

# Consultation paper for draft NSW Aboriginal Water Strategy and Action Plan

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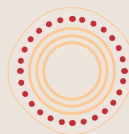
Increasing rights and access to water for cultural and economic purposes.

July 2024



# Acknowledging Aboriginal People

The Department of Climate Change, Energy, the Environment and Water acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are The NSW Government commits through the NSW Water



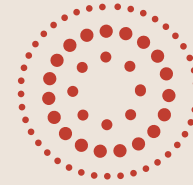
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TMP-A-R-WC-V1.2

#### Artist acknowledgement: Nathan Peckham

As a proud Tubba-gah man from Dubbo in the Wiradjuri Nation, I respectfully acknowledge all nations which the NSW DCCEEW operates on. I acknowledge this artwork will be viewed off my home country of the Tubba-gah people and therefore ask you accept this artwork as an offering on behalf of my family as a gesture of continuing the legacy of the knowledge of our ancestors. I would also like to pay respect to all traditional custodians of the country whose ancestral lands we all walk upon. I thank the Elders for their wisdom, courage, and sacrifice and pledge my commitment to preserving their legacy for future generations.



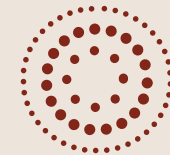
# Background

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Strategy to recognise Aboriginal people's water rights and values and increase access to and ownership of water for cultural and economic purposes.

Developing an Aboriginal Water Strategy and Action Plan will help us meet that commitment because it will help guide our approach to practical recognition of Aboriginal rights and interests in water in NSW. This draft Strategy and actions have been informed by current and past initiatives and consultation.

While creating the Strategy, the government collaborated closely with important water stakeholders, including the NSW Aboriginal peaks and community controlled organisations. Together, they worked on defining clear objectives and actions aimed at delivering cultural and economic benefits to the community.



# Journey towards the Aboriginal Water Strategy



# Journey towards the Aboriginal Water Strategy

On the journey to developing the Draft Strategy we have heard:

- **The need for Aboriginal people to have appropriate water governance involvement:** the processes and structures required for Aboriginal people to sit at the table, be heard, and make decisions.
- **The need to review, update, and expand Aboriginal water rights:** review and assess water licences and rights for Aboriginal people to have access to cultural sites and to manage waterways.
- **The need for Aboriginal people to have roles and responsibilities in managing waterways and cultural sites:** embracing, protecting, caring and, in some cases, enhancing cultural values through ensuring access to Country and the equitable participation (partnership) of Aboriginal people in a suite of management activities.



Six key themes have emerged from the engagement processes undertaken to date.



**Culture** – acknowledge the central role of water in Aboriginal culture, and its inter-dependencies with economic, social, and environmental outcomes.

What community said:

*“Ensure that sacred sites and other Aboriginal cultural aspects are taken into consideration when dealing with and issuing water licences and approvals.”*

*“Undertake an assessment of all licensing and approvals pathways and processes, including increased awareness and support for Aboriginal access to water for cultural purposes.”*

*“Water plans should agree to and provide clear, measurable, and Aboriginal-informed cultural outcomes.”*



**Health and well-being** – acknowledge that water (quality and quantity) is critical to sustaining healthy communities, which underpins the ability to live on and care for Country.

What community said:

*“Mental health outcomes can be improved through access to healthy rivers and ground water.”*

*“Employment and business opportunities would also support health and wellbeing.”*

*“Reduce the stress and distress caused to Aboriginal people when water access is reduced.”*



**Caring for Country** – improve and enable access to Country to maintain healthy waterways.

What community said:

*“Create Aboriginal-owned-and-managed land reserves to access regulated and unregulated rivers and other water-dependent culturally significant sites. Use a collaboratively designed approach to implement this action.”*

*“Apply best-practice guidance for protection of Aboriginal cultural rights in sites of significance.”*

*“Fund research and leverage existing Aboriginal research to better care for Country.”*

*“Embed and sustain an Aboriginal River Ranger program across all NSW waterways that includes multi-faceted outcomes for Aboriginal people through the combination of employment and caring for Country.”*



**Meaningful engagement** – embed culturally appropriate Aboriginal engagement, participation, partnerships, and communication processes into water management and government decision making.

What community said:

*“Establish Aboriginal governance arrangements for NSW water that provide for full participation and input from all regions and in relation to all aspects of water planning and management.”*

*“Recognise and incorporate Aboriginal research in science and water policy and planning through equitable Aboriginal representation and input.”*

*“Recognise the principle of Free, Prior, Informed Consent<sup>1</sup> and Aboriginal Cultural and Intellectual Property<sup>2</sup> to the fullest and appropriate extent.”*

*“Support opportunities for farmers and Aboriginal communities to engage and lift accountability of NSW water-management authorities.”*



**Economic benefit** – seek opportunities to use existing water and access to additional water to generate employment and business ventures.

What community said:

*“Fund business support and training to lift Aboriginal business management capability.”*

*“Support the need for ownership, management, and trading of water entitlements and allocation to improve the economic development from water rights.”*



**Shared benefits** – seek opportunities to use water allocated for environmental and consumptive purposes to deliver Aboriginal outcomes and benefits where synergies exist.

What community said:

*“Secure flows for social, economic, spiritual, and cultural purposes.”*

*“Develop a culturally appropriate water knowledge program to ensure that Aboriginal water requirements and preferences are understood sufficiently.”*

*“Investing in research to ensure that provisions for the delivery of cultural flows translate into meaningful allocations.”*

*“Provide co-created specific guidelines on how to implement Aboriginal water rights agreed as part of national initiatives (Closing the Gap and the NWI) in partnership with the NSW Aboriginal peaks and community controlled organisations.”*

# Context of the NSW Aboriginal Water Strategy

The Strategy does not work in isolation. Many of the actions are closely linked to other strategies and plans to ensure that the objectives outlined are achieved.





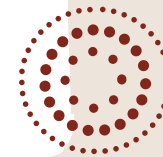
# Realising the strategic vision

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## Strategic vision and initiatives

Consistent with the government's commitment in the NSW Water Strategy, the vision for this Strategy is to:

... recognise Aboriginal people's rights and values and increase access to and ownership of water for cultural and economic purposes.



To deliver this vision, the department will implement the actions outlined in the next chapter. The actions are grouped around 4 major objectives. These broadly align with the NSW Water Strategy actions but have been further nuanced and developed during the process of collaboratively developing this Strategy. The objectives are to:

1. strengthen the role of Aboriginal people in water planning and management
2. provide Aboriginal ownership of and access to water for cultural and economic purposes
3. work with Aboriginal people to improve shared water knowledge and capacity
4. work with Aboriginal people to maintain and preserve water-related cultural sites and landscapes.

# Monitoring and reporting

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The Strategy and Plan will include clear and measurable actions and approaches the department can track, review, and report on.

The monitoring and evaluation framework the department develops will support review, reporting, transparency, and accountability to effectively deliver the Strategy, and will align to best practice standards in Aboriginal outcomes.

The department will report annually on the delivery of actions in the Plan, and evaluate and review the effectiveness of the Strategy in achieving its outcomes over a longer timeframe.

## We want your feedback on the proposed objectives and actions

The government is committed to improving water management, including accountability and transparency in water governance, to improve outcomes for Aboriginal people in NSW. The NSW government has strategies for many specific users, such as regional and groundwater strategies. Aboriginal people have needs that require a strategy to meet cultural and economic uses. We will listen to and take on board all feedback received during the 6 week community consultation period. It will be written into a 'What we heard' report and will help shape the final Aboriginal Water Strategy and Action Plan.

# Objective 1 – Strengthen the role of Aboriginal people in water planning and management.

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This objective aims to embed and sustain culturally appropriate Aboriginal engagement, participation, partnerships, and communication processes into water management and government decision making.

The actions of this objective should not only reform existing water governance and decision-making processes to improve meaningful Aboriginal representation, but they should also provide opportunities for Aboriginal people to develop Aboriginal-led water governance and decision-making structures and processes consistent with the principle of self-determination. Importantly, the actions should provide opportunities at all levels for Aboriginal people to contribute to, and lead the management of, their land and water resources.

#	Key action	Proposed timeline	
		2025	2026+
1.1	<p>Collaboratively design and implement governance arrangements that enable NSW Aboriginal peaks and community controlled organisations, other Aboriginal water-interest groups, and Aboriginal communities to work with the government on critical statewide water strategies, policies, programs, and issues.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Document an agreed process for involving Aboriginal people in decision making.</li> <li>• Roll out regular information and education sessions to improve Aboriginal community members understanding of how water is managed in NSW.</li> </ul>		✓
1.2	<p>Collaboratively design an Aboriginal water engagement framework that respects and builds appreciation for Aboriginal cultural protocols and recognises the importance of cultural safety for Aboriginal participants in water management and government decision-making processes.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Develop an agreed framework for engaging Aboriginal people in water management decisions that ensures Aboriginal cultural protocols are recognised and respected in the engagement process.</li> <li>• Develop comprehensive guides and standards that ensure all engagement staff are educated on the importance of ensuring cultural safety for Aboriginal participants during the engagement process.</li> </ul>	✓	
1.3	<p>Reform existing water engagement frameworks and decision-making processes to support Aboriginal representation, including through identified Aboriginal gender-balanced roles on relevant boards and committees and supporting roles for Aboriginal community controlled organisations in water governance. This will build on a current action to establish a Regional Aboriginal Water Committee in each of the NSW water regions.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Review existing engagement procedures to identify things we could change to better support Aboriginal participation in decision-making processes.</li> <li>• Create gender identified roles for Aboriginal people on boards and committees involved in the engagement and decision-making process.</li> <li>• Continue to work in partnership with the established Regional Aboriginal Water Committees to ensure Aboriginal representation in water planning and governance at a local level.</li> </ul>		✓

#	Key action	Proposed timeline	
		2025	2026+
1.4	<p>Increase the participation and employment of Aboriginal people on Country to maintain the health of land, rivers, and wetlands. This will include working with the Commonwealth Government and other state government agencies to sustain an Aboriginal River Ranger program across all NSW waterways that includes multi-faceted outcomes for Aboriginal people through employment and caring for Country.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Create more employment opportunities for Aboriginal staff on Country within water-related government agencies.</li> <li>• Improve communication of these opportunities within local communities.</li> <li>• Provide relevant training and opportunities for upskilling in traditional land, river and wetland management.</li> </ul>		✓
1.5	<p>Increase procurement of Aboriginal businesses in NSW Government across the water sector, including related investments and infrastructure development.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Improve communication of procurement opportunities to Aboriginal businesses and communities.</li> <li>• Review existing procedures and identify how we can better support Aboriginal businesses throughout the procurement process.</li> </ul>		✓
1.6	<p>Increase Aboriginal employment in water-related government agencies.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Create more Aboriginal identified roles within water-related government agencies.</li> <li>• Improve communication of employment opportunities within Aboriginal communities.</li> <li>• Review existing resources for Aboriginal staff and identify how they can be better supported within our agencies.</li> <li>• Review existing resources to identify how we can improve Aboriginal cultural knowledge, understanding and capacity amongst all staff.</li> <li>• Ensure employees involved in the water sector undergo cultural training.</li> </ul>	✓	

### Tell us what you think

1. Have we got these actions right?	2. Is there anything else do we need to do to ensure Aboriginal people are actively involved in the government's work on water strategies, policies, programs and issues?	3. What does this action look like for your region and community?
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## Objective 2: Provide Aboriginal ownership of and access to water for cultural and economic purposes.

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This objective recognises the critical role of water resources in culture and caring for Country, and the important part these play in health and wellbeing. It also recognises the historical dispossession in relation to Aboriginal people's water rights and responsibilities and seeks to redress this imbalance.

The actions for this objective promote Aboriginal rights for water to be left in a river or groundwater source for cultural purposes and to sustain water quality and culturally important ecosystems, rights to take water out of a river or groundwater source for cultural or economic uses, and rights to gain access to waterways and other water-dependent culturally significant sites. This also includes providing safe and effective water and sewerage services in rural villages and towns to improve the health and wellbeing of residents of Aboriginal communities.

#	Key action	Proposed timeline	
		2025	2026+
2.1	<p>Review policy, planning, and legislative settings and identify possible amendments to the current framework to better enable Aboriginal rights, interests, and ownership of water, and implement changes as the government approves.</p> <p>As an element of Action 1.1, collaboratively design and establish a statutory Aboriginal water investment entity representing all NSW regional Aboriginal water communities designed to incorporate access to sustainable and equitable economic opportunities that can:</p> <ul style="list-style-type: none"> <li>• hold and undertake dealings in water access licences and water allocations</li> <li>• hold, administer, and invest monies from, for example, parliamentary appropriation, levies, gifts, or bequests.</li> <li>• promote, organise, conduct, and fund projects and initiatives that maximise the cultural, social, spiritual, and economic benefits of the State’s water sources for present and future generations of Aboriginal people</li> <li>• engage in other activities relating to its objects as the Minister may approve.</li> </ul> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Review existing laws, policy and water planning for things we could change or adjust to better support Aboriginal rights, interests, and ownership of water to achieve better outcomes.</li> <li>• Carry out these changes where the government approves of them.</li> <li>• Work with Aboriginal people to design and set up a statutory Aboriginal water investment entity representing all NSW regional Aboriginal water communities.</li> <li>• Ensure this entity is directed to seek sustainable and equitable economic opportunities using the listed abilities.</li> </ul>		✓
2.2	<p>Investigate and implement opportunities to embed “planned” cultural flows or allowances in water-sharing plans.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Plan out the steps we will use to develop cultural water plans and share this approach.</li> <li>• Develop cultural watering plans in collaboration with the relevant Aboriginal communities.</li> <li>• Use this approach for other community-led water initiatives.</li> </ul>		✓
2.3	<p>Develop and deliver a program to develop cultural watering plans and other community-led water initiatives.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Review our water sharing plans and find clauses or content that would help us to include cultural flows or allowances in the plans.</li> <li>• Use the legislated review process for water sharing plans to amend the water sharing plans to include these</li> </ul>	✓	

#	Key action	Proposed timeline	
		2025	2026+
2.4	<p>Investigate and implement opportunities to optimise operational water delivery and in-river infrastructure to achieve connectivity and cultural outcomes.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Determine which connectivity and cultural outcomes might be supported by adjusting the way water is delivered.</li> <li>• Identify how to change the way water is delivered to reach these outcomes.</li> <li>• Put these changes in place in rules or guidelines about operational water delivery.</li> </ul>		✓
2.5	<p>Work with Traditional Owners, scope measures to better recognise Native Title water rights, and adopt Indigenous Land Use Agreements to implement water-sharing plans and other mechanisms.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Work with Traditional Owners to find ways to recognise Native Title water rights more effectively.</li> <li>• Implement these through Indigenous Land Use Agreements, water sharing plans and other mechanisms.</li> </ul>	✓	
2.6	<p>Develop and implement a program to deliver the proposed Closing the Gap Target 15c.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Determine what is needed to put the proposed Target 15C in place.</li> <li>• Plan how to complete these requirements and carry them out.</li> </ul>	✓	
2.7	<p>Collaboratively design and implement options for improving access to waterways and other culturally significant water-dependent places.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Work with Aboriginal people to identify ways to increase access to waterways and other culturally significant water-dependent places.</li> <li>• Select the most appropriate or effective of these ways and carry them out.</li> </ul>		✓



#	Key action	Proposed timeline	
		2025	2026+
2.8	<p>Continue and expand the Aboriginal communities water and sewerage program to deliver sufficient water for key amenities in small Aboriginal communities.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>Continue to implement the current Aboriginal communities water and sewerage program.</li> <li>If funded by the NSW Government, expand the program further.</li> </ul>		✓
2.9	<p>Create and put in place a system for Aboriginal involvement in decisions about environmental watering. This system should also include a mechanism for Aboriginal people to choose the right cultural authority or knowledge holder to enhance the exchange of cultural heritage knowledge and use water allocated for environmental purposes to deliver Aboriginal cultural outcomes and benefits where synergies exist.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>Determine how Aboriginal people can become involved in decisions about environmental water.</li> <li>Set up a mechanism to identify the most appropriate cultural authority or knowledge holder to enhance outcomes.</li> <li>Put in place the most effective tool to ensure Aboriginal people are involved in these decisions.</li> </ul>		✓
2.10	<p>Maintain water-related amenities for rural towns with significant Aboriginal populations during droughts (swimming pools, playing fields, parks, and gardens).</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>Ensure that public amenities which require water have access to water during droughts for as long as reasonably possible.</li> <li>Maintain these public amenities to ensure they can be used.</li> </ul>		✓

### Tell us what you think

1. Have we got these actions right?	2. Is there anything else do we need to do to ensure Aboriginal people are actively involved in the government’s work on water strategies, policies, programs and issues?	3. What does this action look like for your region and community?
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## Objective 3 – Work with Aboriginal people to maintain and preserve water-related cultural sites and landscapes.

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This objective recognises that our statutory land-use planning and heritage frameworks, our water policy, and our planning and strategic frameworks must make more considered approaches to water and water-dependent sites and values.

The actions of this objective aim to move beyond the narrow treatment of Aboriginal “heritage” and take a more holistic view of Aboriginal water values and rights in our planning frameworks, consistent with the objects and principles of the Water Management Act (2000)<sup>1</sup>, to:

“recognise and foster the significant social and economic benefits to the State that result from the sustainable and efficient use of water, including the benefits to the Aboriginal people in relation to their spiritual, social, customary, and economic use of land and water”, and “protect geographical and other features of major cultural, heritage, or spiritual significance”

<sup>1</sup> Water Management Act (2000): <https://legislation.nsw.gov.au/view/html/inforce/current/act-2000-092>

#	Key action	Proposed timeline	
		2025	2026+
3.1	<p>Develop a process and clear guidance for decision makers to recognise Aboriginal cultural values and the principle of Free, Prior, Informed Consent. This includes working together with Aboriginal communities on water-related issues when assessing applications under the Water Management Act, assessing development applications under the Environmental, Planning and Assessment (EP&amp;A) Act, planning for infrastructure, and approving water-related projects.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Develop comprehensive guidelines for decision makers to understand and recognise the importance of Aboriginal water rights and values.</li> <li>• Consult with Aboriginal communities when assessing water-related projects and development applications.</li> </ul>	✓	
3.2	<p>Collaboratively create policies and procedures for acknowledging and respecting Aboriginal heritage values when developing and updating state and regional water strategies, water-management plans, and water policies.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Involve and collaborate with Aboriginal people when updating and developing water strategies, policies and management plans.</li> <li>• Collaborate and create procedures for acknowledging and respecting Aboriginal heritage values.</li> </ul>		✓
3.3	<p>Examine ways to ensure compliance and enforcement measures properly address and correct water-related offences affecting Aboriginal heritage values and sites.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Ensure Aboriginal heritage values and sites are effectively protected from water-related offences.</li> <li>• Identify ways to strengthen or enforce compliance measures if needed.</li> </ul>		✓

### Tell us what you think

1. Have we got these actions right?	2. Is there anything else do we need to do to ensure Aboriginal people are actively involved in the government’s work on water strategies, polices, programs and issues?	3. What does this action look like for your region and community?
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# Objective 4 – Work with Aboriginal people to improve shared water knowledge and build capacity.

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This objective is multi-faceted and underpins, supports, and enables all other strategic objectives and actions. The actions of this objective will, as appropriate, create greater understanding and improved relationships between Aboriginal and non-Aboriginal water managers resulting in mutually beneficial outcomes. They will support and build the capacity of Aboriginal people and organisations to effectively participate and lead water management programs and build water-dependent businesses.

Note that actions in Objective 4 relating to water knowledge and information, data sovereignty, and intellectual property must support the actions and achievement of Objective 3.

#	Key action	Proposed timeline	
		2025	2026+
4.1	<p>Embed cultural competency training in the water sector, including localised content.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>Involve Aboriginal people in the development of cultural competency training to create a more inclusive, respectful and effective approach to water management.</li> <li>Ensure all individuals involved in the water sector undergo cultural training.</li> </ul>	✓	
4.2	<p>Promote and support Aboriginal-led research activities that recognise and value Indigenous Cultural Intellectual Property (ICIP) and Aboriginal knowledge within the water-management framework.</p>		✓
4.3	<p>Support and promote the continuation of Aboriginal Waterways Assessments in the Murray-Darling Basin and expand to encompass all water sources in NSW.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>Deliver education and information sessions to increase awareness of the Aboriginal Waterways Assessments (AWA) tool.</li> <li>Engage with Aboriginal communities and stakeholders through print and digital channels to highlight the importance of the AWA tool.</li> </ul>		✓
4.4	<p>Collaboratively design and deliver programs to improve understanding of water-management frameworks, policies, rules, and processes in Aboriginal communities and organisations.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>Collaborate and engage with Aboriginal communities and organisations to identify their specific needs.</li> <li>Create culturally relevant education materials and guides to improve Aboriginal communities' understanding of water-related policies.</li> </ul>	✓	
4.5	<p>Ensure Aboriginal people inform all government water information resources for cultural appropriateness.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>Form an advisory panel consisting of Aboriginal elders and community leaders to provide ongoing input on cultural appropriateness.</li> <li>Incorporate input and guidance from Aboriginal people into government water information resources.</li> </ul>	✓	

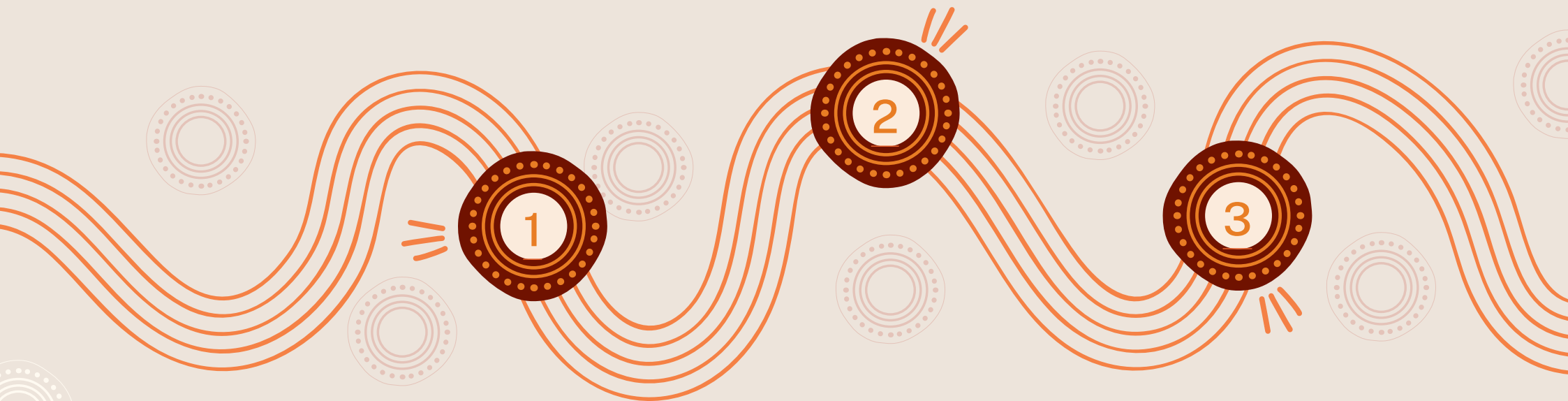
#	Key action	Proposed timeline	
		2025	2026+
4.6	<p>Embed approaches to water-related data sovereignty that ensure the protection of Aboriginal people’s intellectual property rights and interests.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Work with Aboriginal communities to develop comprehensive guidelines.</li> <li>• Document an agreed process for involving Aboriginal people in decision making.</li> </ul>	✓	
4.7	<p>Collaboratively design and implement a program for ongoing advice and support for employment and capacity building that realises Aboriginal-led water management, initiatives, and businesses.</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Work with Aboriginal communities to design and implement an employment and skills training program that works for them.</li> <li>• Provide relevant support and advice to help Aboriginal people lead and manage water initiatives effectively</li> </ul>	✓	
4.8	<p>Collaboratively design and implement mechanisms to deliver sustainable resourcing of Aboriginal-led water governance arrangements and programs (as per Objectives 1-4).</p> <p><b>This means we will:</b></p> <ul style="list-style-type: none"> <li>• Work with Aboriginal communities to identify their needs and preferred approaches for water governance.</li> <li>• Develop sustainable models of Aboriginal-led water governance arrangements and programs.</li> </ul>		✓

### Tell us what you think

1. Have we got these actions right?	2. Is there anything else do we need to do to ensure Aboriginal people are actively involved in the government’s work on water strategies, policies, programs and issues?	3. What does this action look like for your region and community?
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# Summation and next steps

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## Aboriginal Water Strategy

### Prepare

Prepare a **‘What we heard’** report and the final draft NSW Aboriginal Water Strategy (August - October)

### Submit

Submit draft strategy and action plan to Government for finalisation (late 2024)

### Release

Release the NSW Aboriginal Water Strategy (early 2025)