

Victorian Government Response

to the Recommendations of the
independent review of the
Aboriginal Lands Act 1970

August 2023



VICTORIA

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to the recommendations of the independent
review of the *Aboriginal Lands Act 1970*

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Acknowledgement

The Victorian Government acknowledges the Traditional Owners of the lands and waters on which we live and work and pay our respect to Elders past and present.

The Victorian Government acknowledges and thanks the Framlingham Aboriginal Trust and Lake Tyers Aboriginal Trust communities (Trust Communities) for their leadership and contribution to the independent review of the *Aboriginal Lands Act 1970* (the Review).

The Victorian Government thanks the two independent reviewers, Mr Jason Behrendt and Mr Timothy Goodwin, for their dedication to and principled engagement with the Review process. The government acknowledges the invaluable contributions of many First Peoples from the Trust Communities who have paved the way and fought for the rights of First Peoples, including the right to true self-determination.

From time immemorial, First Peoples in Victoria have practised their Law and Lore, customs and languages, and nurtured Country through their spiritual, cultural, material and economic connections to land, water and resources. The Victorian Government acknowledges the strength and resilience of First Peoples in the face of colonisation, dispossession and historic and ongoing injustices, and the survival of First Peoples living cultures, knowledge and traditions.

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Minister's Foreword

I am pleased to present the Victorian Government's response to the Review's 42 recommendations for reform, all of which the Victorian Government supports either in full or in principle. The Review recommendations seek to strengthen governance, facilitate economic activity and enable greater self-determination for the Trust Communities, now and into the future.



A handwritten signature in black ink that reads "Gabrielle Williams". The signature is fluid and cursive.

Gabrielle Williams MP

Minister for Treaty and First Peoples
Minister for Ambulance Services
Minister for Mental Health

The Victorian Government is committed to amending the *Aboriginal Lands Act 1970* (the Act) and will continue to engage with the Trust Communities to implement the Review recommendations. This includes delivering a series of workshops to ensure any amendments to the Act, including the implementation of non-legislative reform, continue to align with the aspirations of the Trust Communities.

More broadly, the Victorian Government is aware that it is only through self-determination that true progress can be made. This is why the Victorian Government has committed to actioning all elements of the Uluru Statement from the Heart: Voice, Treaty, Truth.

Victoria's treaty process will provide a framework for the transfer of decision-making power and resources to support self-determining Aboriginal communities to take control of matters that affect their lives. The Victorian Government has committed to working proactively to support and negotiate Treaty, in line with the aspirations of Traditional Owners and Aboriginal Victorians.

I sincerely thank all shareholders, residents, Aboriginal Elders, Stolen Generations members and families who are part of the Trust Communities for their invaluable contributions and for sharing their knowledge and lived experiences. These contributions have been instrumental in the development of the Review recommendations and will benefit many generations to come.

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Background

The Act was created in response to the Framlingham and Lake Tyers Aboriginal communities' advocacy for land rights. The Act granted freehold title over two former Victorian mission sites, Framlingham (in Southwest Victoria) and Lake Tyers (in Gippsland), to the residents of each community. People living at Framlingham and Lake Tyers on 1 January 1968 were gazetted as members of either the Framlingham or Lake Tyers Aboriginal Trusts and were then allocated shares. The Minister for Treaty and First Peoples and the Department of Premier and Cabinet are responsible for the administration of the Act.

Reviews of the Act were conducted in 2004 and 2013, resulting in minor amendments. However, the Act is now over 53 years old and has not kept pace with current laws, changes in attitudes, and policy developments in Victoria. Accordingly, in 2016 the Victorian Government committed to reviewing the Act with the objective of updating it to improve governance, enable greater self-determination, support community development practices, and provide the foundation towards self-sustainability for the Trust Communities.

In 2018, the Victorian Government appointed two Aboriginal independent reviewers, Mr Jason Behrendt and Mr Timothy Goodwin (the Reviewers), to lead the Review. Two rounds of consultations were held in 2018 and 2019 at the Trust Communities and surrounding locations. After the 2018 consultations, the Reviewers developed an Options Paper detailing possible amendments ranging from 'no change', 'minor change' to 'major change'. Both Trust Communities were also supported to prepare a formal submission to the Review with legal assistance.

The Review concluded in September 2021. The Reviewers made 42 recommendations, including legislative amendments to the Act and non-legislative reforms. These recommendations and the Victorian Government's responses are detailed below.

Government Response

The following table details the 42 Review recommendations along with the Victorian Government's response.

Terminology

- **Support in full** — subject to minor or technical changes all elements of the recommendation are supported by the Victorian Government.
- **Support in principle** — the Victorian Government generally supports the intent or merit of the policy underlining the recommendation but notes the relevant recommendation requires further policy and legal analysis, stakeholder engagement, and/or rectification of both Trusts share registers to be delivered.

Recommendation	Response
Shares	
<p>Recommendation 1: Audit of share register at Lake Tyers Aboriginal Trust</p> <p>First Peoples – State Relations should provide assistance to the Lake Tyers Aboriginal Trust to undertake an audit of the share register at Lake Tyers.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 2: Improving awareness of the Act</p> <p>First Peoples – State Relations should prepare plain English summaries of the Act in consultation with the Lake Tyers and Framlingham Aboriginal Trusts.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 3: Materials advising shareholders of information about their shares</p> <p>First Peoples – State Relations should provide assistance to the Framlingham Aboriginal Trust and Lake Tyers Aboriginal Trust to develop and disseminate materials advising shareholders of:</p> <ul style="list-style-type: none"> a. how to clarify the number of shares they own; and b. how to transfer shares, and to who shares can be transferred. 	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 4: Clarify power of the Committee of Management in relation to the transfer of shares</p> <p>Amend the Act to provide that the Committee of Management has power to refuse to approve a transfer but that:</p> <ul style="list-style-type: none"> a. the Committee of Management cannot refuse a transfer if the transfer is made under a will, or by the executor of a deceased estate, and the transfer is made to a class of persons to who shares are capable of transfer under the Act; unless b. the person to who shares are to be transferred is ineligible under s 15(6) of the Act to be a member at the time of transfer. 	<p>Support in principle.</p> <p>Further analysis and engagement with the Trust Communities are necessary to clarify the circumstances in which the Committee of Management can refuse a transfer.</p> <p>This recommendation will be further considered for implementation in phase two</p>
<p>Recommendation 5: Instrument of Transfer</p> <p>Amend the Act to provide for the existing form for the transfer of shares at Appendix A be a prescribed document and for the Act to prescribe the documents which are to be provided in support of the application for transfer.</p>	<p>Support in full.</p> <p>With a minor amendment to provide regulation-making power to prescribe an Instrument of Transfer.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 6: Notice of Transfers</p> <p>Amend the Act to:</p> <ul style="list-style-type: none"> a. require the person or body maintaining the share register to give notice of any change to the share register to the other shareholders; and b. require that the Trusts, and the person or body maintaining the share register, ensure that the register is available for inspection by shareholders upon request. 	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>

Continued.

Recommendation	Response
Shares	
<p>Recommendation 7: Class of Transferee</p> <p>Amend the Act to provide that the Committee of Management can refuse to register a transfer if the sale is to a person outside the class of people identified in s 14(2) of the Act, which includes:</p> <ol style="list-style-type: none"> a. the Trust b. another member c. the Crown; or d. a person whom the Trust believes to be: <ol style="list-style-type: none"> i. the husband or wife, or a child or remoter issue, brother, sister or parent of the member; ii. a brother or sister of a parent of the member; or iii. a child of remoter issue of a parent of the member, or of a brother or sister of a parent of the member. 	<p>Support in principle.</p> <p>As noted by the Review, the Act is not clear on whether the shares can currently be sold to persons outside the class of people identified in s14(2) of the Act. Further, the Review states that it did not receive extensive feedback on the matter of whether the sale of shares should be restricted to this class of people.</p> <p>Therefore, prior to amending the Act, further analysis and engagement with the Trust Communities should be undertaken to consider a range of matters including:</p> <ul style="list-style-type: none"> • whether the Act should include any guidance for the Committee of Management to make a decision on refusing or allowing the registration of a transfer of shares to a person outside the identified class; • whether the recommendation may impact the value of shares as it potentially reduces the pool of possible purchasers; • whether the proposed amendment engages property rights under section 20 of the <i>Charter of Human Rights and Responsibilities 2006 (Vic)</i> and; • any potential ramifications on existing wills and intestacy arrangements. <p>This recommendation will be further considered for implementation in phase two</p>
<p>Recommendation 8: Confirmation that shares have not been sold contrary to the Act</p> <p>Amend the Act to require that in requesting a transfer of shares, the Instrument of Transfer is to be accompanied by a statutory declaration from the person selling the shares and the purchaser, confirming that the transfer is not a sale or exchange for any other consideration.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>

Continued.

Recommendation	Response
Shares	
<p>Recommendation 9: Shares to only be held by Aboriginal people</p> <p>Amend the Act to provide that shares are to only be held by Aboriginal persons, subject to an exception that a non-Aboriginal person may hold shares on trust for children until they turn 18 if it is approved by the Committee of Management.</p>	<p>Support in principle.</p> <p>Implementation of this recommendation is subject to the completion of an audit of the share registers and rectification of shares held in deceased estates at the Trust Communities.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 10: Assistance to identify and notify families of deceased shareholders</p> <p>First Peoples – State Relations (or an Independent Registrar) should provide assistance to the Lake Tyers Aboriginal Trust to identify and notify families of deceased shareholders, and to provide information to those families as to how those shares can be transferred and to who shares can be transferred.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 11: Role of Committee of Management in relation to transfers in accordance with a Will</p> <p>Amend the Act to provide that the Committee of Management is required to approve transfer of shares but is not to refuse a transfer to a person under the will or an intestacy of the deceased person if the transfer is to a person within the class of persons listed in s 14(2) of the Act.</p> <ol style="list-style-type: none"> 1. Amend s 14(3)(a) of the Act to provide: 2. Nothing in this section shall be construed as preventing a transfer of shares – <ol style="list-style-type: none"> a. by the personal representative of a deceased member to the persons entitled thereto under the will or on the intestacy of the deceased member provided the person is within the class of person listed in s 14(2) of this Act. 	<p>Support in full.</p> <p>Implementation of this recommendation is subject to the completion of an audit of the share registers and rectification of shares held in deceased estates at the Trust Communities.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 12: Powers of an executor in relation to transfers</p> <p>Amend the Act to provide that, despite anything in any other Act or any obligation of an executor at common law or in equity, in the event that a will provides that shares are to be transferred to persons outside the class of people identified in s 14(2), and such a transfer is refused by the Committee of Management, the executor of the estate is nonetheless empowered to transfer the shares to a person within that class (including the Trust or the Crown) and that no claim can be made against the executor in that circumstance provided that:</p> <ol style="list-style-type: none"> a. the transfer is an even distribution of shares to the surviving children of the deceased; or, in the absence of any such children, b. the transfer is to another person, provided the person is not the executor or a person who was on the Committee of Management at the time the decision to refuse the transfer in accordance with the will was made. 	<p>Support in principle.</p> <p>Implementation of this recommendation is subject to the completion of an audit of the share registers and rectification of shares held in deceased estates at the Trust Communities and further analysis and engagement with the Trust Communities to clarify the powers of an executor.</p> <p>This recommendation will be further considered for implementation in phase two.</p>

Continued.

Recommendation	Response
Shares	
<p>Recommendation 13: Distribution of shares on intestacy</p> <ol style="list-style-type: none"> 1. Amend the Act to allow for a Trust to transfer shares held in a deceased estate in the absence of a will or grant of letters of administration in circumstances where: <ol style="list-style-type: none"> a. a period of 3 years has elapsed; b. the Committee of Management is satisfied that there is no will or letters of administration; c. prior notice of the proposed transfer is given to other shareholders; and d. the shares are only to be transferred evenly to: <ol style="list-style-type: none"> i. the children of the deceased person, and to their children if they are also deceased; and ii. in the absence of any children, they are transferred evenly among the children of the deceased person’s siblings; and e. the shares may be transferred other than in accordance with (d) if the people referred to in that clause as being entitled to the shares agree in writing. 2. Amend the Act to provide that where the shares are transferred in the absence of a will and letters of administration it removes any claim or right to the shares by any other person. 3. Any such amendment should be drafted to make clear that the terms of the Act take priority over any other legislative and common law rules. 	<p>Support in principle.</p> <p>Implementation of this recommendation is subject to the completion of an audit of the share registers and rectification of shares held in deceased estates at the Trust Communities.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 14: Definition of “personal representative”</p> <p>Amend the Act to define “<i>personal representative</i>” to have the same meaning as in the <i>Administration and Probate Act 1958 (Vic)</i>.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 15: Maintenance of share register</p> <p>Amend the Act to provide that the share registers are to be maintained by an independent person. The independent person would be responsible for recording transfers of shares but would only be authorised to make such a change where they are satisfied that:</p> <ol style="list-style-type: none"> a. there is a resolution of the Committee of Management authorising the transfer; and b. the transfer is being made in accordance with the Act. 	<p>Support in principle.</p> <p>Subject to further analysis of costs and form of engagement of an independent person.</p> <p>This recommendation will be further considered for implementation in phase two.</p>

Recommendation	Response
Governance	
<p>Recommendation 16: Frequency of general meetings</p> <p>Amend the Act to require the holding of at least one general meeting per year in addition to the AGM with an exemption from the requirement being able to be granted in appropriate circumstances from the Minister or a Registrar appointed under the Act.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 17: Quorum for general meetings</p> <ol style="list-style-type: none"> 1. Amend the Act to provide that if a quorum is not reached, or not maintained for the time specified for the meeting, the Secretary can adjourn the meeting to a time to be fixed within two to six weeks and can seek an exemption from the quorum rule with the number of people to be required to form a quorum to be determined by the Minister or the Registrar. 2. The amendment should specify: <ol style="list-style-type: none"> a. the time in which the request is to be made, and the time in which the request for a lesser quorum should be approved; and b. that a general meeting constituted with a lesser quorum is not to make any decision in relation to the leasing or disposal of land. 	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 18: Notice of general meetings</p> <p>Amend the Act to require that a notice of a general meeting is to specify the time, date and location of the meeting and indicate the general nature of each item of business to be considered at the meeting.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 19: Minutes of general meetings</p> <p>Amend the Act to require that:</p> <ol style="list-style-type: none"> a. the Trust is to keep minutes of each General Meeting which records the attendance, the business considered at the meeting, any resolution on which a vote was taken and the result of the vote; and b. the minutes of the General Meeting be made available to members upon request. 	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 20: Election of Committee of Management</p> <p>Amend the Act to make clear that the Trust can reintroduce a staggered term at an AGM if, for whatever reason, it has failed to be maintained. If staggered terms are reintroduced, three persons should be elected for one year, two persons should be elected for two years and two persons should be elected for three years. The Minister or Registrar should approve the reintroduction of staggered terms.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>

Continued.

Recommendation	Response
Governance	
<p>Recommendation 21: Disqualification from the Committee of Management</p> <ol style="list-style-type: none"> 1. Amend the Act to provide that, in addition to the existing prohibitions, a person should be disqualified from sitting on the Committee of Management if they are convicted of an offence that involves dishonesty and is punishable by imprisonment for at least three months. The period of disqualification should be either five years after the conviction, or five years after the person serves a term of imprisonment, whichever is later. 2. Amend the Act to provide that a person is also prohibited from sitting on the Committee of Management at a particular time if the person is, at that time, disqualified from managing Corporations Act corporations under Part 2D.6 of the <i>Corporations Act</i>. 	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 22: Quorum for Committee of Management</p> <p>Amend the Act to provide that a quorum for Committee of Management is four committee members rather than three.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 23: Minutes of Committee of Management meetings</p> <p>Amend the Act to make clear that the Committee of Management is to keep minutes of its meetings.</p>	<p>Support in full.</p> <p>With the inclusion of additional requirements that the minutes of the General Meeting be made available to members upon request within 14 days of receiving the request in writing.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 24: Casual vacancies</p> <p>Amend s 15(2) of the Act to provide that a casual vacancy is to be filled at the next general meeting after the casual vacancy arises.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>

Continued.

Recommendation	Response
Governance	
<p>Recommendation 25: Model rules</p> <ol style="list-style-type: none"> 1. Amend the Act to provide for Model Rules as a schedule to the Act, which are able to be modified by the Trust. 2. The Model Rules should at least set out rules that are consistent with the Act in relation to: <ol style="list-style-type: none"> a. the process for giving of notice of meetings of the Committee of Management; b. the process for appointing the chair and the secretary, and the term of the chair and secretary; c. the role and function of the chair and the secretary; d. a Code of Conduct for members of the Committee of Management; e. any requirements for members of the Committee of Management to undergo governance training; f. where the Trust employs a chief executive officer (CEO), the role of the CEO; g. the process for nominating persons for election; h. the process of voting at general meetings, including the calling and holding a poll vote; i. the requirements to keep minutes of resolutions at general meetings and Committee of Management meetings; j. the processes for transferring shares and amending the share register; k. the process at both general meetings and meetings of the Committee of Management for dealing with pecuniary interests; l. the filling of casual vacancies; and m. an internal process that provides for the resolution of disputes internal to the operation of the Trust. 3. The Model Rules should be prepared in consultation with the Trusts. 	<p>Support in principle.</p> <p>The Victorian Government will introduce reforms to allow these to be prescribed as regulations (as opposed to a schedule to the Act). Engagement with the Trust Communities on each of the specific rules will also take place before the Model Rules are introduced.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 26: Pecuniary interests</p> <p>Amend the Act that a person shall not vote or take part in any discussion on any matter at a general meeting or a meeting of the Committee of Management in which they have a material personal interest.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 27: Exemption from compliance</p> <p>Amend the Act to allow the Minister or a Registrar to provide a Trust with an exemption from compliance, or an extension of time to comply with requirements of the Act.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>

Recommendation	Response
External regulation	
<p>Recommendation 28: Independent Registrar</p> <p>Amend the Act to provide for an Independent Registrar with powers and functions that include maintaining the share register, to provide assistance to the Trusts in complying with the Act, to mediate, conciliate or arbitrate disputes, and to investigate complaints, in addition to other functions recommended in this Final Report.</p>	<p>Support in principle.</p> <p>Subject to further scoping and cost analysis.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 29: Reporting to the Minister</p> <ol style="list-style-type: none"> 1. Delete s 18E of the Act requiring the Trusts to prepare a report into the economic and social wellbeing of the community of residents. 2. Amend the Act to require the Trusts to prepare a three-year or longer Strategic Plan and for that document to be included in the documents required to be provided to the Minister under s 23S of the Act. 	<p>Support in full.</p> <p>With the inclusion of additional requirements to outline what the Strategic Plan should include.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 30: Copy of the share register to be provided to the Minister</p> <p>Section 23S of the Act be amended to require that a copy of the share register as at the date of the AGM be included in the documents to be provided to the Minister.</p>	<p>Support in full.</p> <p>With the inclusion of additional requirements to permit the Minister to request a copy of the share register at any time.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 31: Investigations</p> <p>Amend the Act to provide the Minister or Registrar with the power to undertake an investigation of a Trust with a view to reporting on whether there has been a breach of the Act or any law in relation to the management of the Trust or circumstances which may constitute a basis for appointing an administrator.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>

Recommendation	Response
Facilitating engagement with residents	
<p>Recommendation 32: Definition of “resident”</p> <p>Amend s 2 of the Act to include a definition of “resident” as a person who has been ordinarily resident on the former reserve for a period of three months or more.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
Restrictions on sale of Trust land	
<p>Recommendation 33: Restriction of sale of land</p> <p>Amend the Act to provide that:</p> <ol style="list-style-type: none"> a. the former reserve land at Lake Tyers is not able to be sold, or transferred or used as a security; b. the former reserve land at Lake Tyers is not able to lease the former reserve land for a period of longer than 40 years without the consent of the Minister which can be withheld if the Minister does not consider the lease to be in the interests of the shareholders; c. that any agreement to sell, transfer or use the former reserve land at Lake Tyers as a security is to be deemed to be void and unenforceable and that no damages or remedy can be obtained against the Trust in relation to such an agreement; and d. the Minister is entitled to lodge a caveat over the land to ensure that the former reserve land at Lake Tyers is not transferred contrary to the Act. 	<p>Support in principle.</p> <p>Further consideration is required to determine whether the proposed amendment engages property rights under section 20 of the <i>Charter of Human Rights and Responsibilities 2006 (Vic)</i> or other frameworks, such as article 26 of the United Nations Declaration on the Rights of Indigenous Peoples.</p> <p>Further engagement with the Trust Communities’ is required prior to legislative amendments, to ensure self-determination is upheld and the interests of all shareholders are considered.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 34: Using the land as a security</p> <p>Amend section 11(3) of the Act to provide that Framlingham Aboriginal Trust shall not sell, mortgage, use as a security, give in exchange or otherwise dispose of any former reserve land to any person, except in accordance with a unanimous resolution of the Trust.</p>	<p>Support in principle.</p> <p>The same considerations apply here, as to Recommendation 33.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 35: Selling land other than former reserve land</p> <p>Amend the Act to provide that the resolution to sell land other than the former reserve land by Lake Tyers Aboriginal Trust or Framlingham Aboriginal Trust needs only to be approved by 80 per cent of the members present and eligible to vote.</p>	<p>Support in principle.</p> <p>The same considerations apply here, as to Recommendation 33.</p> <p>This recommendation will be further considered for implementation in phase two.</p>

Recommendation	Response
Facilitating economic activity	
<p>Recommendation 36: Powers of Trust</p> <ol style="list-style-type: none"> 1. Amend the Act to provide that a Trust may establish, acquire, operate or manage a related entity being either: <ol style="list-style-type: none"> a. an Aboriginal and Torres Strait Islander corporation within the meaning of the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cth), b. a company within the meaning of the <i>Corporations Act 2001</i> (Cth). 2. Amend the Act to provide that a Trust must include in the accounts and records of the Trust the financial records of the related entity and details of the operations of the related entity. 	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 37: Power of Trust to carry on business on Trust land</p> <p>Amend section 11(b) of the Act to clarify that a Trust “carry on any business, including on any land held by the Trust”.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 38: Finance</p> <p>In addition to core funding for administration, the Victorian Government should give consideration to providing some targeted funding for investments in the form of property or other investment to create income streams to finance the Trusts.</p>	<p>Support in principle.</p> <p>Subject to resourcing and analysis of costs.</p> <p>This recommendation will be further considered for implementation in phase two.</p>
<p>Recommendation 39: Mining</p> <p>Amend the Act to make the requirements in relation to mining consistent with s 31 of the <i>Aboriginal Land Rights (Lake Condah and Framlingham Forest) Act 1987</i> (Cth).</p>	<p>Support in principle.</p> <p>Further analysis is required regarding how to appropriately incorporate mining restrictions within the context of this Act.</p> <p>This recommendation will be further considered for implementation in phase two</p>

Recommendation	Response
Modernisation of the Act	
<p>Recommendation 40: Modernisation of the Act</p> <p>Amend the Act to:</p> <ul style="list-style-type: none"> a. replace the term <i>“Aborigine”</i> with <i>“Aboriginal person”</i>; b. replace the phrase <i>“husband and wife”</i> with <i>“spouse and domestic partner”</i>; c. replace the term <i>“infants”</i> with <i>“a person under the age of 18”</i>. 	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>
Ongoing review and consultation	
<p>Recommendation 41: Report and Bill to be provided to the Trusts</p> <p>Amend the Act to provide that:</p> <ol style="list-style-type: none"> 1. A copy of this Report should be provided to the Trusts for comment prior to any draft legislation being prepared. 2. Prior to a Bill being tabled in Parliament, an Exposure Draft should be prepared and provided to the Trusts for comment. 	<p>Support in principle.</p> <p>Prior to a Bill being tabled in Parliament, a draft Bill or an extract of a draft Bill will be provided to the Trust Communities for comment.</p> <p>This recommendation will be implemented in phase one.</p>
<p>Recommendation 42: Continuing engagement with Trust</p> <p>First Peoples – State Relations should continue to engage with the Trusts and work with them to further identify areas of reform which assist with the operation of the Act, including about whether a periodic legislative review mechanism is appropriate to insert into the Act.</p>	<p>Support in full.</p> <p>This recommendation will be implemented in phase one.</p>

Implementing the Review recommendations

The Victorian Government is committed to amending the Act and will continue to engage with the Trust Communities in implementing Review recommendations. Part of this process involves holding workshops to ensure that any changes to the Act, including the implementation of non-legislative reform, continue to reflect the aspirations of the Trust Communities. The Review recommendations will be considered in two phases.

Phase one

Phase one will implement 28 (22 legislative and six non-legislative) recommendations as a priority, which will improve processes for share transfers; strengthen governance provisions; facilitate economic activity; modernise terminology in the Act; and increase understanding of the Act and its shareholding system.

Implementing phase one reform will provide the groundwork for future reform, including potential future implementation of the remaining 14 Review recommendations, subject to further analysis and community engagement.

The 22 legislative recommendations include:

- **Recommendation 5**
Instrument of Transfer
- **Recommendation 6**
Notice of transfers
- **Recommendation 8**
Shares not sold contrary to Act
- **Recommendation 14**
"Personal representative" definition
- **Recommendation 16**
Frequency of general meetings
- **Recommendation 17**
Quorum for general meetings
- **Recommendation 18**
Notice of general meetings
- **Recommendation 19**
Minutes of general meetings
- **Recommendation 20**
Election of Committee of Management
- **Recommendation 21**
Disqualification from Committee
- **Recommendation 22**
Quorum for Committee of Management
- **Recommendation 23**
Minutes of Committee meetings
- **Recommendation 24**
Casual vacancies for Committee
- **Recommendation 26**
Pecuniary interests
- **Recommendation 27**
Exemption from compliance
- **Recommendation 29**
Reporting to the Minister
- **Recommendation 30**
Copy of share register for Minister
- **Recommendation 31**
Investigations
- **Recommendation 32**
Definition of "resident"
- **Recommendation 36**
Powers of Trust
- **Recommendation 37**
Conducting business on Trust land
- **Recommendation 40**
Modernisation of the Act

The six non-legislative recommendations include:

- **Recommendation 1**
Audit of share register at Lake Tyers Aboriginal Trust
- **Recommendation 2**
Improving awareness of the Act
- **Recommendation 3**
Materials advising shareholders of information about their shares
- **Recommendation 10**
Assistance to identify and notify families of deceased shareholders
- **Recommendation 41**
Ongoing review and consultation
- **Recommendation 42**
Continuing engagement with Trust

Phase two

Phase two will consider implementation of the remaining 14 (13 legislative and one non-legislative) recommendations, subject to further analysis, community engagement and the implementation of interdependent recommendations in phase one.

The 13 legislative recommendations include:

- **Recommendation 4**
Clarify power of Committee in relation to transfer of shares
- **Recommendation 7**
Class of transferee
- **Recommendation 9**
Shares to only be held by Aboriginal people
- **Recommendation 11**
Role of Committee in relation to transfers in accordance with a Will
- **Recommendation 12**
Powers of an Executor in relation to transfers
- **Recommendation 13**
Distribution of shares on intestacy
- **Recommendation 15**
Maintenance of share register
- **Recommendation 25**
Model rules for Committee
- **Recommendation 28**
Independent Registrar
- **Recommendation 33**
Restriction on sale of land
- **Recommendation 34**
Using the land as a security
- **Recommendation 35**
Selling land other than former Reserve land
- **Recommendation 39**
Mining on Trust land

The one non-legislative recommendation includes:

- **Recommendation 38 Finance**
Implementing the Review recommendations will not restrict the Victorian Government from future major reform, including aligning with the aspiration of the Trust Communities and Victoria's Treaty process. Along with continuing engagement with the Trust Communities.

Appendix A - as per Recommendation 5 (Instrument of Transfer)

**FRAMLINGHAM ABORIGINAL TRUST
(Aboriginal Lands Act 1970)**

INSTRUMENT OF TRANSFER OF SHARES

I _____

(Full Name of **Transferor** in block letters)

Also known as _____
(if you have been known by any other names since you were born, please specify them here (Surname/Given Name))

Current address _____

Date of Birth ____/____/____

the registered holder and undersigned Transferor for the consideration hereinafter appearing, do hereby transfer to:

Mr. }
Mrs. }
Miss } (Full Name of **Transferee** in block letters)

Current Address

Date of Birth ____/____/____

NUMBER OF SHARES BEING TRANSFERRED

(hereinafter called the Transferee) the _____
(Insert number of shares in words)

()
(in figures)

shares as specified herein, all numbers inclusive, standing in my name in the books of the FRAMLINGHAM ABORIGINAL TRUST, subject to the several conditions on which I held the same at the time of the signing hereof and I the Transferee do hereby agree to accept the said shares subject to the same conditions.

If the shares have been sold in accordance with

Section 14 of the Act, the consideration for this transfer is:

\$ _____

In words _____

Date of purchase by Transferee (if applicable)
____/____/____

No. of Shares	Progressive Numbers	
	From	To

Relationship to Transferor:

- Husband or Wife Child Brother/Sister Parent
 Brother or Sister of Parent Child of Parent Brother or Sister of Parent Any other natural blood relationship (please specify) _____

OR

- The Trust Trust Member The Crown (specify State or Commonwealth) _____

Relationship and Identification:

(In order to verify the relationship between the Transferor and Transferee, please provide one or more of the following documents)

- Certified copy Birth certificate Certified copy of Marriage certificate Certified copy of Change of Name certificate
 Statutory Declaration (by Transferor, Transferee and at least one other relative)
 Any other certified documents that proves the relationship between Transferor and Transferee (please specify) _____

Please provide one of the following forms of identification:

(Certified copies must be provided)

- Drivers licence Passport Proof of Age card
 Pension card Other (please specify) _____

SIGNED by the Transferor this
 / / (Date)

NAME _____

 (Signature of Transferor)

SIGNED by the Transferee this
 / / (Date)

NAME _____

 (Signature of Transferee)

OFFICE USE ONLY		COMMON SEAL
All documentary evidence provided	YES / NO	
Date accepted by Trust Administration		
Date approved by Committee of Management		

Victorian Government response to
the recommendations of the independent
Review of the *Aboriginal Lands Act 1970*

