

Advancing the Victorian Treaty Process

Annual Report 2020-21



First Peoples –
State Relations





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Front cover: In March 2021, Senior Wurundjeri Elder, Aunty Joy Murphy Wandin, performed a Welcome to Country and Smoking Ceremony to welcome guests to Wurundjeri Country at Coranderrk for the announcement of the Yoo-rrook Justice Commission.

Front cover image: Tiffany Garvie



Aboriginal readers are advised that this document may include photos, quotations and/or names of people who are deceased.



Acknowledgement

We proudly acknowledge the First Peoples of Victoria and their ongoing strength in practising the world's oldest living culture. We acknowledge the Traditional Owners of the lands and waters on which we live and work, and pay our respects to their Elders past and present.

Victorian Traditional Owners maintain that their sovereignty has never been ceded, and Aboriginal Victorians have long called for treaty. Since time immemorial, Victorian Traditional Owners have practiced their laws, customs and languages, and nurtured Country through their spiritual, material and economic connections to land, water and resources.

We acknowledge that while Aboriginal Victorians are strong in their culture and identity, there are long-lasting far-reaching and intergenerational consequences of colonisation and dispossession. The reality of colonisation involved the establishment of laws and policies with the specific intent of excluding Aboriginal people and their laws, customs, cultures and traditions. We acknowledge that the impact and structures of colonisation still exist today.

Finally, we acknowledge the invaluable contributions of all those who have paved the way and fought for the rights of Aboriginal people, including the right to self-determination. We also recognise the ongoing contribution of Aboriginal people and communities to Victorian life and how this continues to enrich our society more broadly. Through the strength, resilience and pride of Aboriginal Victorians, their cultures, communities and economies endure and continue to grow and thrive today.

Statutory context and reporting requirements

In August 2018, the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Treaty Act) became law, having passed through both houses of the Victorian Parliament in June 2018.

Under the Treaty Act, the Minister for Aboriginal Affairs is required to prepare an annual report on the work of the State in advancing the treaty process. The reporting requirements are set out in Part 8 of the Treaty Act.

This document constitutes the Minister's annual report for the 2020-21 financial year.

Part 8 of the Treaty Act also requires the First Peoples' Assembly of Victoria (Assembly) to report annually on its work in advancing the treaty process.

The Assembly's annual report will be a separate document.

These reporting requirements ensure that the Assembly and the State are transparent in their work to advance treaty in Victoria.





Image: DPC photographer

Message from the Minister

It is my great privilege to be the Minister for Aboriginal Affairs in Victoria, as we work in partnership with the First Peoples' Assembly of Victoria to lead the nation in treaty and truth.



This has been a year like no other. The global COVID-19 pandemic has impacted us all. Despite its many challenges, I am incredibly proud of the milestones achieved this year by the State and First Peoples' Assembly of Victoria (Assembly) on Victoria's historic path to treaty.

Importantly, I acknowledge the significant work of the Assembly as the first democratically elected body of Traditional Owners and Aboriginal Victorians in the state's history. Since it was established in 2019, the Assembly has engaged the Aboriginal Victorian community on treaty and truth, and progress has proceeded at pace despite COVID-19 impacts.


I thank the Assembly for its dedication, commitment and flexibility in these trying times.

Since commencement in August 2020, negotiations between the State and Assembly have proceeded in good faith, building and sustaining momentum towards treaty. We have agreed and established a dispute resolution process as required by the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Treaty Act).

We have published conduct protocols to found negotiations in a shared acknowledgement of the experiences of previous relationships between Aboriginal communities and the State. These set the standards for government to be a model treaty partner throughout the treaty process.

Negotiations are now underway on the remaining treaty elements, including a treaty negotiation framework, the establishment of a Treaty Authority, and the creation of a self-determination fund. I look forward to working closely with the Assembly and the progress to be made in the coming year.

And in a moment which had been owed for over 200 years, on 9 March 2021 the State and Assembly issued a joint statement announcing the establishment of the Yoo-rrook Justice Commission (Commission) to lead a truth and justice process in Victoria. Named with the Wemba Wemba/Wamba Wamba word for 'truth', the Commission formally began its work on 14 May 2021. Professor Eleanor Bourke was appointed as Chair of the Commission, joined by fellow Commissioners Dr Wayne Atkinson, Ms Sue-Anne Hunter, Distinguished Professor Maggie Walter and Professor the Honourable Kevin Bell AM QC.




With the establishment of the Commission, Victoria became the first and only jurisdiction in our nation to institute a formal truth-telling process. Independent from Government, and afforded the full power of a Royal Commission, the Commission recognises that without truth there can be no treaty, and without treaty there can be no justice.

The Commission has been tasked with investigating two broad streams of work: both the contemporary and historical injustices committed against Aboriginal Victorians since colonisation – across all areas of social, political and economic life. Its work promises to bring about real change by facilitating truth-telling and healing, educating the wider Victorian community, and developing recommendations for reform. The Commission will engage Victoria’s Aboriginal and non-Aboriginal community to achieve its aims of truth telling and truth listening.

As Victorians, we all have a part to play in reconciliation. Treaty is a historic step forward. Our progress towards treaty and truth is unprecedented in Australia. Victoria is now the first and only jurisdiction to have actioned the treaty and truth elements of the *Uluru Statement from the Heart*. This is an outstanding achievement – one that we should all be proud of.

Through this process, we must keep listening to, and be led by, Aboriginal people and communities. This is the time for all Victorians to come together to ensure a more equitable and just future for generations to come.



Gabrielle Williams MP

Minister for Aboriginal Affairs
Minister for Prevention of Family Violence
Minister for Women

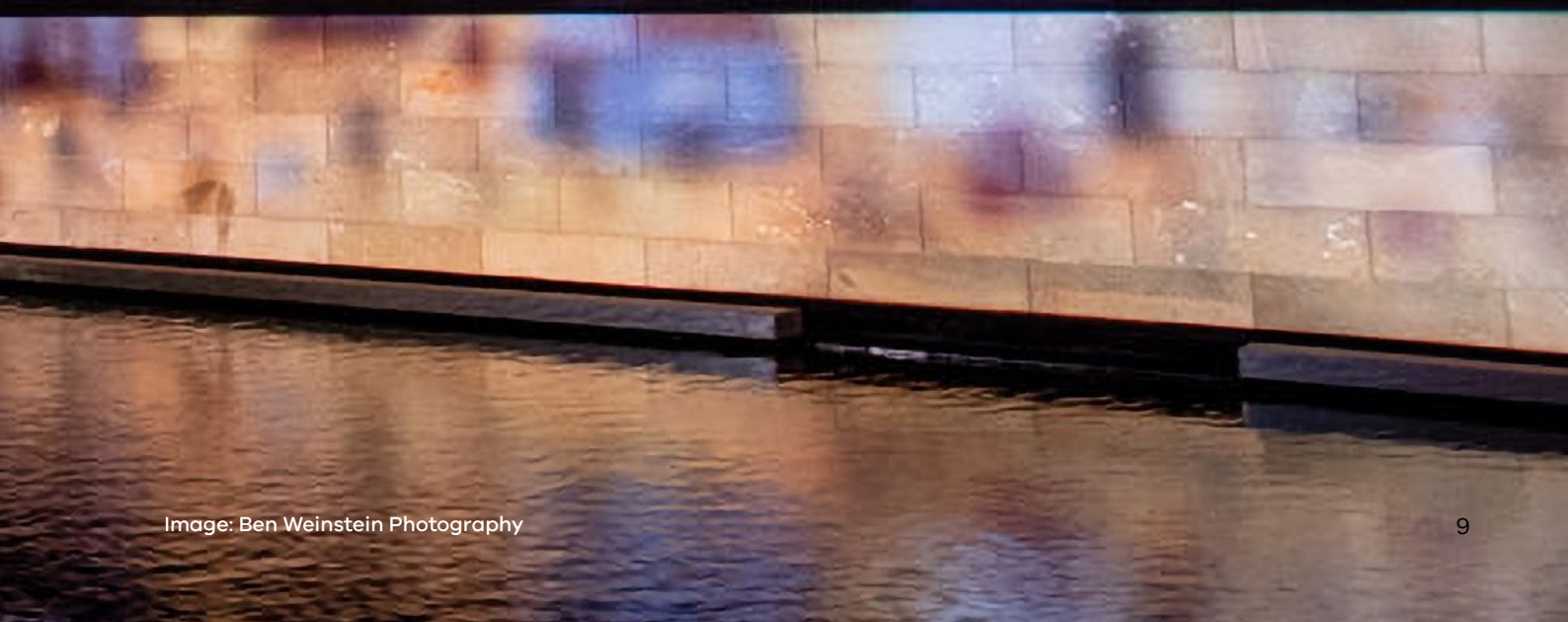
Annual Report



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What can we do to
bridge the gap
between our two
cultures?



The Victorian treaty process – three phases overview

In response to ongoing calls from Aboriginal Victorians, the Victorian Government committed to pursuing treaty in 2016. Since that time, Victoria has been leading the nation to progress treaty and truth and advance Aboriginal self-determination in partnership with Traditional Owners and Aboriginal Victorians. Victoria is currently in Phase 2 of a three-phase process towards treaty.

Phase 1 – Establishing an Aboriginal Representative Body

Phase 1 began with the Victorian Government's commitment to treaty, and included:

- extensive community consultation
- appointment of a dedicated Victorian Treaty Advancement Commissioner to consult on, design and establish the Aboriginal Representative Body
- launch of Deadly Questions, an award-winning campaign to build public awareness and support for treaty
- passage of the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Treaty Act), Australia's first treaty legislation
- establishment of the First Peoples' Assembly of Victoria (Assembly), the first statewide, democratically elected representative body for Traditional Owners and Aboriginal Victorians in the state's history.

On 9 December 2019, on the recommendation of the Victorian Treaty Advancement Commissioner, the former Minister for Aboriginal Affairs, Gavin Jennings declared the Assembly to be the Aboriginal Representative Body under the Treaty Act. This declaration, via a notice in the Victorian Government Gazette, recognised the Assembly as the State's partner in the next phase of treaty. This signified the completion of Phase 1 of the treaty process.

The Advancing the Treaty Process Annual Report and Plan 2018-19 describes the work undertaken in Phase 1 in further detail.

WE ARE HERE

Phase 2 – Developing a treaty framework

We are currently in Phase 2 of the treaty process. Phase 2 commenced in December 2019, following the Assembly's declaration as the Aboriginal Representative Body under the Treaty Act. As the Aboriginal Representative Body, the Assembly is the sole representative of Traditional Owners and Aboriginal Victorians responsible for working with the State to establish the elements necessary to support future treaty negotiations. These elements are a dispute resolution process, a Treaty Authority, a treaty negotiation framework and a self-determination fund. Together these four elements are referred to throughout this document as the "treaty elements".

Phase 2 does not involve the negotiation of a treaty or treaties. Instead, through the treaty negotiation framework, the Assembly and the State will determine the minimum standards that Aboriginal parties must meet to have standing to negotiate a treaty or treaties with the State in Phase 3.

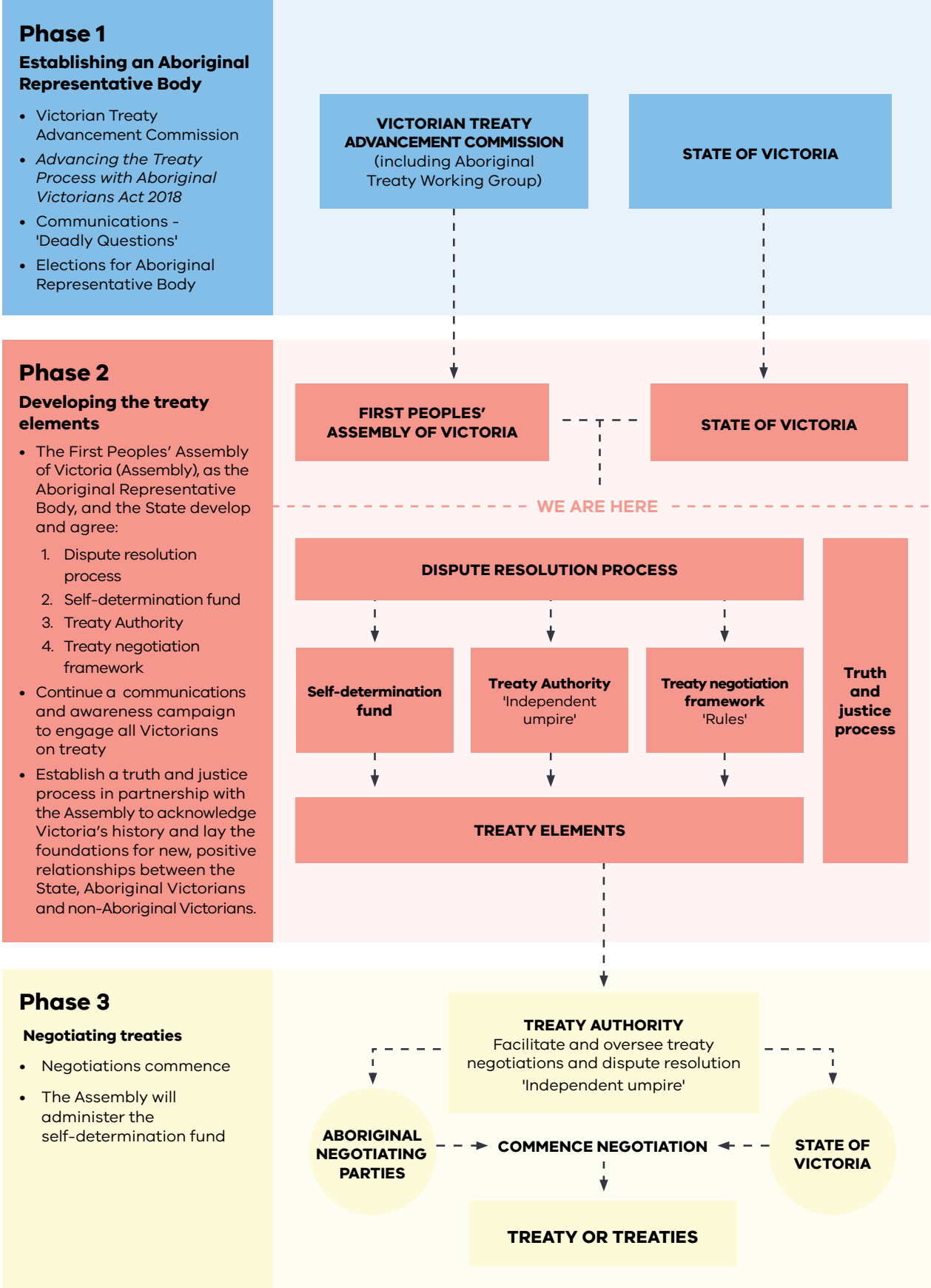
In addition to Phase 2 progress set out in this report, the Advancing the Treaty Process Annual Report and Plan 2019-20 describes initial work undertaken to commence Phase 2.

Phase 3 – Negotiating treaties

Phase 3 will commence once the State and the Assembly have established the treaty elements by agreement. Phase 3 will involve the State negotiating and agreeing treaties with Aboriginal negotiating parties.

As set out in the Treaty Act, the treaty negotiation framework must provide for the negotiation of a treaty or treaties that recognise historic wrongs, support reconciliation and have positive impacts for Victoria, among other matters. What this might look like, and any other content of a future treaty or treaties, will be subject to negotiation between the parties to any treaty or treaties.

During Phase 3, the self-determination fund will play a critical role in supporting Aboriginal negotiating parties to have an equal standing with the State in treaty negotiations.



Note: there may be many different Aboriginal negotiating parties which work within the rules of the treaty negotiating framework, representing entities such as clans or nations.

The path to treaty so far

Decades of Aboriginal advocacy for treaty

February 2016

Aboriginal Victorian community calls for treaty at a self-determination forum

March 2016

Victorian Government commits to progressing treaty

July 2016

Aboriginal Treaty Working Group established to lead consultations on the treaty process and establish an Aboriginal Representative Body (ARB)

October 2016 to November 2017

Community consultation and engagement about an ARB

January 2018

Victorian Treaty Advancement Commission (VTAC) commences operations and is responsible for establishing the ARB

March 2018

Aboriginal Treaty Working Group Final Report presented April to September 2018 – VTAC undertakes community consultation

April to September 2018

VTAC undertakes community consultation

June 2018

Launch of the Deadly Questions campaign to build public awareness and support for treaty

August 2018

The *Advancing the Treaty Process with Aboriginal Victorians Act 2018* comes into force.

Phase 1

February 2019

VTAC announces the final design of an ARB to be the First Peoples' Assembly of Victoria (Assembly)

May 2019

Nominations and voter enrolment opens for the Assembly

October 2019

Voting closes and results announced for Assembly representatives

December 2019

The Minister for Aboriginal Affairs declares the Assembly to be the ARB

December 2019

Assembly's inaugural meeting

June 2020

Assembly Chamber calls for a truth and justice process

July 2020

Victorian Government commits to a truth and justice process

August 2020

Formal negotiations between the Victorian Government and the Assembly commence

September 2020

The Victorian Government and the Assembly agree joint design principles for a truth and justice process

January 2021

The Victorian Government and the Assembly agree to a dispute resolution process

February 2021

Launch of the Deadly & Proud campaign

March 2021

Joint announcement between the Victorian Government and the Assembly on the commitment to establishing the Yoo-rrook Justice Commission (Commission)

April 2021

The Victorian Government and the Assembly agree to treaty conduct protocols

May 2021

Letters patent to legally establish the Commission and set the Terms of Reference gazetted and Yoo-rrook Justice Commissioners announced

May 2021

Commencement of detailed negotiations on treaty negotiation framework and Treaty Authority

Phase 1

Phase 2

Partnering with the First Peoples' Assembly of Victoria

A representative body for Traditional Owners and Aboriginal Victorians

Under the Treaty Act, the First Peoples' Assembly of Victoria (Assembly) is the sole representative of Traditional Owners and Aboriginal Victorians for the purpose of establishing elements necessary to support future treaty negotiations. The Assembly was designed through extensive community consultation across Victoria, led by the Victorian Treaty Advancement Commissioner, Ms Jill Gallagher AO, as outlined in the 2018/2019 Treaty Annual Report.

The Assembly is comprised of 31 members to reflect the diversity of Aboriginal voices across Victoria. A seat is reserved for each of the 11 formally recognised Traditional Owner groups in Victoria, with 21 general seats elected by votes held in five voting regions. One formally recognised Traditional Owner group has decided not to nominate a member for its reserved seat.

Each Assembly member is responsible for ensuring the views of Traditional Owners and Aboriginal Victorians continue to inform the treaty process. Elected members represent Traditional Owners and Aboriginal Victorians within their respective regions, while reserved seat members represent members of their Traditional Owner groups. Details of all Assembly members are available on the Assembly's website.

To support the Assembly to engage with community across the State on treaty, the *State Budget 2020/21* provided \$19.2 million over three years. This funding supported the Assembly to bolster its capacity to consult, engage and include Aboriginal Victorians and Traditional Owners in the treaty process, including on truth and justice issues, and supported its operations in continuing to work with the State to establish the elements necessary to advance treaty. This investment builds on the \$11.0 million provided to the Assembly over two years in the *State Budget 2019/20*.

Throughout the past year, the Assembly has continued to lead online and in-person community information sharing, consultation and engagement across regions to ensure that all Traditional Owners and Aboriginal Victorians have a voice in the treaty process. For further information on

the Assembly's community information sharing, consultation and engagement, please refer to the Assembly's 2020/21 Treaty Annual Report.

Negotiation events and activities

The State and the Assembly formally commenced treaty elements negotiations on 3 August 2020. This historic meeting was conducted virtually with the Minister for Aboriginal Affairs representing the State team and the Assembly Co-Chairs representing the Assembly.

After this initial meeting, negotiations have continued on a weekly basis between the Assembly and State negotiation teams. Negotiations are also supported by regular meetings between the Assembly Co-Chairs and the Minister for Aboriginal Affairs. At the Assembly's invitation, the Minister has also attended Assembly Board and Chamber meetings. The State engaged substantially and regularly with the Assembly during the period of this annual report. This comprised:

- negotiations with the Assembly's negotiation team to discuss the treaty and truth and justice processes
- negotiations with the Assembly's Co-Chairs to discuss treaty
- negotiations with the Assembly's Co-Chairs and the Assembly's Truth and Justice Committee specifically on the truth and justice process.

Important outcomes publicly released from the negotiations between the State and the Assembly during this period include the following:

- 11 July 2020 – The Minister for Aboriginal Affairs announced the Victorian Government's commitment to establish a truth and justice process to formally recognise historic wrongs and address ongoing injustices for Aboriginal Victorians.
- 3 August 2020 – The Victorian Government and the Assembly held their first official negotiating meeting, marking a historic moment on Victoria's path to treaty. In keeping with COVID-19 restrictions, Minister for Aboriginal Affairs Gabrielle Williams met virtually with Assembly Co-Chairs Geraldine Atkinson and Marcus Stewart to formally commence treaty negotiations.

- 8 February 2021 – The dispute resolution process for treaty element negotiations between the Co-Chairs of the Assembly and the Minister for Aboriginal Affairs was formally signed. The dispute resolution process provides a transparent and culturally safe dispute mechanism as both parties work towards treaty.
- 9 March 2021 – The Acting Premier and Minister for Aboriginal Affairs together with the Assembly's Co-Chairs announced the commitment to establish the Yoo-rook Justice Commission (Commission) at Coranderrk, near Healesville. The State and the Assembly released a joint statement on Victoria's truth and justice process.
- 14 May 2021 – The Acting Premier, Minister for Aboriginal Affairs Gabrielle Williams and Assembly's Co-Chairs announced the appointment of the five Commissioners to the Commission and released the letters patent at Yarra Bend Park, a site of sorrow and assimilation for First Nations people. The Aboriginal-led Commission was established as Australia's first truth-telling process.

Parties have remained committed to progressing treaty despite COVID-19 restrictions requiring negotiations to take place in largely a virtual setting. The outcomes agreed through negotiations are further detailed in following sections.



Image: Tiffany Garvie

Outcomes: establishing the treaty elements

As required under the Treaty Act, the First Peoples' Assembly of Victoria (Assembly) and the State are working in partnership in Phase 2 to establish four elements, which are together referred to throughout this document as the treaty elements:

1. a treaty negotiation framework, setting out the rules and process for future treaty negotiations
2. a Treaty Authority, as an independent third party to oversee negotiations
3. a self-determination fund, to provide Traditional Owners and Aboriginal Victorians with an independent financial resource that empowers Traditional Owners and Aboriginal Victorians to build capacity, wealth and prosperity
4. a dispute resolution process that applies to negotiations of the above three elements.

Sequencing treaty element negotiations

The parties agreed to first establish the dispute resolution process and develop protocols to guide negotiation conduct (Protocols) before advancing negotiations on the Treaty Authority, treaty negotiation framework and self-determination fund.

Establishing a dispute resolution process

As required under the Treaty Act, the State and the Assembly worked in partnership to develop a bespoke, culturally appropriate process for resolving disputes arising during negotiation of the remaining treaty elements. In January 2021, the parties agreed to the dispute resolution process and it came into effect on 12 April 2021.

The dispute resolution process provides a fit for purpose process that takes into account the power imbalance between the State and Assembly when resolving disputes during Phase 2 of the treaty process. It provides for procedural and substantive disputes to be resolved through mediation by an appropriately qualified third-party.

Procedural disputes can also be subject to a further process of conciliation, where a third-party may issue an opinion on certain matters or make recommendations to resolve the dispute, with parties agreeing to implement such recommendations.

Agreeing negotiation conduct protocols

The Treaty Act sets out guiding principles with which the Victorian Government and the Assembly, as parties to the treaty process, must act in accordance. The principles are:

- self-determination and empowerment
- fairness and equality
- partnership and good faith
- mutual benefit and sustainability
- transparency and accountability.

The Assembly and the State agreed to develop protocols to give practical application to the Treaty Act's guiding principles and lay the foundation for a renewed and mature relationship with Traditional Owners and Aboriginal Victorians, represented in the treaty process by the Assembly.

Following significant joint development work, the Minister for Aboriginal Affairs approved the Protocols on behalf of the State on 10 March 2021. The Protocols came into effect with the Assembly's approval of the Protocols on 1 April 2021. The Protocols consist of:

- a State Treaty Partner Protocol to guide the conduct of the State and its entities throughout Phase 2 negotiations, taking into consideration the power imbalance between the parties
- a Reciprocal Protocol for Negotiations to guide the procedural conduct of both parties during negotiations and to clarify expectations during Phase 2.

The State and the Assembly also agreed that the dispute resolution process applies to the parties' compliance with the Protocols, although the Protocols are not a requirement under the Treaty Act. This agreement demonstrates the State's commitment to the Treaty Act's guiding principles of good faith and accountability, and commitment to be a model treaty partner.



Advancing the negotiation of remaining treaty elements

Upon finalising the dispute resolution process and the Protocol negotiations, the State and the Assembly moved to discussing the Treaty Authority and treaty negotiation framework. Negotiations on these two elements have proceeded in parallel, so that the Treaty Authority's design is appropriate for the treaty negotiation framework it will administer. The self-determination fund will be the last element agreed. Phase 2 will conclude when all of the treaty elements are agreed between the State and the Assembly. This is anticipated to occur in late 2022.

Treaty negotiation framework

The treaty negotiation framework will set out the rules and process for negotiating, agreeing and enforcing treaties. As set out in the Treaty Act, the treaty negotiation framework must provide for the negotiation of a treaty or treaties that recognise historic wrongs, promote the fundamental human rights of Aboriginal peoples (including the right to self-determination), support reconciliation and have positive impacts for Victoria, among other matters.

In November 2020, the State and the Assembly commenced exploring a treaty framework which could allow for the negotiation of a statewide treaty and multiple local treaties. Other key issues in discussion include ensuring the treaty framework provides for the negotiation of a treaty or treaties in accordance with the Treaty Act. The Victorian government is committed to ensuring that Traditional Owners and Aboriginal Victorians have a voice throughout the treaty process and support the delivery of a framework that empowers First Peoples to make decisions on the matters that affect their lives through future treaty negotiations.

Treaty Authority

Under the Treaty Act, the Treaty Authority will be responsible for facilitating and overseeing treaty negotiations, administering the treaty negotiations framework, providing for resolution of disputes in treaty negotiations and any additional functions that may be agreed upon between the State and the Assembly. The Treaty Authority will be an independent guardian of the treaty process.

To support agreement on the treaty negotiation framework and Treaty Authority, the State team has conducted a breadth of research and analysis including international comparisons of treaty-based jurisdictions. This work will support negotiations on the treaty negotiation framework and the Treaty Authority, which will continue through 2021 and 2022.

Self-determination fund

The self-determination fund will support Traditional Owners and Aboriginal Victorians to have equal standing with the State in treaty negotiations. The self-determination fund will also provide a financial resource, independent from the State, to empower Traditional Owners and Aboriginal Victorians to build capacity, wealth and prosperity. In accordance with the Treaty Act, the State and the Assembly may also agree on additional purposes for the self-determination fund.

The Assembly and the State have had preliminary discussions on how the self-determination fund might be established in accordance with the Treaty Act, and negotiations will continue through 2021 and 2022.

Outcomes: establishing a truth and justice process

In July 2020, the First Peoples' Assembly of Victoria (Assembly) and the Victorian Government announced a commitment to a truth and justice process to formally recognise historic wrongs and past and ongoing injustices against Aboriginal Victorians. This process, led by the independent Yoo-rrook Justice Commission (Commission), means Victoria is the first and only jurisdiction in our nation to institute a formal truth-telling forum.

For generations Aboriginal communities from across Victoria have been clear and consistent in their calls for truth-telling as an essential part of the treaty process. In June 2020, at its third Chamber meeting, the Assembly renewed these calls by passing a resolution seeking commitment from the State to establish a truth and justice process.

In response, in July 2020 the Victorian Government committed to working with the Assembly to formally establish a truth and justice process in line with provisions in the Treaty Act to recognise historic wrongs, address ongoing injustices and help heal the wounds of the past. The State and the Assembly agreed to develop the terms of reference for a truth and justice process in parallel to negotiations on the treaty elements.

The Victorian Government's partnership with the Assembly ensured that the voices of Aboriginal Victorians drove the development of Victoria's truth and justice process. The process also incorporated advice from international experts on best-practice in truth telling, such as the International Centre for Transitional Justice (ICTJ) and the Mary Hoch Centre for Reconciliation.

Establishment of the Yoo-rrook Justice Commission

Following 11 months of extensive work between the Assembly and the Victorian Government, the Commission was established on 12 May 2021 by letters patent issued under the *Inquiries Act 2014* (Inquiries Act) as the nation's first truth-telling commission. 'Yoo-rrook' is the Wemba Wemba / Wamba Wamba word for 'truth'. By establishing the Commission, the State has committed to formally reckoning with past and ongoing injustices and laying the foundations for healing with all First Peoples in Victoria.

Appointment of Commissioners

The Commission's nation-leading work is being led by five Commissioners: Professor Eleanor Bourke as Chairperson, and Dr Wayne Atkinson, Professor the Honourable Kevin Bell QC AM, Sue-Anne Hunter and Distinguished Professor Maggie Walter as Commissioners. Of the five Commissioners, four are Aboriginal, of whom three are Victorian Traditional Owners and two are Elders. The Commissioners carry knowledge and experience across the fields of law, sociology and systemic disadvantage, land rights, history, trauma and healing. As a group, the Commissioners collectively possess the strength and diversity of skills to lead the ground-breaking work of the Commission.

The Commissioners were selected through a process that aligned with international best practice in truth-telling. The selection of the Commissioners was informed by recommendations made by a four-person Independent Assessment Panel (Panel) who conducted an open and transparent Expression of Interest, public comment and interview process. The Panel comprised four panellists nominated by the Assembly, the Victorian Government and the ICTJ.

Scope and purpose of the Commission

The Commission's inquiry will explore both historic and contemporary injustices experienced by First Peoples across all areas of social, political and economic life, and the intrinsic relationship between historical injustices and ongoing contemporary systemic injustices experienced today.

The Commission will engage Victoria's Aboriginal and non-Aboriginal community to achieve its aim of truth-telling, educating the wider Victorian community and making recommendations for reform. At the heart of the process will be to develop a shared narrative of the true impact of colonisation, founded on First Peoples' voices.

Based on international truth-telling experiences, the breadth of the Commission and focus on systemic elements will be critical to ensuring the broad objectives of the Commission are achieved.

While the Commission has been established like other Royal Commissions under the Inquiries Act, it will be unlike any other Royal Commission or



inquiry conducted in Australia as it has been developed in conjunction with Aboriginal Victorians through the Assembly and has a fundamentally unique purpose.

The Victorian Government has committed to being proactive, transparent and genuine in its engagement with and response to the Commission. This approach will be critical for the State to best support the Commission to achieve its objectives.

The Commission's interim report is due 30 June 2022 and its final report on 30 June 2024.

The Commission's intersection with treaty

The development of a truth-telling process has taken place in parallel with the treaty process to ensure that treaty is underpinned by a commitment to truth. The Commission may also make recommendations to provide appropriate redress for systemic

injustices that should be specifically designed and effectively implemented through the treaty process, particularly where such redress is not already available to First Peoples, and, recommendations about particular subject matters that should be included in a treaty or treaties with the State.

Pursuing a truth-telling process alongside treaty affirms Victoria's leadership in Aboriginal affairs, making Victoria the first and only Australian jurisdiction to action both the treaty and truth elements of the *Uluru Statement from the Heart*. The Victorian Government is committed to acknowledging the truth of Victoria's history and laying the foundations for new, positive relationships between the State, Aboriginal Victorians, and non-Aboriginal Victorians.

Enacting the Victorian Government's commitment to being a model treaty partner

Victoria is proudly leading the nation with its commitment to treaty, truth and advancing Aboriginal self-determination. This commitment requires a principle-based approach to government conduct and driving new ways of thinking and operating internally within the Victorian government.

Reforming government to support self-determination

The Victorian Government has committed to treaty as a necessary component to supporting self-determination in Victoria. Future treaties are likely to provide a mechanism through which the State can transfer decision-making power and resources to Aboriginal communities. However, separate to the treaty process, the government has begun comprehensive reform to implement its broader commitment to self-determination to ensure it can effectively respond to the aspirations of Traditional Owners and Aboriginal Victorians.

The State's approach to whole of government self-determination reform is set out in the Victorian Government's Self-Determination Reform Framework (SDR Framework). The framework guides the Victorian Public Service (VPS) to undertake systemic and structural transformation to enable self-determination, as committed to in the Victorian Aboriginal Affairs Framework 2018-2023 (VAAF). The SDR Framework requires all departments to undertake actions across the domains of people, systems, outcomes and accountability in order to progress the VAAF's self-determination enablers, which are:

- prioritise culture
- address trauma and support healing
- address racism and promote cultural safety
- transfer power and resources to communities.

The SDR Framework provides the architecture for whole of government transformation and for this way of thinking to become part of operations. Departments report annually on their work and consider opportunities to progress along a continuum towards self-determination.

The whole of government SDR Framework Report has been included as a standalone section of the 2020 Victorian Government Aboriginal Affairs Report tabled in Parliament. The Victorian Government will continue to transform in this way on its journey to treaty.

Embedding model treaty partner conduct across government

Treaty presumes a particular kind of relationship; one of political equals coming together to formalise relationships and commit themselves to shared rights and obligations. The Treaty Act envisions a 'renewed and matured relationship' which is 'one of equal partnership, founded on mutual respect'.

In consideration of these obligations, the State agreed a 'State Treaty Partner Protocol' with the First Peoples' Assembly of Victoria (Assembly) to provide practical guidance across the Victorian Government and set out expectations of State conduct understood to be consistent with the guiding principles set out in Part 3 of the Treaty Act.

The Protocol openly acknowledges concerns of Assembly members, as Aboriginal people, who have experienced intergenerational trauma and have a history of engagement with the State and its entities that may fall short of the conduct now required under the guiding principles of the Treaty Act. It does so as the State is committed to truth as a basis for building a new, stronger treaty relationship with Aboriginal people.

The Protocol then outlines the State's positive conduct commitments as befits a model treaty partner during Phase 2 negotiations. The Protocol has been disseminated across all departments, with work ongoing within interdepartmental treaty networks to embed its guidance in the day to day conduct of government during negotiations.



Focusing government frameworks to support treaty

The Minister for Aboriginal Affairs is the coordinating minister for treaty. In this role, the Minister leads engagement with the Assembly on behalf of the State and oversees whole of government participation in treaty discussions.

A Treaty Interdepartmental Committee (Treaty IDC), comprised of a senior representative from each Victorian Government department, continued to meet during this period. Four Treaty IDC meetings were held to facilitate information sharing among departments and ensure strong understanding across government of levers that may help deliver on Traditional Owners and Aboriginal Victorians' aspirations for the treaty process. The Treaty IDC also provided an opportunity for departments to contribute advice on procedural and substantive issues in Phase 2 negotiations and support the ongoing work for whole of government engagement and coordination.

Interdepartmental treaty networks also continued to operate across communications and policy areas. These networks consider treaty policy and communications initiatives, deliver departmental-specific treaty work and ensure that there is engagement across departments.

The networks set the foundation for strong whole of government coordination. Collaboration training has also been delivered to departmental representatives. Ongoing collaboration will ensure the public service can deliver effective whole of government work on treaty.

Engaging across the VPS on the path to treaty

Since 2019, a series of strategic events and targeted communications have been delivered to educate and engage Victorian Public Service (VPS) employees during Phase 2 of the treaty process. With the COVID-19 pandemic restrictions, virtual treaty presentations were delivered to the following areas of the VPS to improve treaty literacy:

- the Department of Fairness, Families and Housing Executive Officers meeting
- the Department of Fairness, Families and Housing Board
- Department of Justice and Community Safety, Aboriginal Justice Reform Unit
- Department of Education, Schools Education Program and Support
- participants attending the Department of Job, Precincts and Regions' Inclusion Government Series.
- the former Department of Health and Human Services' staff meeting.

Engaging all Victorians in the treaty process

Impact of the Deadly Questions campaign

In June 2018, the Victorian Government launched a two-year award-winning Deadly Questions campaign to build understanding between Aboriginal and non-Aboriginal people and give Aboriginal Victorians a platform to tell their stories and amplify their voices.

Independent research highlighted the success of Deadly Questions and demonstrated the potential to shift attitudes towards Aboriginal communities, cultures and the treaty process.

Launch of Deadly & Proud campaign

In February 2021, the Victorian Government launched the next phase in Victoria's treaty communications campaign, the Deadly & Proud campaign, together with the First Peoples' Assembly of Victoria (Assembly) and campaign storytellers.

Building on the success of the Deadly Questions campaign, Deadly & Proud aims to increase awareness of, and support for, Victoria's treaty and truth and justice processes. The campaign recognises that Traditional Owners and Aboriginal Victorians are key to truth telling and sharing the stories that make up our past. Discussing shared histories, both Aboriginal and non-Aboriginal, can build a collective future of which we can all be proud.

Deadly & Proud showcases, through Aboriginal storytelling, what makes Victoria 'deadly' across the themes of: ancient Aboriginal cultures; resilience; community and our path to treaty and truth and justice.

Many Aboriginal people use the word 'deadly' to mean awesome, strong, brilliant. It has been used in this campaign to describe both the storytellers and the stories they share. The many deadly stories of Aboriginal cultures are part of our collective identity as Victorians.

The Deadly & Proud campaign website features stories from 21 Aboriginal Victorians including Gunditjmara and Bundjalung musician Archie Roach, Larrakia and Tiwi actor Miranda Tapsell, Noongar AFLW player Courtney Ugle and Barranbinya broadcaster Tony Armstrong among many others. The storytellers explore what it means to be Aboriginal today, the importance of truth-telling, and how Aboriginal cultures and traditions continue to thrive in Victoria. The website also features an interactive map of Victoria showing stories that are mapped to Country, promoting a shared understanding of connection to place in Victoria.

The campaign was launched via a combination of advertising, partnerships and earned media opportunities over a 10-week period. It attracted widespread positive news coverage, totalling over 650 pieces, and high levels of online engagement. To date, the website has received more than 200,000 page views and a total combined social media reach of 7,100,000.

Evidence-based communications approach

When planning the Deadly & Proud campaign, independent research was conducted that highlighted where best to align the campaign in order to reach key target audiences.

Post campaign research showed that there was an increase in the understanding of the meaning of 'deadly' with more than half of Victorians now better understanding the term. This was a significant increase compared to earlier phases. In addition, those who had seen the campaign were open to learning more about Aboriginal storytelling and talking to friends, family and colleagues about Aboriginal cultures.

Deadly & Proud and AFL partnerships

DPC partnered with Richmond Football Club and Essendon Football Club to promote Deadly & Proud. Both partnerships were centred around the AFL Sir Doug Nicholls Round and NAIDOC Week activity. These partnerships were key to connecting with AFL fans who represent a broad demographic from across Victoria. The campaign activity generated strong social and media engagement over the period.



Contributing to public conversations on treaty

In previous years treaty has been a key talking point at public events and forums. While the intention was to continue this significant engagement, with the impacts of the COVID-19 pandemic during 2020/2021, many such forums were sadly unable to proceed as planned. Nevertheless, below are series of events which contributed to the public conversation to support Victoria's treaty process.

YIPAA Masterclass Series – Aboriginal Affairs in the 21st century – August 2020

Presented to members of the Institute of Public Administration Australia (IPAA) Victoria's Young Professionals Network, this event explored Aboriginal self-determination, Aboriginal and Torres Strait Islander communities' resilience, governance and ways of life, and how these might inform treaty and future policies governing Aboriginal affairs.

Victorian Truth & Justice Process – NRL Wests Tigers – September 2020

This presentation focused on the truth and justice process underway in Victoria, to members of the NRL Wests Tigers' Reconciliation Action Plan Group. The presentation included updates on Victoria's treaty process, possible treaty elements and opportunities for engagement including highlighting the Deadly & Proud campaign.

Melbourne University Law Students' Society - Women's Portfolio Networking Night – October 2020

DPC was invited to attend this event to present to participants on the progress of treaty in Victoria. Discussion explored the concept of self-determination and the opportunities to deliver on this commitment through treaty and truth and justice processes.

Truth-telling discussion - International Centre for Transitional Justice – October 2020

The International Centre for Transitional Justice hosted a discussion on Victoria's truth and justice processes underway, as well as the role of treaty in addressing past and ongoing injustices for Victoria's Aboriginal communities.

Deadly Event Series: Treaty & Truth – November 2020

During NAIDOC Week, the University of Melbourne hosted a panel discussion that considered a wide range of practical, legal and political questions on treaty and truth, and the potential for the treaty process to address broader issues within the Aboriginal Victorian community.

Public Sector Perspectives Episode 17: NAIDOC Week – November 2020

Hosted by the IPAA, this was a podcast episode that explored how Aboriginal communities in Victoria stopped the spread of COVID-19 through cultural and community-led action, and the treaty engagement process that took place while working remotely.

NAIDOC Week Panel Discussion Hosted by DPC: 'Truth and Treaty'- November 2020

This panel discussion provided a deeper understanding of the issues facing Aboriginal communities and why the Victorian Government is on the path to treaty with Aboriginal Victorians. The discussion also delved into the truth and justice process and how it relates to treaty.



Wheeler Centre discussion 'Mapping Culture: Treaty' – May 2021

In partnership with YIRRAMBOI, this discussion explored the opportunities within treaty and what it means for the diverse Aboriginal Victorian communities and redefined relationship with government. The discussion also focused on the role of examining past and ongoing injustices through treaty and truth and justice processes.

Treaty and truth - Western Bulldogs Football Club – June 2021

Progress on the treaty and the truth and justice process underway in Victoria and opportunities for engagement including highlighting the Deadly & Proud campaign were discussed with members of the Western Bulldogs Football Club's Reconciliation Action Plan Group.

Treaty during Reconciliation Week – Maddocks law firm – June 2021

Progress on the treaty and the truth and justice process underway in Victoria, including significant achievements such as the establishment of the Yoo-rrook Justice Commission were canvassed during this presentation at the invitation of Maddocks.







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Aboriginal and Torres Strait Islander readers are advised that this document may include photos, quotations and/or names of people who are deceased.

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