



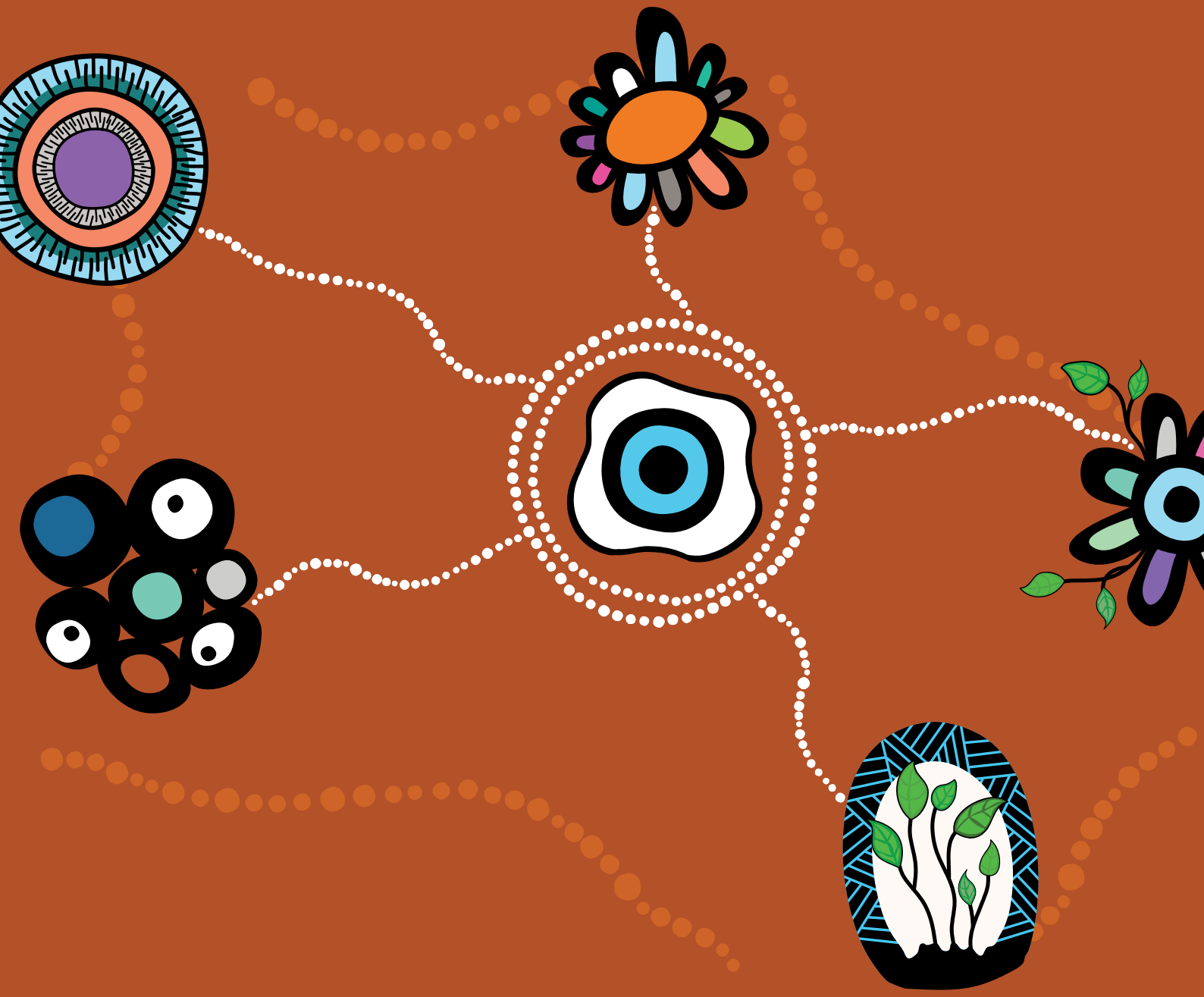
Australian Government

Department of Climate Change, Energy,
the Environment and Water

Aboriginal Water Entitlements Program

Strategic Purchasing Framework

This document constitutes the Aboriginal Water Entitlements Program Water Trading Strategy



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Acknowledgement of Country

We recognise the First Peoples of this nation and their ongoing connection to culture and country. We acknowledge First Nations Peoples as the Traditional Owners, Custodians and Lore Keepers of the world's oldest living culture and pay respects to their Elders past, present and emerging.

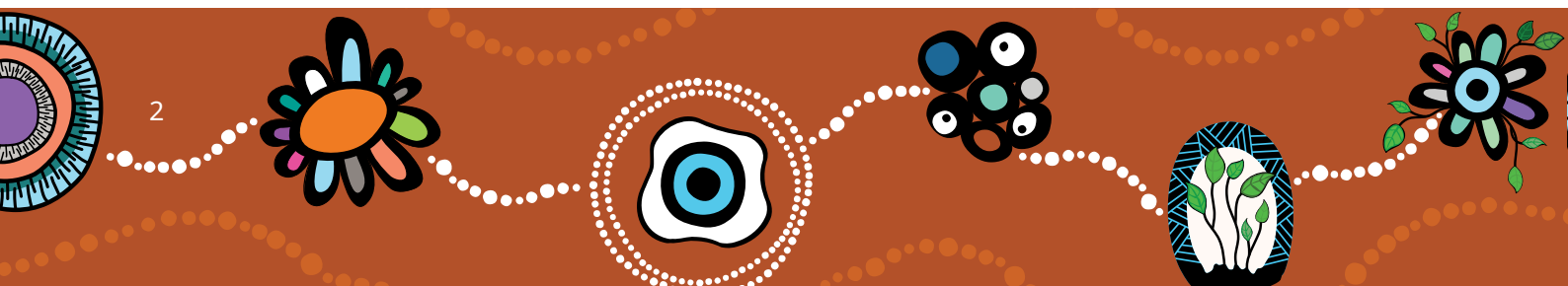
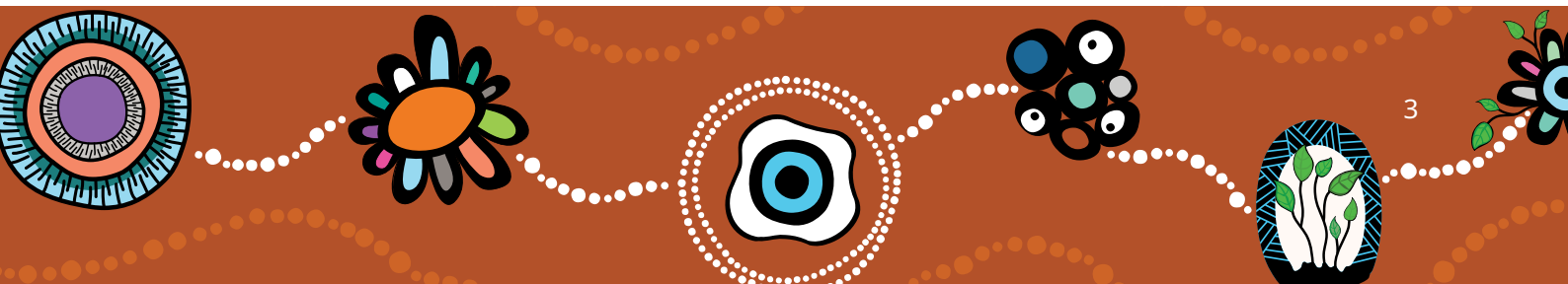


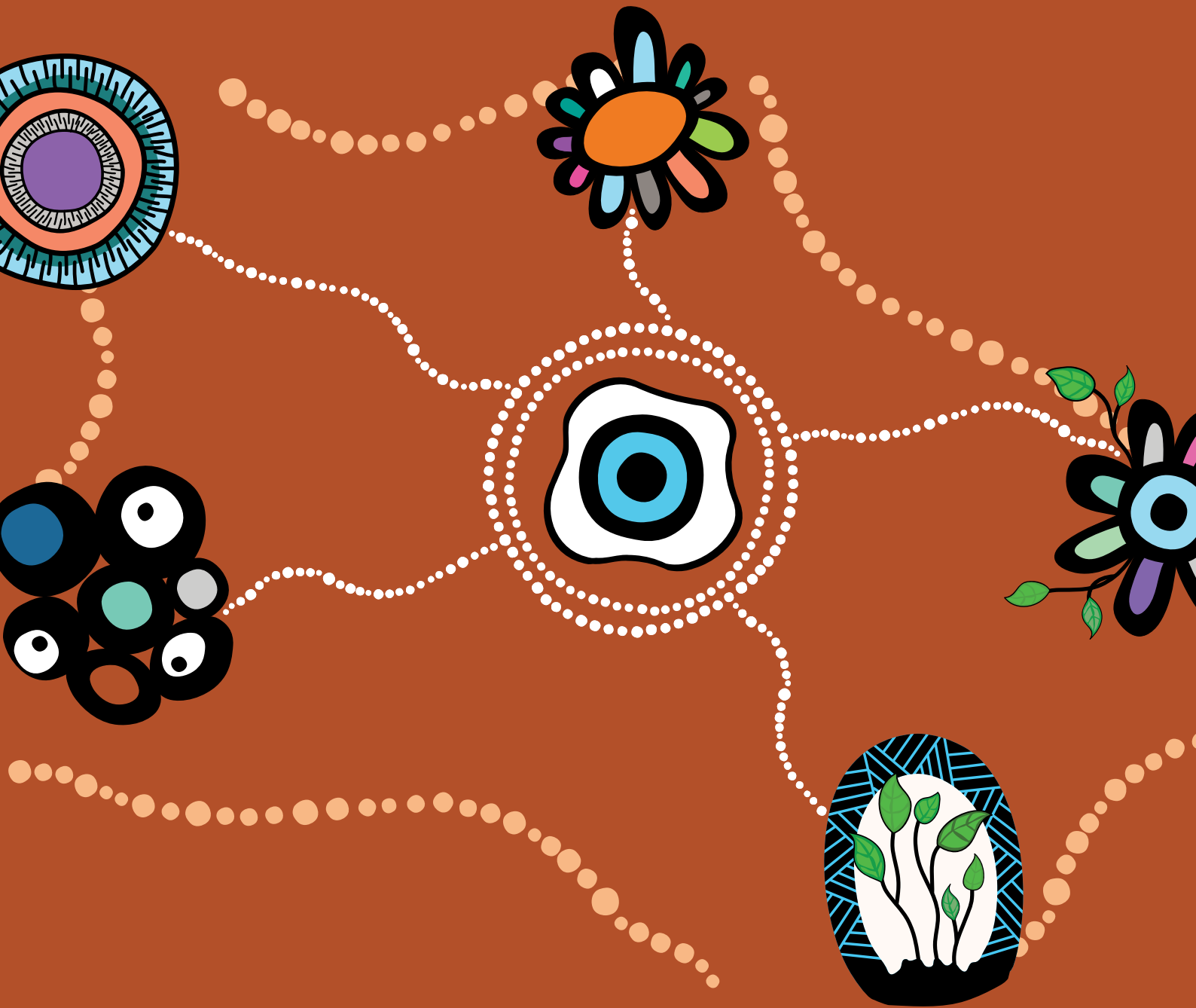
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Acknowledgement of Country

We recognise the profound Cultural, social, environmental, spiritual, and economic connection that First Nations Peoples have to their lands and waters. We value the contributions of earlier generations, including the Elders, who have fought and continue to fight for their land and water rights of previous generations, including the dedicated Elders who have tirelessly championed and continue to advocate for their land and water rights. We acknowledge that First Nations Peoples have never relinquished their sovereign land and water rights, and we acknowledge that today's water market operates under the guise of 'Aqua Nullius'.

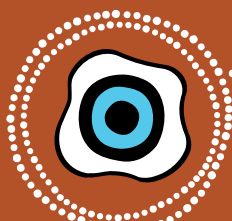
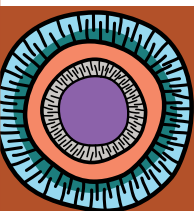


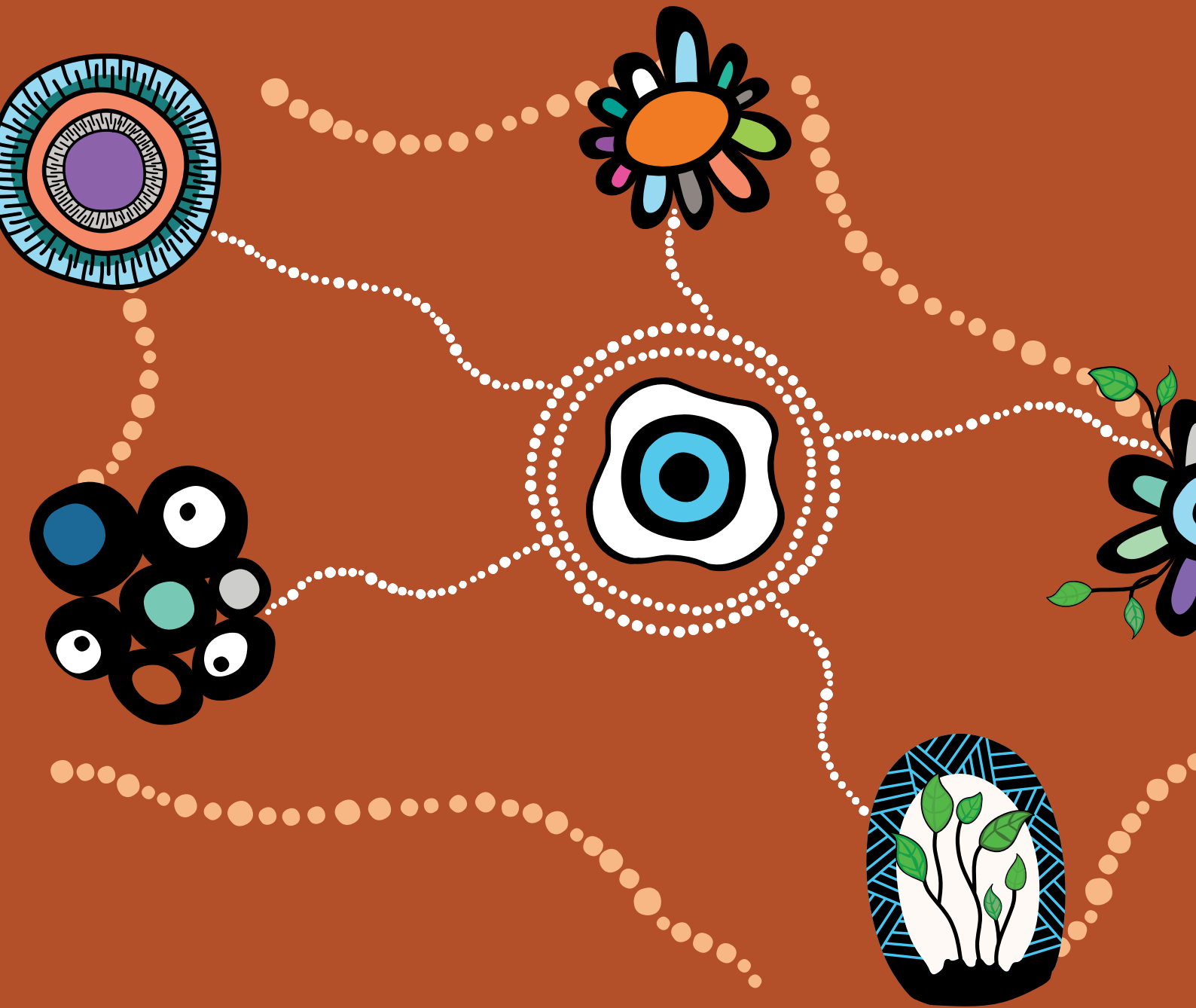
Terminology

This document primarily uses the terms ‘First Nations,’ ‘First Nations Peoples,’ and ‘Basin First Nations’. Other terms, including ‘Aboriginal and Torres Strait Islander’ and ‘Indigenous’, are used where they originate directly from references.

Abbreviations

Term	Definition
ACCC	Australian Competition and Consumer Commission
DCCEEW	Department of Climate Change, Energy, the Environment and Water
EOI	Entitlement on Issue
GL	Gigalitre
GS	General Security
HRWS	High Reliability Water Shares
HS	High Security
LRWS	Low Reliability Water Shares
MDB	Murray-Darling Basin
ML	Megalitre
NSW	New South Wales
Program	Aboriginal Water Entitlements Program
UI	Unique Identifier
VfM	Value for Money
WM	Water Market
WSS	Water Supply Scheme





Summary

The Australian Government is fulfilling its commitment to increase First Nations Peoples' ownership and access to water through the Murray–Darling Basin Aboriginal Water Entitlements Program.

Despite initial delays in the delivery of the first \$40 million, the entire \$100 million is available for expenditure. Over the past 12 months, substantial progress has been made including extensive consultations with First Nations Peoples in the Basin to understand their purchasing preferences and to determine an appropriate interim governance arrangement.

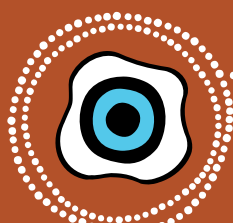
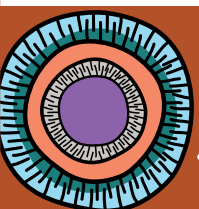
The program will be delivered under an interim governance arrangement to expedite the purchase of water entitlements. The Commonwealth will hold these entitlements until an enduring governance mechanism is designed with Basin First Nations Peoples. This enduring mechanism will eventually take over the management of water entitlements acquired during the interim period. The Australian Government Department of Climate Change, Energy, the Environment and Water will commence purchasing entitlements under an interim governance structure that includes an Advisory Group and a Directorate composed of Basin First Nations Peoples. This structure aims to ensure decision-making that is both Culturally and commercially informed.

Basin First Nations have shown a preference for an investment portfolio prioritising connectivity and wealth generation, with equal fund allocation between the north and south of the Basin. Entitlements will be purchased from the consumptive pool and remain within it. To support this program, the department has engaged water market experts and commercial advisers to develop a strategic purchasing framework aligning with First Nations' preferences and principles.

The department recognises that government-led water purchasing programs, including the Aboriginal Water Entitlements Program, the 450 GL target and Bridging the Gap in Queensland and New South Wales, may be operating concurrently and may influence water markets. We are committed to delivering the Basin Plan in full and to increasing the ownership of water by First Nations. Neither can wait.

The department will be taking proactive steps to ensure that government-led purchasing initiatives do not create increased competitive tension by preventing sellers from duplicating offers of identical volumes from the same licence and, in the case of the program, considering alternate purchasing mechanisms, such as water brokers, open tenders, First Nations-led proposals, market-led proposals, and gifting.

To ensure the program achieves value for money and its intended outcomes, real-time data and feedback will be used to make informed adjustments as necessary. This proactive approach ensures the timely acquisition and management of water entitlements, reinforcing the commitment to First Nations Peoples of the Murray–Darling Basin.



The Murray–Darling Basin

The Murray–Darling Basin is home to more than 50 First Nations for whom water is their lifeblood, intertwined deeply with their Cultural identity, spirituality and way of life. For generations, First Nations Peoples have cared for the rivers, wetlands, and waterways of the Basin, deriving sustenance, Cultural enrichment, and economic opportunities from its waters. However, despite the vital role water plays in their lives, many First Nations Peoples in the Basin face significant challenges in accessing and owning water.

Today’s water access and water markets are rooted in historical dispossession of First Nations’ land and water rights. As of 2020, First Nations organisations owned a tiny fraction of these valuable Murray–Darling Basin water entitlements – just 0.2%¹. In most cases, this water ownership comes from the transfer of certain historic land titles that had water entitlements attached before land and water rights were unbundled (Hartwig et al. 2020).

The Murray–Darling Basin is typically divided into two regions: the northern Basin and the southern Basin. The northern Basin encompasses water systems in southern Queensland and northern New South Wales, as indicated by the red outline in Figure 1. The southern Basin, marked by the yellow outline in Figure 1, includes water systems and tributaries that flow into the Murray River across southern New South Wales, the Australian Capital Territory, northern Victoria, and a south-eastern section of South Australia.

In this strategic purchasing framework, the terms ‘northern Basin’ and ‘southern Basin’ are used to differentiate between these regions, which generally exhibit distinct characteristics. This differentiation helps tailor strategies and approaches to the unique features and needs of each part of the Basin.

¹ MLDRIN and NBAN have produced a guide for First Nations about this current level of water ownership that can be accessed online (see MLDRIN & NBAN 2021).

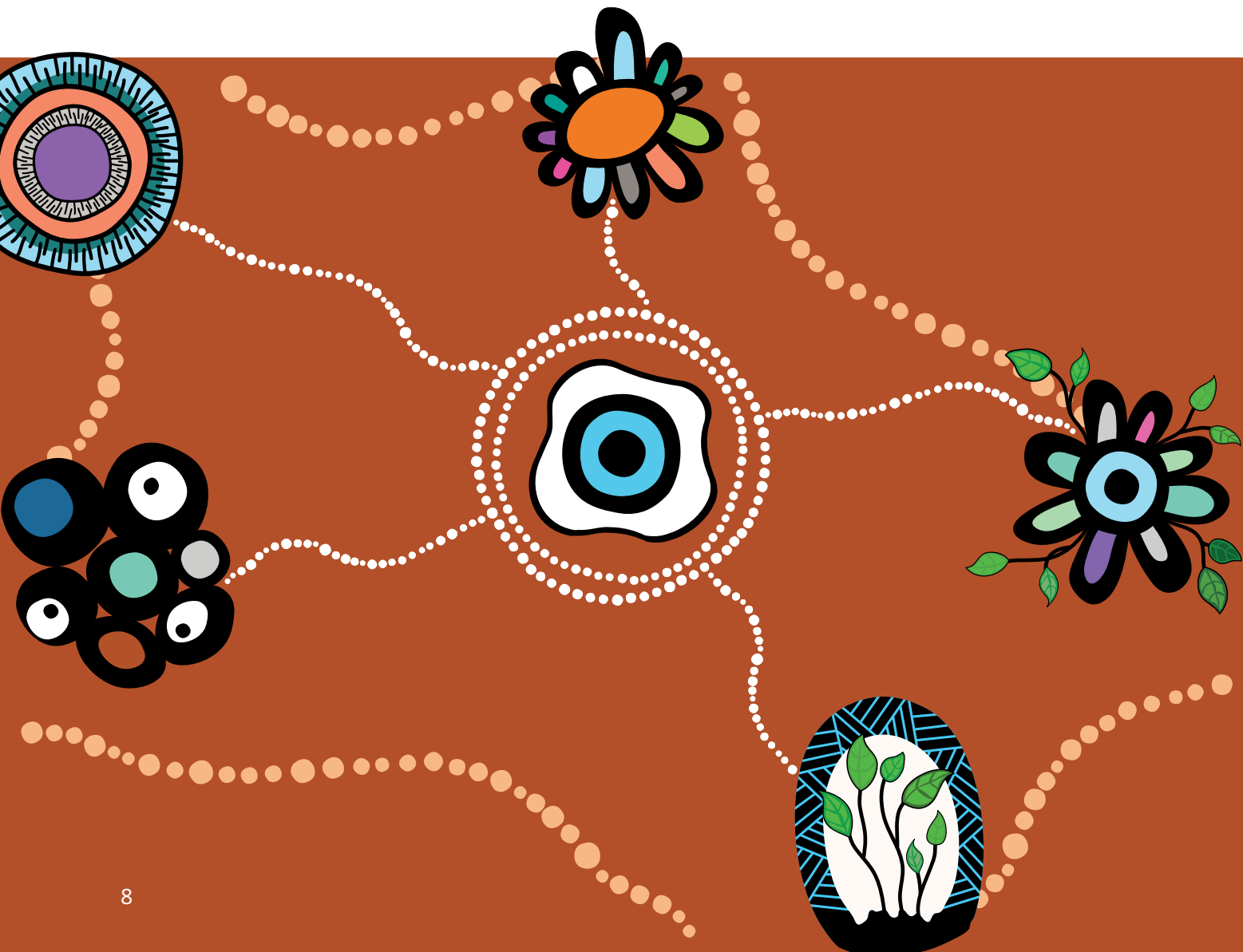
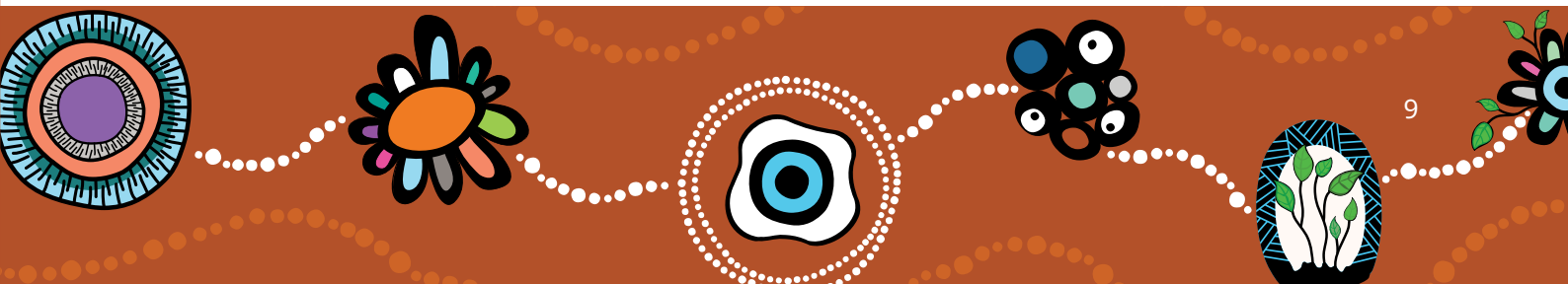




Figure 1. The Murray-Darling Basin (source Murray-Darling Basin Authority)



Background

The Murray–Darling Basin Aboriginal Water Entitlements Program reflects a strong commitment to addressing historical water access challenges, supporting the Cultural, social, economic, spiritual, and environmental wellbeing of First Nations People.

In 2018, the Australian Government announced \$40 million in funding to help First Nations within the Murray–Darling Basin invest in water entitlements for Cultural and economic purposes. In July 2022, the Minister for the Environment and Water, the Hon Tanya Plibersek MP, reaffirmed this commitment and approved a preferred purchasing program to be implemented by the Australian Government Department of Climate Change, Energy, the Environment and Water. In 2023, the government increased the program's funding from \$40 million to \$100 million.

The department has conducted extensive consultations with First Nations Peoples in the Basin to understand their purchasing preferences, ensuring the program meets their needs and priorities. Basin First Nations' views on investment strategies varied widely; however, there was a preference for a portfolio that prioritised connectivity, underpinned by wealth generation, with funds and benefits to be allocated equally between the northern and southern Basin. Entitlements will be purchased from the consumptive pool and remain in the consumptive pool.

To support the implementation, the department has engaged water market experts and commercial advisers to develop this strategic purchasing framework, which aligns with the preferences and principles of Basin First Nations.

Part A - Interim Governance

Interim governance allows water entitlements to be purchased now so the buying power of the \$100 million investment is not further reduced over time. The interim governance arrangement has been carefully designed, based on valuable input from Basin First Nations. Built upon the principles of Cultural recognition and safety, this model aims to address the needs of the program while respecting the diversity of Basin First Nations Peoples.

What we heard

We have carefully considered the significant feedback received during a symposium in November 2023 and an online consultation.

We heard that there is support for an interim governance arrangement to be in place until the enduring holding mechanism is determined with Basin First Nations Peoples.

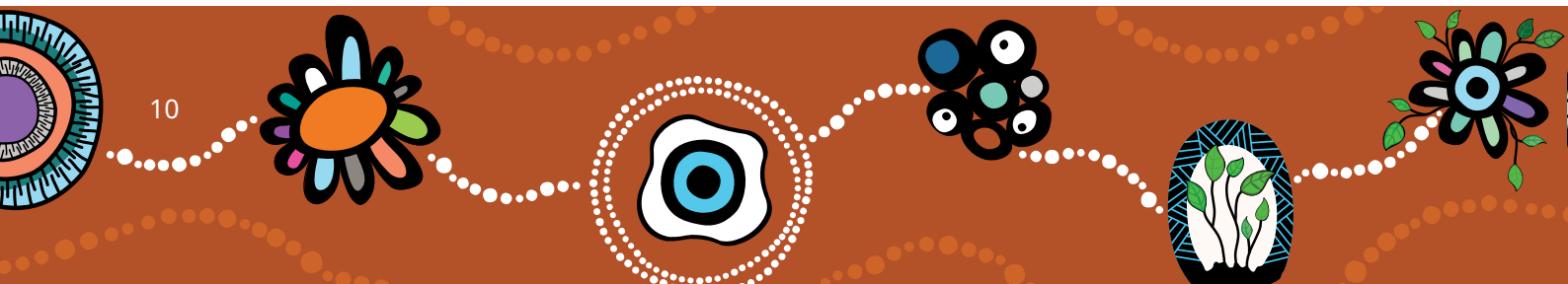
Submissions and responses placed a strong emphasis on inclusivity, transparency, accountability, and Cultural sensitivity in the decision-making processes related to water investments and governance.

A key concern highlighted by contributors was the potential exclusion of individuals with valuable Cultural knowledge due to the requirement of water market experience for interim governance members.

Some people suggested having a council or assembly to represent the voices of Basin First Nations. Others wanted more diversity in the interim governance. Concerns were raised about departmental influence on the governance structure through chair and director appointments. People also called for more transparency in purchasing decisions and communication.

We heard Basin First Nations should have the opportunity to regularly assess directors and the directorate's performance. This should be done formally while respecting Cultural authority and staying connected with individual Nations to understand their local situations.

The interim governance arrangement is made up of an independently recruited Advisory Group and Directorate, of which appointees must identify and be accepted as a Traditional Owner of the Murray–Darling Basin. Together, they play a vital role in enabling well-informed decision making that integrates Cultural and commercial factors in the procurement and management of water entitlements. Applicants must identify and be accepted as a Traditional Owner of the Murray–Darling Basin.



Directorate

The Directorate is working with the department to make commercial and water purchasing decisions in the best interests of Basin First Nations. Directors were chosen for their expertise and ability to meet technical requirements/criteria. Directors do not speak on behalf of their own Nation or a state or territory government.

Introducing the program directors:

- Chair: Sheryl Hedges, Branch Head, First Nations Water Branch (Australian Public Service financial delegation responsibilities), Walbanga
- Director: Jamie Woods, Nari Nari
- Director: Fred Hooper, Murrawarri

Advisory Group

The Advisory Group is developing policies, principles, and protocols to support decision making by the Directorate. They do not represent themselves, their Nation, or a state or territory government. Members have been selected to achieve a mix of skills and expertise, made up of Elders, emerging leaders, a gender balance, and representation from the northern and southern Basin.

Introducing the program Advisory Group members:

- Erica Smits, Gamilaroi and Euahlayi
- Feli McHughes, Ngemba
- Gordon (Ross) Mitchell, Kooma
- Ian Woods, Nari Nari
- Isabel Goolagong, Wiradjuri
- Maria (Polly) Cutmore, Gamilaroi
- Melissa Kennedy, Tati Tati
- Ronni O'Donnell, Kureinji.

The chair is to be nominated by the Advisory Group members. The chair is responsible for leading the Advisory Group, facilitating the effective contribution of all members, promoting constructive and respectful relations between the Advisory Group members, the Directorate and the department.

The department will provide secretariat and administrative support to both bodies.

For more information, visit: www.dcceew.gov.au/aboriginal-water-entitlements-program/recruitment

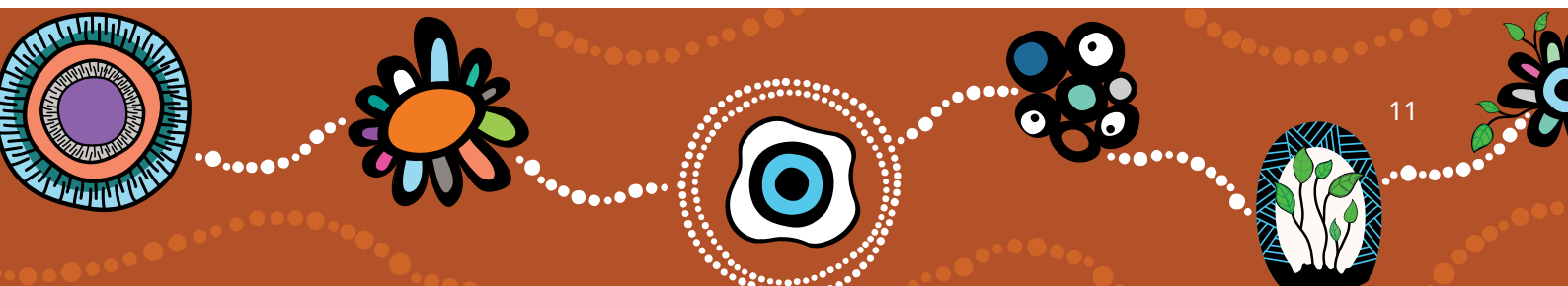
Part B - Strategic Purchasing Framework

The *Aboriginal Water Entitlements Program Strategic Purchasing Framework* is the department's trading strategy to purchase \$100 million of water entitlements for First Nations Peoples in the Murray–Darling Basin.

Purchasing objectives

The following purchasing objectives were designed with extensive consultation with Basin First Nations. The objectives outline the core principles and goals of the program.

- Acquire surface water entitlements to enhance water security for Basin First Nations Peoples.
- Ensure purchases align with the principle of connectivity, underpinned by wealth generation.
- Achieve value for money for Basin First Nations Peoples and the Australian Government.
- Maintain high standards of probity, transparency, and accountability.



Water entitlement investment portfolios

Three water entitlement investment portfolios were considered during the consultation phase of the program:

- generating **wealth creation and economic benefits**
- promoting **geographical equitable access**
- **connectivity and usability** to allow for environmental and Cultural outcomes on Country.

What we heard

Over thirty discreet Nations responded to our online survey, which closed in February 2024. The results indicated a diverse range of preferences among respondents regarding the investment portfolios and their alignment with their Nations' aspirations and desired outcomes. While each portfolio garnered significant support, the connectivity and wealth generation investment portfolios emerged as the most favoured options in aligning with their Nation's aspirations.

When respondents were asked to rank their preferred portfolio, the connectivity investment portfolio emerged as the top choice for 43% of respondents, indicating a strong preference for portfolios that facilitate connectivity and collaboration across Nations. This was followed closely by the wealth generation portfolio, preferred by 39% of respondents, reflecting the importance placed on economic development opportunities. Meanwhile, the geographical investment portfolio was ranked first by only 7% of respondents, suggesting a lower level of preference for portfolios focused solely on geographic considerations.

When considering shared portfolios, respondents exhibited a slightly different pattern of preferences. The wealth generation portfolio remained popular, with 38% of respondents preferring it as a shared option, indicating a continued emphasis on economic benefits for all Nations. Close behind was the connectivity portfolio, preferred by 36% of respondents, highlighting the importance of collaborative approaches and shared resources. The geographical portfolio, while still garnering support, was the least favoured shared option, chosen by 26% of respondents, suggesting a lower level of enthusiasm for portfolios focused primarily on geographic factors.

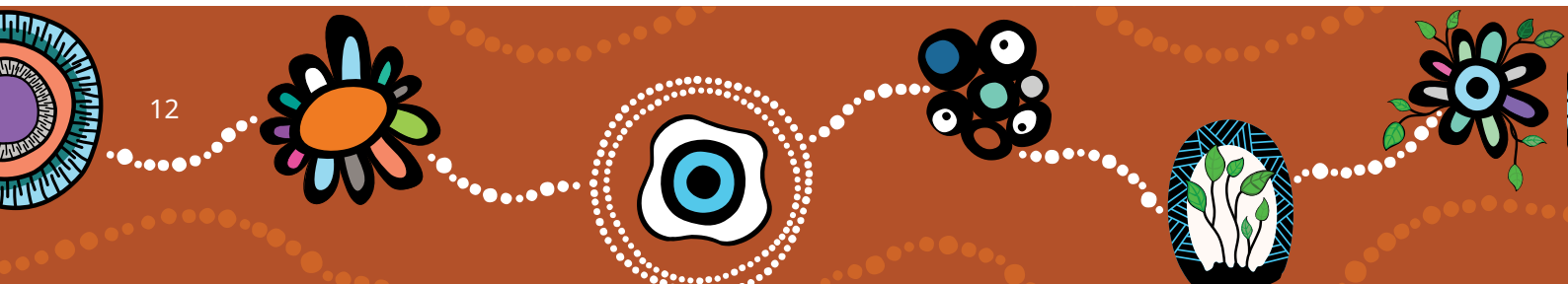
There was a shared sense of urgency to use the funding promptly to prevent further depreciation of the \$100 million.

Together with the 'Have your say' online survey and what we heard in the symposium, views on investment strategies varied widely. Some argued for a focus on wealth generation, citing its potential for delivering significant intergenerational benefits and ensuring fair advantages for all Nations. Others favoured connectivity, seeing it as more in line with Nations' Cultural values and offering opportunities for First Nations Peoples to engage in greater care for Country.

There were suggestions to directly provide funds to First Nations Peoples. Some also emphasised the importance of considering those with access to land and water, Indigenous Protected Areas, and Native Title Claims, as these influence their preferences for available entitlements. Even if purchased entitlements don't currently match Nations' aspirations, the option to facilitate divestment for future alternative purchases needs to be considered.

Feedback, submissions, and survey responses emphasised the pivotal role of Nations in decision making, emphasising the importance of aligning investment choices with their values.

The program will use the supported interim governance arrangements and the preferred investment portfolio to purchase water until the enduring water mechanism is implemented.



Principle for investment – connectivity underpinned by wealth generation

Any entitlement purchased for the program should align with the principle ‘connectivity underpinned by wealth generation’.

The portfolio is designed to provide strategic direction for achieving the program and Nations’ goals.

Key investment portfolio considerations

- Connectivity: target entitlements that provide the ability to transfer the annual right to take between zones and catchments (excluding those requiring land purchases)
- Wealth generation: target entitlements with high historic capital growth and returns
- Equal distribution of funds and benefits between northern and southern Basin.

Value for money will be determined during assessment and evaluation of water offers received. The two primary considerations will be the entitlements’ ability to meet tangible and intangible outcomes and benefits for Basin First Nations.

Detailed supporting documentation for any procurement approach by the government will be made available after publication of this framework. Potential suppliers should refer to the relevant procurement documentation which sets out the requirements, assessment approach and method to procure the necessary water entitlements.

Purchasing approaches

The water purchased for the program will be acquired through various procurement methods, each with its own costs, benefits and limitations. The suitability of each method may vary depending on specific entitlements and catchments based on historical availability. The program has identified the following strategic approaches to water purchasing for use within this framework.

Market intermediaries (water brokers and/or exchanges)

Market intermediaries will be used to present opportunities that align with the program’s investment portfolio in various areas throughout the Basin.

Expression of Interest (open and limited tender)

- Open Tender – an open tender will invite any interested seller to submit a bid in response to a request for tender.
- Limited Tender – in cases where specific entitlements are sought, a limited tender may be used to target known potential sellers.

Market-led proposals (market-led and/or First Nation-led)

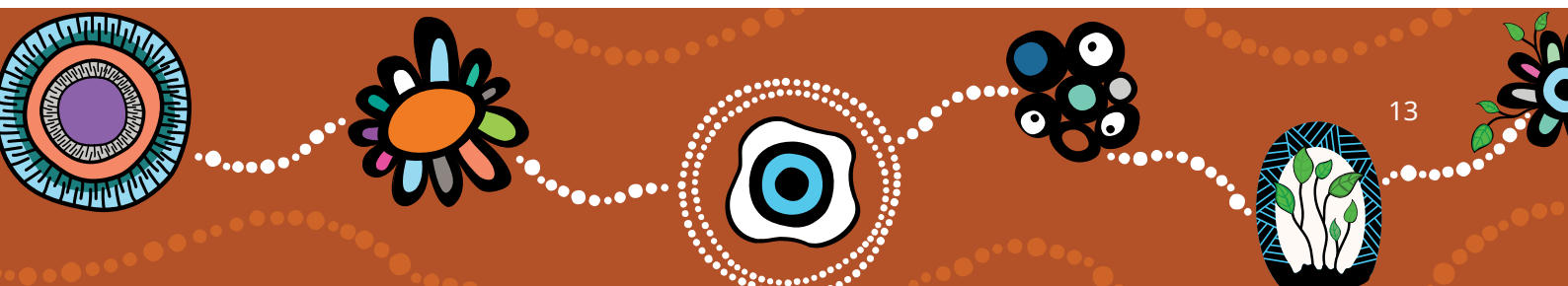
This method allows anyone owning a water license in any of the catchments of the Murray–Darling Basin to submit a tender or proposal to sell their water entitlements. Participation is voluntary. Basin First Nations Peoples, who may be aware of willing sellers, can submit tenders or proposals in partnership with these sellers. All entitlements will undergo an assessment to determine their value for money and their ability to achieve the investment portfolio’s objectives and the desired outcomes of the Nations.

Gifting

Water license owners in any of the Murray–Darling Basin catchments may choose to gift their water entitlements to the program. The program welcomes such offers and will assess these gifts based on the value-for-money framework. This assessment ensures that while the program benefits from the generosity of donors, it also mitigates potential future burdens such as associated fees and the risk of entitlements becoming stranded assets.

Mixed procurement methods

By employing a range of procurement methods, this strategic water purchasing framework aims to maximise the effectiveness and efficiency of acquiring water entitlements. Each approach is designed to address the unique characteristics of the Basin’s water markets, ensuring the program meets its investment goals and supports the desired outcomes of First Nations Peoples and program.



Purchasing plan

This section provides the strategy to purchase the investment portfolio in consideration of different procurement methods.

Catchment summaries

The following catchments have been identified in the investment portfolio in which the program may purchase surface water. Acquiring the following entitlement volumes and license types will align with the overarching investment principle – connectivity underpinned by wealth generation.

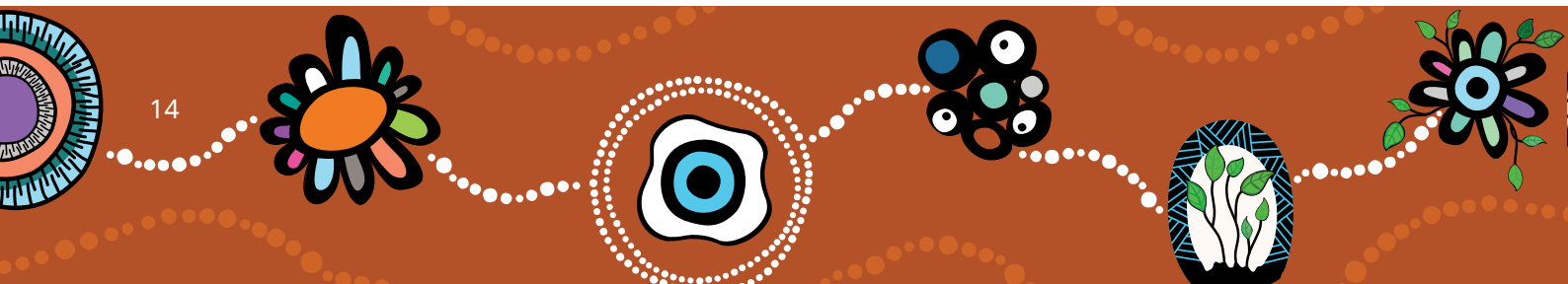
While the program will consider various types of entitlements from all catchments, it is limited by its \$100 million budget for purchasing water entitlements. The program will consider purchases against a two-tiered approach when assessing value for money and purchasing objectives:

- Priority 1 Licences: actively sought and acquired by the program through all purchasing approaches.
- Priority 2 Licences: will not be actively sought but may be considered through water market intermediaries and market-led proposals.

Priority 1

The following entitlements will be prioritised for purchasing. Securing these licenses would align more strongly with the investment principle ‘connectivity underpinned by wealth generation’.

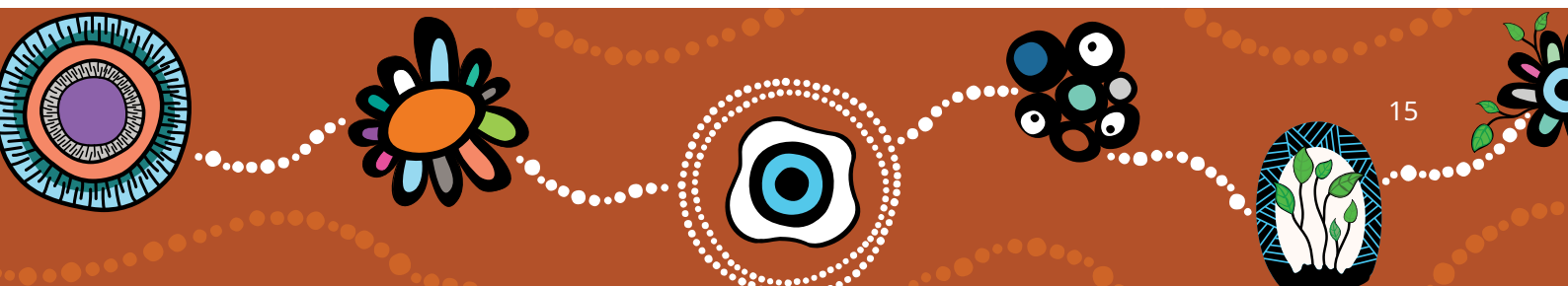
Catchment	Estimated gigalitres	License types
Barwon–Darling	2	Unregulated B Class
Border Rivers	2	GS A, GS B, WSS
Goulburn Broken	7	HRWS, LRWS
Gwydir	3	GS
Lachlan	8.5	GS
Lower Darling	0.5	HS
Macquarie	4.5	GS
Murrumbidgee	7.5	HS, GS
Namoi	2	GS
NSW Murray	3.5	GS, HS
SA Murray	1.5	HS
VIC Murray	5	HRWS, LRWS



Priority 2

The program will evaluate proposed purchases against the investment principle connectivity underpinned by wealth generation. If the proposed purchase aligns with this principle, the following licenses may be purchased as a second priority.

Catchment	Estimated gigalitres	License types
Border Rivers	0.1	unregulated
Campaspe	2.0	HRWS, LRWS, unregulated
Castlereagh	0.2	unregulated
Condamine–Balonne	0.2	WSS, unregulated
Goulburn Broken	0.1	unregulated
Gwydir	0.2	unregulated
Kiewa	0.1	unregulated
Lachlan	0.2	HS, unregulated, other
Loddon	2.0	HRWS, LRWS, unregulated
Lower Darling	0.2	GS, unregulated
Macquarie	0.6	unregulated
Mitta Mitta	0.1	unregulated
Moonie	0.2	unregulated
Murrumbidgee	1.0	unregulated
Namoi	2.0	unregulated
Nebine	0.2	unregulated
NSW Murray	0.6	unregulated
Ovens	0.2	HRWS, unregulated
Paroo	0.1	unregulated
SA Murray	0.2	unregulated
VIC Murray	0.6	unregulated
Warrego	0.2	WSS, unregulated
Wimmera	0.1	Regulated (21A), unregulated



Achieving value for money

Achieving value for money is the core rule of the Commonwealth Procurement Rules (CPRs) as it is critical in ensuring that public resources are used in the most efficient, effective, ethical and economic manner. Price is not the only factor when assessing value for money, and these CPRs require officials to consider a range of other relevant financial and non-financial costs and benefits. The CPRs sit under section 105B(1) of the *Public Governance, Performance and Accountability Act 2013*.

The government promotes the proper use and management of public resources. Proper means efficient, effective, economical and ethical.

- Efficient relates to the achievement of the maximum value for the resources used. In procurement, it includes the selection of a procurement method that is the most appropriate for the procurement activity, given the scale, scope and risk of the procurement.
- Effective relates to the extent to which intended outcomes or results are achieved. It concerns the immediate characteristics, especially price, quality and quantity, and the degree to which these contribute to specified outcomes.
- Economical relates to minimising cost. It emphasises the requirement to avoid waste and sharpens the focus on the level of resources that the Commonwealth applies to achieve outcomes.
- Ethical relates to honesty, integrity, probity, diligence, fairness and consistency. Ethical behaviour identifies and manages conflicts of interest, and does not make improper use of an individual's position.

The current market price for a water entitlement alone does not determine value for money. A range of financial and non-financial factors will be considered in determining whether a procurement achieves value for money in accordance with the CPRs.

The value for money assessment framework has two key components:

- Cultural, social, environmental, spiritual and economic
- market and financial.

Investment decisions to purchase water entitlements will consider these and other principles. However, potential suppliers should not rely on this framework and refer, instead, to the applicable evaluation criteria specified in the relevant procurement documentation and detailed program guidance.

A component of value for money is the price of the water entitlement. The government will value water according to its water valuation policy to provide a clear and transparent process for the valuation of water entitlements.

Cultural, social, environmental, spiritual and economic benefits

The Advisory Group will develop a framework to assess the Cultural, social, environmental, spiritual and economic benefits of different types of purchases. This framework will consider the tangible and intangible aspects, ensuring a comprehensive evaluation of the benefits associated with each purchase.

Market and financial benefits

Market benefits will assess the current market structure and conditions in the specific water market where the purchase is being made. Financial benefits will assess the financial considerations within that market. Both market and financial benefits are essential components of the strategic water purchasing framework, ensuring that acquisitions are made under favourable conditions and that investments are financially sound. This dual assessment helps optimise the use of resources and supports the program's objectives.

Transaction costs

Additional value may be assigned to larger parcels of water because these can reduce tendering costs to market participants and reduce overall conveyance and administrative costs to government.

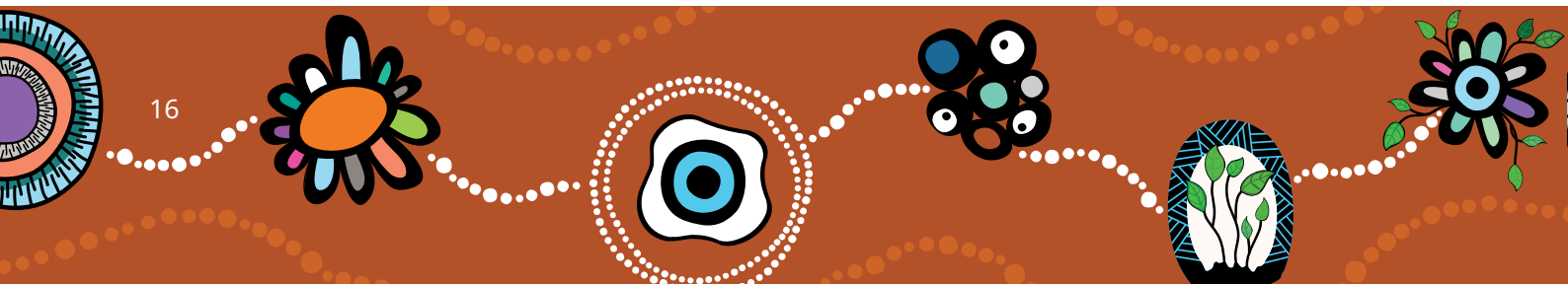
Other whole-of-life costs

Ongoing costs of managing the water entitlement, such as yearly fees and charges, may also be considered.

Irrelevant factors

Whether the water entitlement is held by a foreign entity or listed on the Register of Foreign Ownership of Water Entitlements (Water Register) is not able to be considered as a relevant factor.

Notwithstanding the factors and principles outlined above, potential suppliers should not rely on these matters and refer instead to the applicable evaluation criteria specified in the relevant procurement documentation.



How to participate

If you hold a water licence in these catchments or are interested in selling your water entitlements to the Aboriginal Water Entitlements Program, please seek legal and financial advice. The procurement process may ask for details about the water entitlements you would like to offer, including the volume, evidence of ownership, your right to sell, as well as the price being offered.

When an open tender is run as part of this program, details of the expression of interest tender can be viewed in Planned Procurements on AusTender. Detailed guidance, specifications and supporting materials will be available when the tender is opened (www.tenders.gov.au).

For market-led proposal opportunities, please register your interest at awepurchasing@dcceew.gov.au. We will send you instructions once we receive your inquiry.

Future addendums

Further advice will be provided to the market if there are any changes in circumstances or approaches that would deviate from the specified outcome.

Further information

- <https://www.dcceew.gov.au/water/policy/first-nations/aboriginal-water-entitlements-program>
- awepurchasing@dcceew.gov.au

