

TONFABS COMMUNIQUE



On Wednesday the 25 May 2022, the Federation of Victorian Traditional Owner Corporations (The Federation) hosted a four-hour online forum to engage community feedback on the implementation of the Victorian Traditional Owner Native Food and Botanicals Strategy (the TONFABS Strategy). This was the third of four workshops to take place and is open to all Victorian Traditional Owners (TOs).

BACKGROUND

In April 2021, the Federation and Agriculture Victoria launched the TONFABS Strategy which seeks to “establish an authentic, vibrant and growing Traditional Owner-led industry that respects and recognises the inherent interests and rights of Traditional Owners – and enables and strengthens the social, cultural and economic connections with the lands and resources” (2021, p.6). The TONFABS Strategy endeavours to protect Indigenous Cultural and Intellectual Property (ICIP), through a range of mechanisms including legislative reform, regulation, policy phasing, investment, and co-capacity building. ICIP refers to “... the rights of Australian First Nations People to their cultural heritage.

Heritage comprises all objects, sites, languages, expressions and knowledge, the nature or use of which has been transmitted or continues to be transmitted from generation to generation and pertains to a particular Aboriginal or Torres Strait Islander group or its territory” (TJC 2022). This includes stories, anecdotes, artwork, and song. Indigenous commercial law firm Terri Janke and Company (TJC) has been commissioned to develop stages of work for the implementation of the TONFABS Strategy, detailed in the Victorian Traditional Owner Native Food and Botanicals Strategy Scoping Paper.

These Traditional Knowledge Group (TKG) workshops invite participation from all Victorian TOs to help shape the implementation of the Strategy. The implementation is also being overseen by the TONFABS Project Control Committee (PCC), with the additional leadership of a proposed co-governance group. Building upon the previous sessions, the third TKG workshop sought to engage feedback on establishing the on-going governance arrangements and on four pieces of work fundamental to implementation of the Strategy:

- Best Practice Cultural Protocol
- Access and Benefit Sharing Agreement
- Accreditation (Labelling) System
- Business Modelling.



ATTENDEES

The session was attended by several Victorian TOs from various Nations and Clans across the state, bringing their cultural and commercial expertise to the discussion. Many in the group had attended previous TKG workshops but new participants added additional insights and perspectives.

Conversations were facilitated by Mbarbrum women and founder of Blak Wattle Coaching and Consulting, Caroline Kell. Representatives from Terri Janke and Company (TJC) attended to present on the proposed work stages of the Strategy's implementation. Representatives from Agriculture Victoria and Federation staff were also on hand to provide contextual information on the project.



WORKSHOP ---

PROCEEDINGS & INSIGHT

The session centred on hearing Traditional Owners feedback on the draft Accreditation (Labelling) System and Business Model, Cultural Protocols and Access and Benefit Sharing Agreement. It commenced with an Acknowledgement of Country by Gunditjmara man and Senior Project Officer at Agriculture Victoria, Sam Nolan. Facilitator Caroline Kell grounded the discussions through a family story, highlighting that despite the deep wounds caused by colonisation, communities are in a process of re-awakening sleeping knowledge about bushfoods and medicines.

COMMUNITY IMPLEMENTATION GRANTS ---

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CO-GOVERNANCE GROUP

Having detailed the proposed co-governance group in previous sessions, a brief discussion was held on the upcoming nominations of TKG representatives and how the composition of new groups will not supersede the TKG. They will exist concurrently. The co-governance will have a more implementation- based focus and is the model suggested by the PCC to ensure Traditional Owners lead the implementation of the TONFABS Strategy. Whilst still in its formation stage, the co-governance group may be composed of representatives of the TKG, TOCs, senior policy staff from Agriculture Victoria and other government departments and experts by invitation. TOs not represented through TOCs can still participate in the co-governance group if nominated as formal representatives of the TKG. Members of the TKG are encouraged to nominate at the next workshop on 29 June.

THE ACCREDITATION (LABELLING) SYSTEM

In the previous TKG workshop, participants expressed a resounding endorsement for an accreditation (labelling) system. Through a set of trademarked logos or symbols, this system serves to inform consumers about the sourcing of the native food and/or botanical, associated cultural knowledge and identifies the degree of involvement of and engagement with TOs. Yuin paralegal at TJC Adam Broughton guided the TKG through an examination of the Accreditation (Labelling) System outline.

Further feedback was sought on preferences for a two- tiered system (i.e. signifying products developed by TOs and products developed in collaboration with TOs) or a multi-level scaled rating system (i.e. up to 3 different ratings dependent on engagement and compliance).

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Whilst opinions varied, there was a stronger preference for a multi-level scaled rating system, with a similar foundation to the Reconciliation Australia or Energy Australia models. That said, participants identified opportunities and limitations of both models, considering the needs of the consumer and TO groups. These opportunities and limitations will be addressed moving forward through the development of criteria for use of each label. One participant identified the challenges TOs may face in pivoting perceptions of bushfood and medicines towards a commercial orientation. This was underscored by the loss of access to knowledge and resources caused by ongoing colonisation. However, members also recognised the realities of the current economic market and the importance of safeguarding and expanding TO involvement in the industry. Other TKG participants expressed a strong desire for the eventual development of a national accreditation system, yet affirmed the importance of Victoria first leading the way.

BUSINESS MODEL

Next, Adam presented on the proposed business model to establish a peak body to manage the administration and compliance of the Accreditation (Labelling) System among other things. A discussion was held on whether a new, stand-alone authority should be established, or whether the responsibility should be assumed by an existing entity. Whilst participants expressed diverse perspectives, many highlighted the importance of the entity being well resourced to ensure it could deliver on the long term protection of the label and ICIP. Considerations were made on the capacity of existing entities to assume new responsibilities and the benefits and challenges this would bring. This led to the suggestion that a new standalone entity should be created.

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Furthermore, feedback was sought on whether a fee should be associated with the label and how it should be determined. Some participants cited the success of existing labelling systems funded by a percentage of business turnover. This option was considered important in order to remove barriers to smaller industry players participating in the accreditation system, and to ensure long-term viability. Others noted the need to balance initial government subsidies to establish the entity with a longer-term pathway to independent self-determination.

Overall, when discussing the business model and accreditation system there was a strong view held by many that where practical, the TKG must examine what already exists in other jurisdictions by hosting interstate TOs active in the industry in future TKG sessions. Learnings from the expert knowledge group should be brought to the TKG as not to 'reinvent the wheel'.

Next, a discussion was held on the nature of the entity responsible for managing the accreditation (labelling) system. Its function would be to manage accreditations, as well as raise awareness within industry and consumer markets. Participants evaluated the options of creating a new, independent body or relying on existing entities to assume the responsibility. Considerations of resourcing, capacity and strategic priorities were discussed, with the need for further engagement in subsequent TKG workshops agreed. More detailed information on options can be found in the Accreditation System and Business Model Outline.



BEST PRACTICE CULTURAL PROTOCOL

Wamba Wamba, Dja Dja Wurrung, and Yorta Yorta solicitor at TJC Neane Carter provided an overview of the proposed Cultural Protocol, an overarching best-practice guide directing Traditional Owners and collaborators through the processes that are relevant to particular projects. Building on the feedback developed in the second TKG workshop, participants engaged in a detailed discussion on the draft Cultural Protocol.

They affirmed the Cultural Protocol provided and noted the important role the high-level Protocols will play in ensuring ways of Aboriginal being, knowing and doing are cemented in the native foods and botanical industry. Several participants underscored the work of TJC in referencing the Nagoya Protocol and expressed their desire to see Victoria introduce similar legislative reform to Queensland's Biodiversity Act 2004 (Qld). Central to these discussions was the importance of knowledge sharing and capacity building and regenerative economies - within family groups, between Nations and Clans, and between TOs and collaborators.

ACCESS AND BENEFIT SHARING AGREEMENT

Finally, Neane presented a draft template on the Access and Benefit Sharing Agreement which TOCs can tailor to ensure free, prior and informed consent with collaborators. This involves agreements on the access, collection, use and disposal of resources as well as monetary and non-monetary benefits. Central to the discussion was the importance of access to, and being on, Country, capacity building so that young ones are involved, and the ability to continue and strengthen practices and knowledge.

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In a rich discussion, TKG participants identified a range of considerations including:

Access, collection, use and disposal of resources

- Prioritising TO access to knowledge and resources before commercialisation
- Allowing TOs to restrict the commercial use of certain plants
- Ensuring knowledge and resources are shared with the appropriate gender in line with cultural protocols
- Ensuring sustainable harvests to ensure resources are not depleted

Monetary and non-monetary benefits

- Mechanisms to promote knowledge sharing within and between TO groups
- Access to private land, particular for TOs who don't own land on Country
- Meaningful Aboriginal identified employment and educational opportunities



NEXT STEPS

The next and final workshop of the series will be held on 29 June 2022 and Victorian TOs can register their interest in attending by contacting Reece O'Brien on 0434 129 603 or reece.obrien@fvto.com.au. Communities are strongly encouraged to share the opportunity to participate in the TKG with their families and networks to ensure a diversity of voices are heard.

Participants are encouraged to review the attachments including the draft outlines of the Accreditation System and Business Model, and drafts of the Cultural Protocol, and Access and Benefit Sharing Agreement and present their feedback in the next session. Nominations for TKG representation to the co-governance group will also be discussed in the June 29 forum.

References

Federation of Victorian Traditional Owner Corporations 2021, *The Victorian Traditional Owner Native Foods and Botanicals Strategy*, Federation of Victorian Traditional Owner Corporations, Melbourne.

Terri Janke and Company 2022, *Victorian Traditional Owner Native Food and Botanicals Strategy Scoping Paper*, Terri Janke and Company, Lawyers and Consultants, Sydney.

