



11 July 2024

The Hon Tanya Plibersek MP  
Minister for the Environment and Water  
via email [minister.plibersek@dcceew.gov.au](mailto:minister.plibersek@dcceew.gov.au)  
cc: [senator.stewart@aph.gov.au](mailto:senator.stewart@aph.gov.au)

Dear Minister Plibersek,

### **ABORIGINAL WATER ENTITLEMENTS IN THE MURRAY-DARLING BASIN**

During the past two delegations of Victorian Aboriginal community and Traditional Owner interests organised by Senator Jana Stewart, I was pleased to be able to meet with your advisors to discuss matters in relation to the environment and water.

I welcome this opportunity to provide further information relating to buy-backs in the Murray Darling Basin and ask that as this work progresses, alongside work on Closing the Gap Inland water targets and the \$100m water entitlement initiative, you give focus to Traditional Owner interests and perspectives.

The Federation is the primary body convening and advocating for the rights of Victorian Traditional Owners while progressing wider social, economic, environmental and cultural objectives. It was established in 2013 by Traditional Owner Corporations who recognised they could be stronger together in advancing shared interests in policy, economic opportunity and caring for Country.

#### **Traditional Owner interests in water**

The concept of cultural flows is not always easy to explain or to gain traction around but is fundamental to issues of Traditional Owner rights in water. The holistic nature of the way Traditional Owners value water within a cultural landscape means water is never strictly or solely environmental, nor commercial, nor cultural: it is redundant to attempt to classify water as solely in one category.

When the Gunditjmarra people channelled water through old lava flows to trap eels for reliable food, trade and hatchery management, this benefit was simultaneously economic, ecological, and cultural. Traditional Owner water objectives encompass all of these elements, and build on an understanding of the [Cultural Landscape](#).

Traditional Owners have sustainably managed the cultural landscapes such as the Murray River, for millennia. As a consequence of dispossession, however, Victorian Traditional Owners have little access to lands and waters, or the capital required to purchase water on the market.

The Federation has over the last decade provided extensive submissions and developed research on many matters in relation to water, and in particular to Murray-Darling Basin matters. Our research and advice to Victoria's Water is Life policy<sup>1</sup> analysed the Murray-Darling Basin water market price and volumes, indicating that it is possible to restore water ownership to Traditional Owners without impacting the 'rights' of existing entitlement holders, or distorting the market.

### **MDB buy-backs**

There continues to be a strong degree of resistance against the proposed buy-backs of water entitlements for environmental purposes, with detractors arguing that this would be detrimental to communities: they say irrigation and farming would be uneconomic, with water prices rising as water is removed from the consumptive pool. This is perhaps most heavily highlighted in the Victorian context.

The Federation believes using buy-backs will help ensure a stronger set of environmental outcomes, and that the Murray River is desperately in need of this. However, we consider that leaving water in the consumptive pool – with Traditional Owners as the water-holders – would meet everyone's needs:

- Water would remain in the consumptive pool for irrigation and commercial use and would remain within the market
- Environmental outcomes would be met, as Traditional Owners' priorities and obligations to Country involve sustainability managing and caring for waterways and the flora and fauna species those waters sustain
- Traditional Owners can meet cultural water flows, through ensuring appropriate flows for sacred and significant sites, and by creating employment and economic opportunities that strengthen Traditional Owner Corporations, while also focusing water on the totemic and important animals and plants, maintain floodplains and provide soil moisture to reduce the risk of unwanted bushfire.

We therefore urge you to consider this alternative pathway as a pragmatic way forward. The Federation strongly believes there are clear economic, cultural and environmental benefits to Traditional Owner ownership of water entitlements, rather than purchasing water for government environmental water holders, whose water management may or may not bring the full array of social, cultural or economic outcomes.

While recognising that over recent years there has been greater dialogue with Traditional Owners on defining outcomes from environmental water management, the regulatory frameworks largely continue to lock Traditional Owners out of water access, ownership and management.

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<sup>1</sup>See our submission and research at [Cultural Water - Federation of Victorian Traditional Owner Corporations \(fvtoc.com.au\)](https://www.fvtoc.com.au)

## **Closing the Gap**

We also acknowledge that within the Closing the Gap framework, there is now a strong signal of water being returned to Traditional Owners. However, the practicalities of this have yet to be worked through. The shift to a jurisdictional approach in setting targets we hope will mean that all governments will pragmatically work to secure, water rights in a timely fashion.

As this work progresses, it will be important that the data, definitions and decision-making are transparent and worked through collaboratively with Traditional Owner interests. As you know, the Victorian context has its own unique history and circumstances which means that care is required to ensure the appropriate representation and focus on restoring the role and recognition of Traditional Owners in continuing to meet their obligations in caring for Country.

Despite good will, 'finding water' for Traditional Owners has been slow, small and scattered. We certainly look to the Closing the Gap initiatives, as well as the opportunity for purchasing water in the MDB as a positive way forward that can give effect to the Traditional Owners' ambitions for cultural landscapes that restore the health of Country.

## **Aboriginal Water Entitlements Program**

The Federation acknowledges the \$100m for the Commonwealth's Aboriginal Water Entitlements Program is a significant increase from the \$40m previously discussed and the first meaningful movement towards Aboriginal water ownership in a long time.

The Federation has confidence the program's interim governance body will keep this important work moving; however, it will not be without nuance and complexity. Particular care must be taken in Victoria, where not all First Nations are formally recognised or have the capacity, corporate or community governance in place to manage or direct cultural water. The Federation is concerned that without representation from formally recognised Victorian Traditional Owner groups, the process will be undermined, and hopes this is rectified as the new structure emerges.

## **Conclusion**

Traditional Owners have sustainably managed the cultural landscapes of the Murray River for millennia. Colonisation caused the devastating loss of land and waters, which – through the parcelling and sale of water entitlements – was further separated from the land and the people. Continuing to find ways to redress past wrongs, and to meet the responsibility of ensuring Traditional Owner groups' sustainability and prosperity, must continue to be at the forefront of all future developments and decisions.

We would be happy to discuss these matters further and welcome the opportunity to meet with you and your team again.

Yours sincerely,



Paul Paton  
Chief Executive Officer