal Corporation

Policy 6-4:

The Victorian Government will return water to Bunurong Land Council Aboriginal Corporation

The Victorian Government will return water to Bunurong Land Council Aboriginal Corporation and support access to water entitlements from various water sources within their RAP area.



Ongoing

Over the next one to five years the Victorian Government will:

Action 6-7:

Evaluate opportunities to return water to Bunurong Land Council Aboriginal Corporation currently used by the Royal Botanic Gardens

Evaluate opportunities and ways to give water to Bunurong Land Council Aboriginal Corporation, including working with the City of Melbourne and the Royal Botanic Gardens, to review the water entitlements given to them by Amcor for public use.



By 2023



Action 6-8:

Support applications for unallocated water, including in the Powlett and Bass Rivers

Ensure Bunurong can apply for unallocated water in South Gippsland catchments that include the culturally significant Powlett and Bass Rivers, and investigate other opportunities for access to surface water and groundwater in the region as they present themselves.



By 2022

Supporting actions

- The Department of Environment, Land, Water and Planning will support the further investigation of the development of water opportunities across the Bunurong Land Council Aboriginal Corporation RAP area.
- Pursue opportunities to provide access to water in the Werribee Catchment as part of the Business Case for reconfiguring the Werribee system (see [Action 4-10](#)) and by substituting river water with manufactured water in the longer-term (see [Policy 4-3](#)).

Over the next 10 years the Victorian Government will:

Action 6-9:

The Victorian Government will seek to return water to the Bunurong Land Council Aboriginal Corporation on Bunurong Country

Seek opportunities to provide access to water if new manufactured sources are brought online for urban water security for the south-central system, to be used for self-determined purposes.



Long-term

Returning water to Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation

Policy 6-5:

The Victorian Government will return water to Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation

The Victorian Government will enable the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation to access water entitlements from rivers and groundwater within its RAP boundary.



Ongoing

Over the next one to five years, the Victorian Government will:

Action 6-10:

Evaluate opportunities to return water to Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation currently used by the Royal Botanic Gardens

Evaluate opportunities and ways to give water to Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, including working with the City of Melbourne and the Royal Botanic Gardens to review the water entitlements given to them by Amcor for public use.



By 2023

Supporting actions

- the Victorian Government supports an application to return water to the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation through the transfer of a 1.4 gigalitre water licence in the Birrarung (Yarra River), formerly used by the Amcor Paper Mills and now held by the Victorian Government (see [Action 4-9](#))
- pursue opportunities to provide access to water in the Werribee catchment as part of the business case for reconfiguring the Werribee system (see [Action 4-10](#)) and by substituting river water with manufactured water in the longer-term (see [Policy 4-3](#)).

Over the next 10-plus years, the Victorian Government will:

Action 6-11:

The Victorian Government will seek to return water in the Birrarung (Yarra River) to the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

Seek opportunities to provide access to water on the Birrarung (Yarra River) if new manufactured sources are brought online for urban water security in the south-central system, to be used for self-determined purposes.



Long-term

Action 6-12:

The Victorian Government will seek to return water to Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation in the Mirrangbamurn (Maribyrnong River).

Seek opportunities to provide access to water in the Mirrangbamurn (Maribyrnong River) if new manufactured sources are brought online for urban water security in the south-central system, to be used for self-determined purposes.



Long-term



Image: Birrarung (Yarra River), Fairfield boat house, Wurundjeri Woi-wurrung Country

Returning water to Wadawurrung Traditional Owners Aboriginal Corporation

Policy 6-6:

The Victorian Government will return water to the Wadawurrung Traditional Owners Aboriginal Corporation

The Victorian Government will enable the Wadawurrung Traditional Owners Aboriginal Corporation to access water entitlements from rivers and groundwater within its RAP boundary.



Ongoing

Over the next one to five years the Victorian Government will:

Action 6-13:

Explore opportunities to return water to the Wadawurrung in Durdidwarrah Wetland

Wadawurrung and Barwon Water will work together to explore opportunities to return a volume of water to the Wadawurrung in Durdidwarrah Wetland.



By 2025

Supporting actions

- Provide the Wadawurrung with a share of the 3.7 gigalitres of water to be recovered in the Moorabool Yulluk (Moorabool River) by upgrading infrastructure to reduce reliance on the Moorabool Yulluk (Moorabool River) for water for Geelong (see [Action 4-3](#)). Water sharing arrangements between the Wadawurrung and the Victorian Environmental Water Holder will be determined in partnership with the Wadawurrung Traditional Owners Aboriginal Corporation, the Victorian Environmental Water Holder, the Corangamite CMA and the Victorian Government (See [Action 4-4](#)). Water returned to the Wadawurrung will be for their self-determined use.
- Seek opportunities to deliver temporary water trades to support the Moorabool River and Traditional Owner values (see [Action 4-6](#)).
- Improve flows in Stony Creek through operational changes (see [Action 8-3](#)).
- Increase understanding of environmental water needs and Traditional Owner values of the Upper Moorabool and Leigh catchments (see [Action 8-2](#)).
- Rehabilitate the Moorabool Yulluk (Moorabool River) at Batesford Quarry (see [Action 8-1](#)).
- Pursue opportunities to provide access to water in the Werribee Catchment as part of the Business Case for reconfiguring the Werribee system (see [Action 4-10](#)) and by substituting river water with manufactured water in the longer-term (see [Policy 4-3](#)).

Over the next 10-plus years, the Victorian Government will:

Action 6-14:

The Victorian Government will seek to return water to the Wadawurrung in the Moorabool Yulluk (Moorabool River) and Parwan (Barwon River).

Seek opportunities to provide access to water in the Moorabool Yulluk (Moorabool River) and/or Parwan (Barwon River) when alternative sources are found for urban customers supplied by Barwon Water and Central Highlands Water, to be used for self-determined purposes.



Long-term



Image: Barre Warre Yulluk (Barwon River system) Inverleigh, Wadawurrung Country

Returning water to Eastern Maar Aboriginal Corporation

Policy 6-7:

The Victorian Government will return water to the Eastern Maar Aboriginal Corporation

The Victorian Government will enable the Eastern Maar Aboriginal Corporation to access water entitlements from rivers and groundwater within its RAP boundary.



Ongoing

Over the next one to five years the Victorian Government will:

Action 6-15:

Support applications for unallocated water in the Otway Basin, including in the Gellibrand River

Ensure the Eastern Maar Aboriginal Corporation can apply for unallocated surface water and groundwater on and under their Country. This will support the Victorian Government's commitment to providing access to water for Traditional Owners.



By 2022

Supporting action

- Improving summer flows in the Gellibrand River (see [Action 8-9](#)).

Over the next 10-plus years, the Victorian Government will:

Action 6-16:

The Victorian Government will seek to return water to the Eastern Maar in the Barwon River.

Seek opportunities to provide access to water in the Barwon River when alternative sources are found for urban customers supplied by Barwon Water and Wannon Water, to be used for self-determined purposes.



Long-term

Other opportunities to return water

In the longer-term, investments in new manufactured water supplies could create more opportunities to return river water and groundwater entitlements (held by water corporations) to Traditional Owners and the environment. Decisions by the Water Grid Plan around future augmentations will consider cultural values and benefits for Traditional Owners through applying the quadruple-bottom-line assessment process, which will incorporate the Cultural Benefits Framework (see [Figure 6.3](#)). This is explained further in [Chapter 9](#).

Having a longer-term approach – while simultaneously seeking to return some water now – is necessary to ensure intergenerational equity and to ensure we do not continue the inequities of the past.

Shared benefits for Traditional Owners from water for the environment

[Chapter 8](#) sets out plans for returning water to the environment in every major river in the region to support healthy living waterways and native species. Healthy waterways are also essential for Traditional Owner cultural values. For Traditional Owners, all water on Country is integral to life itself, and interconnected with the broader cultural landscape. Protecting waterway ecosystems, and involving Traditional Owners in the management of waterways, is vital to achieve Healthy Country, Healthy Mob, and for self-determination.

CASE STUDY

Traditional Owner involvement in the management of the lower Latrobe wetlands

The West Gippsland Catchment Management Authority and Victorian Environmental Water Holder are investigating a partnership arrangement with the Gunaikurnai Land and Waters Aboriginal Corporation to jointly manage water in the lower Latrobe wetlands. This would give the Gunaikurnai Land and Waters Aboriginal Corporation an official voice in the development of annual watering plans and longer-term environmental water management plans (see [Action 8-16](#) and [Action 8-17](#)).

Image: Gellibrand River, Eastern Maar Country (Photo supplied by Corangamite CMA)

Recognising cultural values in the Environment Reference Standard

The Environment Reference Standard is a new tool made under the Environment Protection Act. In Victoria, from 1 July 2021, the Environment Reference Standard sets out the environmental values to be achieved or maintained in Victoria (including for water). The Environment Reference Standard recognises Traditional Owner cultural values as important, but does not yet state specific indicators or objectives for these values.

Policy 6-8: Recognising cultural values in the Environment Reference Standard

Traditional Owners will determine their own priorities for developing indicators and objectives to protect Traditional Owner cultural values recognised in the Environment Reference Standard.



Ongoing

6.7 Response to the Traditional Owner Partnership's key outcomes

Table 6.1: Government response to Traditional Owner proposal

Proposals from the Healthy Country, Healthy Mob chapter of the discussion draft (DELWP 2021b)	Action the Strategy will take (see implementation plan (Appendix E) for detail)
5.1: It is proposed that the Strategy determines the share of unallocated water in each of these locations that will be allocated to Traditional Owners, in accordance with the Six Principles.	<p>See Section 4.3 and Action 4-7</p> <p>The Victorian Government will publish guidance for licensing authorities' decisions about unallocated water, to provide clarity and transparency on how all uses of water will be considered, including access to water for Traditional Owners.</p>
5.2: It is proposed that entitlement to 1.4 gegalitres 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 gegalitres.	<p>See Policy 6-5, Action 6-10 and Action 4-9</p> <p>Return water to Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.</p>
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 projects (either directly or via substitution for river water). The timeline and status for these projects will be included in the Water Grid Plan.	<p>See Action 4-1, Action 4-2 and Action 9-6</p> <p>The Victorian Government will work with water corporations, catchment management authorities and Traditional Owners to identify preferred future urban water supply options based on a quadruple-bottom-line assessment. The Cultural Benefits Framework will be used to measure cultural values of water and incorporated into the quadruple-bottom-line assessment. The options will be set out in a Water Grid Plan that is updated regularly.</p>

Proposals from the Healthy Country, Healthy Mob chapter of the discussion draft (DELWP 2021b)

Action the Strategy will take (see implementation plan (Appendix E) for detail)

<p>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.</p>	<p>See Policy 4-3</p> <p>Returning water to the environment and Traditional Owners as manufactured water sources are added for Greater Melbourne and Geelong.</p>
<p>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.</p>	<p>See Section Action 4-10</p> <p>Reconfiguring the Werribee system.</p>
<p>5.6: The Traditional Owner Partnership will work with the water sector to recommend ways to remove barriers to water rights, including section 51 licences.</p>	<p>See Section 6.5 and Policy 6-2</p> <p>The Victorian Government will work through and resolve issues that are limiting the ability of Traditional Owners to hold and use water under their own legal entitlements.</p>
<p>5.7: 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.</p>	<p>See Section 6.7</p> <p>When Traditional Owners hold water entitlements that do not add to the costs of water management in a system, relevant fees will be waived by water corporations. Where Traditional Owners hold water entitlements that have inherent water management costs, the Victorian Government will pay the associated fees and charges. When Traditional Owners hold water entitlements where water is used for purely commercial purposes, the Traditional Owners will be responsible for payment of the fees and charges after an agreed transitional period.</p>
<p>5.8: 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 Vic, DELWP, local government, water authorities or private landholders).</p> <p><i>and</i></p> <p>5.9: Where Traditional Owners do not have existing access agreements, this process be expedited as part of the Strategy.</p>	<p>The Victorian Government will work to ensure that ownership of land is not a barrier to Traditional Owners applying for or holding water entitlements (see Action 6-4).</p> <p>The Victorian Government will provide more appropriate mechanisms within the entitlement framework to support access to water for Traditional Owners for cultural use purposes.</p> <p>In the interim, the Department of Environment, Land, Water and Planning will work with Traditional Owners and public land managers to support identification of appropriate land parcels that can be nominated for assessment and decision-making on applications for section 51 licences.</p>

Proposals from the Healthy Country, Healthy Mob chapter of the discussion draft (DELWP 2021b)

Action the Strategy will take (see implementation plan (Appendix E) for detail)

<p>5.13: DELWP, together with the appropriate Traditional Owner groups, will 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.</p>	<p>See Action 6-2</p> <p>All water corporation statements of obligation will be reviewed, together with the appropriate Traditional Owner group, to develop amendments to resource Traditional Owner participation and inclusion of the Cultural Benefits Framework in all water planning, management and monitoring work for consideration by the Minister.</p>
<p>5.14: Waterways named in the final Strategy will include Traditional Owner names (as directed by each Traditional Owner group on a case-by-case basis).</p>	<p>Where possible, this Strategy uses the traditional names of waterways.</p>
<p>5.15 Each Traditional Owner group will be resourced to participate in the development of place-based legislation, named in relevant place-based legislation, and resourced to undertake prescribed responsibilities.</p>	<p>Aspiration is out of scope of this Strategy. It will be addressed as part of other statewide processes.</p>

6.8 Strengthening the role of Traditional Owners in water resource planning and management

Through this Strategy, together with Traditional Owners and the water sector we have made significant steps toward strengthening the role of Traditional Owners in water resource planning and management. The policies and actions set out in this Strategy are the next step for water justice for Traditional Owner groups in the Central and Gippsland regions. Each step we take to strengthen the role of Traditional Owners informs the next step, and the progress made in this Strategy will feed into new projects and initiatives.

Progress to date

In 2019, the Victorian Government passed new legislation that amended the Water Act to include consideration of Aboriginal cultural values and uses of waterways in the way that Victoria’s water resources are managed. The new legislation also increased the requirement to consult and engage with Aboriginal people in water and waterway management. The purpose of the Water Act now includes considering Aboriginal cultural values and uses of waterways, along with the social and recreational uses and values of waterways.

Further amendments now specify the need for sustainable water strategies to consider opportunities that provide for Aboriginal cultural values and waterway uses in each sustainable water strategy region. They include at least one Aboriginal person as a member on the consultative committee tasked with advising the Minister on the preparation of the sustainable water strategy. Similarly, the committees advising on management plans for water supply protection areas must also include at least one Aboriginal representative from the area under consideration (where possible). We are committed to continue building on the progress we have made to date.

Since the release of *Water for Victoria* in 2016, there have been significant steps toward strengthening the role of Traditional Owners in caring for Country, but there is still much more to be done to enable self-determination for Traditional Owners and Aboriginal Victorians.

To date we have:

- recognised the role of Traditional Owners in water resource management in legislation and planning frameworks through the Victorian Government's water plan, *Water for Victoria* (DELWP 2016b) (and subsequent Water and Catchment Legislation Amendment Act)
- employed more than 17 full-time Aboriginal water officers and allocated \$4.6 million for projects that bring Traditional Owners together to spend time engaging on Country to improve understanding of cultural values and uses, and share their expertise through the Aboriginal Water Program (launched in 2016)
- committed to metrics and targets to guide progress on Aboriginal affairs in Victoria, including water-related initiatives, through the *Victorian Aboriginal Affairs Framework 2018–2023* (DPC 2018)
- increased the number of Aboriginal Victorians on water sector boards over the past seven years, from zero pre-2015 to 13 in 2021
- recognised the Birrarung (Yarra River) and its parklands as one living and integrated entity, and supported Wurundjeri Woi-wurrung and Bunurong Traditional Owners to partner in all aspects of caring for the river through *Burndap Birrarung burndap umarkoo*, the first Yarra Strategic Plan (launched in 2022) (Melbourne Water 2022)
- committed to recognising waterways in Melbourne's west and the Barwon Region as living natural entities and reinstating Traditional Owners' voice, by committing to Traditional Owner priority projects through the Waterways of the West and Rivers of the Barwon (Barre Warre Yulluk) action plans (released in 2021) (DELWP 2021h and 2021f). See <https://www.water.vic.gov.au/waterways-and-catchments/wow> and <https://www.water.vic.gov.au/waterways-and-catchments/barwon>.

Other projects and initiatives

Our new projects and initiatives will:

- provide opportunities for Traditional Owners and First Peoples to manage and hold water for spiritual, cultural, environmental, social and economic purposes, through Water is Life (due to be released in 2022)
- support the transfer of power and resources to Traditional Owners in the management of waterways in Victoria through the delivery of Water is Life, the revised Victorian Waterway Management Strategy and by respecting and responding to Victoria's treaty process and treaties negotiated
- continue to support discussions with the Commonwealth and other states and territories around national baselines for water access entitlements for Traditional Owners as part of the *Closing the Gap* initiative
- continue to build relationships and partnerships between the water industry and Traditional Owners to achieve multiple benefits.