



**Federation of  
Victorian Traditional  
Owner Corporations**

23/11/2021

Helen Vaughan  
Deputy Secretary  
Water and Catchments  
Department of Environment, Land Water and Planning  
By email: [helen.vaughan@delwp.vic.gov.au](mailto:helen.vaughan@delwp.vic.gov.au)

Dear Helen

### **Initial Response to the Discussion Paper *Drawing the Roadmap for Aboriginal Access to Water***

Thank you for your email on 12 October 2021 providing the Federation of Victorian Traditional Owner Corporations (the Federation) a copy of the *Drawing the Roadmap for Aboriginal Access to Water discussion* paper (the discussion paper). We appreciate that this was provided to us before its formal release on 18 October for the purposes of planning our support to Victorian Traditional Owner groups as they prepare their responses for incorporation into the *Roadmap for Aboriginal Access to Water* (the Roadmap).

Please find below our initial response to the discussion paper, including the process for its release.

The advice in this letter is informed by and summarises the feedback we've heard from Traditional Owners to date. However, it is important for the Department of Environment, Land, Water and Planning (DELWP) to continue to acknowledge that Victorian Traditional Owners Nations also wish to ensure that their perspectives are recognised through the on-going processes of developing the Roadmap, including through the individual Nation Statements currently being developed.

We consider that the provision of this early advice and feedback is important so that DELWP can avoid reproducing those matters of concern in, or missing from, the discussion paper in planning and preparing the Draft Roadmap. In particular, we have provided some early advice regarding what we are hearing from Traditional Owners about the policy and legislative reforms required to address the legacy of water dispossession undertaken by successive Victorian (and Commonwealth) Governments (Attachment A).

#### **1. The process for releasing the discussion document**

As you are aware, the report *Cultural Water for Cultural Economies* report was submitted to the Acting Minister for Water in March 2021 with a covering letter seeking a response from the Minister/DELWP on the report's findings.

DEWLP's process for providing the response has been described as appalling. The response (i.e. the discussion paper) took over seven months to be provided, with initial advised release dates (early July and then mid-August) not being met. These suggested release dates had formed the basis of designing the

engagement, with several TO groups advising they wanted to wait for the discussion paper before engagement starting. Despite this delay DELWP has maintained that the timeframe for Nations to provide their input to the Roadmap remains unchanged. Effectively Traditional Owners have been provided six weeks to review and respond to the discussion paper. DELWP must know that these timeframes and delays are inappropriate and undermine the faith in a self-determination approach. We find this unacceptable.

As such, while many Traditional Owners are preparing detailed statements to ensure input into the Roadmap, these will be provided to DELWP when they are ready. It is also critical to note that where Traditional Owners do not prepare and submit statements into the draft or final Roadmap, their absence cannot be taken as a lack of interest or concern for the Roadmap; there are many reasons why Traditional Owners may not be able to contribute to the Roadmap, particularly given the timeframe considerations, noted above.

We also note, that this may also precipitate Nations to focus their attention to immediate priorities and on a narrower range of issues than may otherwise have been enabled or desirable in a Roadmap of such significance.

## **2. Aboriginal access to water**

Despite the name of the discussion paper, policy direction 1 is the only one that refers to returning water to Traditional Owners. The focus of policy direction 1 is predominantly on making already identified unallocated water in the south available to Traditional Owners.

It is insincere for the Government to include in the Roadmap commitments for water returns that have already been identified and committed to under other processes. These water returns should be actioned as soon as possible and well before the Roadmap is finalised.

Policy direction 1 also refers to DELWP undertaking a review of projects to identify unallocated water that could be made available. To ensure DELWP seeks free, prior and informed consent, the outcomes of this stock-take, including volumes and the systems which the savings affect, should be provided to relevant Traditional Owners well before these are documented in the Roadmap.

Options for water reallocation is absent from the discussion paper. This is despite water reallocation being identified in *Cultural Water for Cultural Economies* Chapter 4.3 as a major pathway for water to be returned to Traditional Owners within Victoria's current entitlement framework.

Water reallocation could occur through Government purchase of water entitlement for TOs or reallocation of 'under-utilised' water. **To note: Government purchase of high reliability water shares from willing sellers, would be half the cost of undertaking new water savings projects such as the Sunraysia Water Efficiency Project.** This water return pathway is an important option across the whole of Victoria, but particularly in the north where Nations have repeatedly been advised that there is no unallocated water available, in fact the systems are over allocated. Even with consideration of the stock-take of current water savings projects, watering requirements for culturally significant sites are likely to far exceed any unallocated water found through this process. What we are hearing from Traditional Owners regarding water reallocation is documented in Attachment A.

### 3. Protecting the rights of existing entitlement holders

The discussion paper repeatedly asserts that any policy directions committed to in the Roadmap must “*protect the rights of existing entitlement holders*”. Further, the draft Central Gippsland Sustainable Water Strategy states that “*the Victorian Government does not currently support untargeted purchases of water entitlements from farming, due to the socio-economic impacts caused by such programs in the past, particularly in northern Victoria*”

Policy direction 2 notes a process “could perhaps” be developed for Traditional Owners to access unallocated water as it becomes available and before market-based mechanisms are employed. The discussion paper being silent on reallocation of water implies that Traditional Owners would need to use market processes to access water in fully allocated systems like any other interested party. The discussion paper excludes a commitment for Government to purchase secure and reliable entitlements for Traditional Owners, either from willing sellers or of Victorian and Commonwealth environmental water holdings. This denies Traditional Owners the opportunity to demonstrate the substantial benefits, including socio-economic outcomes, that managing water to heal Country would have. Further, DELWP’s position disregards the inherent and unceded rights to water and fails to acknowledge that entitlement holders’ rights only exist because of government processes which facilitated dispossession.

### 4. Our request

Overall, the scepticism conveyed in the closing section of *Cultural Water for Cultural Economies* remains. This scepticism continues to be amplified by decisions, such as the decision to allocate 2 GL of water savings under the Goulburn-Murray Water Connection Project that were additional to the original water savings target being allocated to irrigators without any notice, let alone engagement, provided to Traditional Owners. The impact that decisions like these as well as the lack of respect demonstrated by DELWP releasing the discussion paper some seven months after receiving the *Cultural Water for Cultural Economies* report has had on DELWP’s reputation cannot be overstated.

It is imperative that the Government demonstrably respects the good faith with which Traditional Owners are participating in the Roadmap and operates in accordance with the principles of the discussion paper (as set out on page 4). We expect that the draft Roadmap will be developed with consideration of the feedback provided to date, including through this letter and its attachment.

Finally, the Government must provide certainty that commitments in the Roadmap will be properly resourced to enable all Traditional Owner groups advance on their water journey to restore water rights and access regardless of location and stage of their journey.

The Federation would welcome an opportunity to meet with you to discuss this important project.

Yours sincerely,



Rodney Carter,  
Chair, Federation of Victorian Traditional Owner Corporations