



Additional pathways to recognition

GUIDELINES FOR APPLICANT GROUPS

First Peoples' Assembly of Victoria

firstpeoplesvic.org | April 2022



**FIRST PEOPLES'
ASSEMBLY OF
VICTORIA**



ADDITIONAL PATHWAYS TO RECOGNITION

Guidelines for Applicant Groups

Overview

The First Peoples' Assembly of Victoria (Assembly) is the collective voice for Traditional Owners and Aboriginal Victorians to participate in Treaty discussions.

We currently have a total of 31 Members, with 21 Members elected and a reserved seat for every Traditional Owner Group formally recognised under legislation.

We have developed an additional pathway under our constitution for Traditional Owners who are not formally recognised under legislation to apply for a reserved seat on the Assembly.

A decision to grant or refuse a new reserved seat is made by the whole Assembly Chamber, taking into account all available facts, including evidence given by applicants and relevant information raised in objections by interested parties.

If a group is granted a reserved seat, they can appoint a representative to sit on the Assembly as an Assembly Member. However, all applicant groups should be aware that:

- Having a reserved seat in the Assembly does not change the group's status under legislation.
- Having a reserved seat in the Assembly does not give a group any rights to negotiate a Treaty.
- A reserved seat granted using this process will be cancelled if another Traditional Owner Group is formally recognised under legislation over all or part of the same application area.
- A reserved seat granted cannot impact any rights of existing reserved seat holders.

Additional pathway

The additional pathway for a reserved seat requires you to demonstrate that you meet the 'Additional Traditional Owner Group Criteria' formally adopted by the Assembly Chamber under the expanded definition of 'Traditional Owner Group' in the Assembly's constitution.

The Additional Traditional Owner Group Criteria cover four categories:

1. The group's application area is not represented in whole or in part by an existing reserved seat on the Assembly
2. The group's application to become a Traditional Owner Group has significant support amongst Traditional Owners for the area
3. The group is an established group or nation
4. The group has an ongoing connection to Country

About the Guidelines

These Guidelines explain the process for making an application for a new reserved seat. They also set out how we will make decisions on applications.

There is a glossary at the end of these Guidelines that explains the terms used.

You can contact us at any time if you have questions about the application or decision-making process. Our contact details are available on our website.

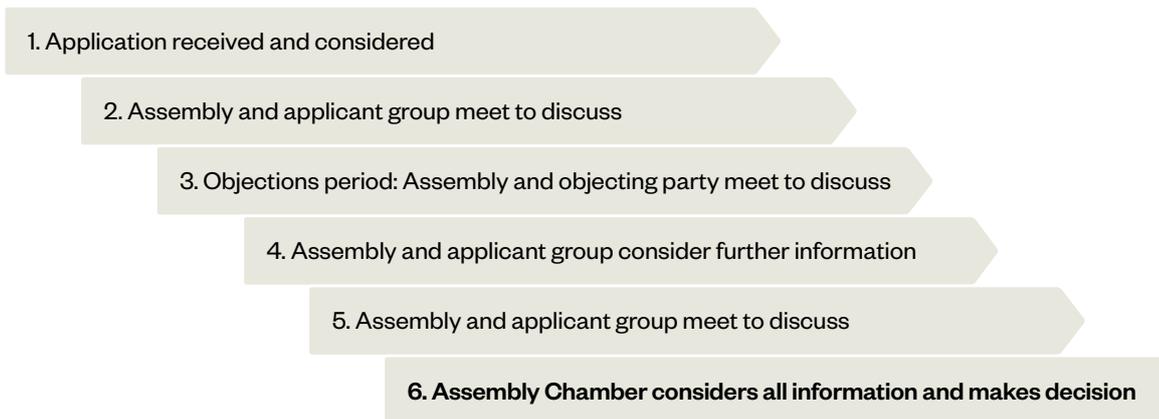
About the process

We have developed a process that is fair, culturally strong and culturally safe. It respects the right to self-determination of all First Peoples in Victoria and honours our oral traditions.

The process is designed so that:

- You will be treated with respect and dignity. We will encourage yarning to occur in a safe space.
- You will have opportunities to speak and meet with Assembly Members and staff to discuss your application face-to-face on Country. This includes an opportunity to receive guidance on how your application can be strengthened.
- You may provide further information after submitting your application, including at a face-to-face meeting.
- You will be told about the objections process and notified if an interested group makes an objection to your application. You will have an opportunity to respond to an objection and provide additional information if you wish.
- You can withdraw your application at any time.
- The Assembly Chamber is the decision maker on your application. An opinion expressed by individual Assembly Members during the application process is indicative only and is not part of the decision of the Assembly Chamber.
- The Assembly Chamber will decide your application based on whether you meet each of the Additional Traditional Owner Group Criteria, taking into account all the available evidence.

KEY STEPS IN THE APPLICATION PROCESS



About the Application Form

The Application Form is available on the Assembly's website. If you prefer you can request a hard copy form.

Your application needs to include information and evidence to show you meet all of the Additional Traditional Owner Group Criteria. You can provide information and evidence as an attachment to the Application Form and also orally at face-to-face meetings.

There is no need for you to have taken part in processes for formal recognition under legislation. But if you have, you can re-use information and evidence you gathered when applying to us for a new reserved seat.

The Application Form is divided into two parts.

PART 1: ESTABLISHING PRELIMINARY ELIGIBILITY

Section 1	Applicant details and contact information
Section 2	No Registered Aboriginal Party (RAP) over all or part of the application area
Section 3	Significant support amongst Traditional Owners for the area

PART 2: DEMONSTRATING CRITERIA ARE MET

Section 4	Established group or nation
Section 5	Ongoing connection to Country
Section 6	Other information

You have the option to:

1. complete the Application Form in one go (submit Parts 1 and 2 at the same time), or
2. complete the Application Form in two stages (submit Part 1 then later Part 2).

We encourage you to use option 2 and complete the Application Form in stages. This helps spread the workload and allows you to discuss your application with individual Assembly Members before deciding to progress to Part 2 of the application, which includes the objections stage.

Supporting information and evidence

We require certain information from you to progress your application. It's important that you present us with evidence to show how you meet each of the Additional Traditional Owner Group Criteria. Below we explain what information and evidence we require and why.

SECTION 1

Applicant details and contact information

In section 1, we ask for the name of your group and your contact details. We also ask you to nominate an authorised representative(s). The authorised representative(s) listed in this section will be the primary contacts for the Assembly throughout the application process.

SECTION 2

No Registered Aboriginal Party (RAP) over all or part of the application area

In section 2, you are asked to demonstrate the application area is not represented by an existing reserved seat on the Assembly. This means that there is no Registered Aboriginal Party (RAP) over all or part of the area. This requirement is there to ensure the new reserved seat does not impact the rights of existing reserved seat holders.

Examples of supporting information

- Rough sketch (map) that shows the geographical area over which the applications is made.
- Description of the area, provided orally or in writing.

SECTION 3

Significant support amongst Traditional Owners for the area

Section 3 requires you to demonstrate that your application has significant support amongst Traditional Owners for the area. You are asked to provide supporting information to show you are recognised by other Traditional Owners as the Traditional Owners for the application area.

There may be objections to your application. These may also affect whether you satisfy this requirement. Objections are discussed below.

Examples of supporting information: significant support

- statements from Aboriginal people or organisations from or neighbouring the area that recognise you represent the Traditional Owners for the application area
- supporting letters, video recorded statements or documentation from other Traditional Owners of the application area
- relevant secondary and primary research materials that show you represent the Traditional Owners of the area
- evidence of your efforts to establish a fair, inclusive and effective system of cultural heritage management on Country
- any consultation or agreement with other Traditional Owners regarding the boundary of the area under application
- other ways that you are inclusive and encouraging of all Traditional Owners for the application area becoming members, if you are incorporated.

SECTION 4

Established group or nation

In Section 4, you are asked to give evidence about “Membership” and “Governance and incorporation”.

Membership

We are asking you to:

- demonstrate that you currently have a minimum of 80 individual members who are all 16 years of age or over
- identify the Apical Ancestors of your group and attest that all of your current-day members are descendants of these Apical Ancestors
- outline your consultation methods and how you remain engaged with and representative of your membership
- outline your governance process or full group decision making processes.

Examples of supporting information and evidence: membership

- written or video recorded statement, historical records or other documentation which names the Apical Ancestors of the applicant group
- written or video recorded statement which attests that all current day members are the descendants of the named Apical Ancestors
- the group’s membership list* (see note below)
- if the applicant group is an incorporated body, a certificate of incorporation and its rule book
- the consultation carried out by the applicant with descendants of named Apical Ancestors e.g. through notices of meetings
- information and evidence about how the applicant group remains engaged with, and representative, of its membership e.g., details of community engagement, workshops, newsletters, website or consultation policies and guidelines.

Note: Providing the names of members is helpful to your application because it can demonstrate that your members are descendants of the Apical Ancestors. Details about how the members are connected to the Apical Ancestors will assist the Assembly to be satisfied this criterion is met. Authorised representatives should ensure they have authority to disclose this personal information. Information about Apical Ancestors and genealogy that is provided to the Assembly will be respected and treated in line with cultural protocols.

Governance and incorporation

We are asking you to show that you are collective, cohesive, and able to select and review your membership. You do not need to have a particular legal structure to show this, but if you are incorporated or established as a trust, then you should provide the relevant documentation.

Examples of supporting information: Governance and incorporation

- if the applicant group is an incorporated body, a certificate of incorporation and its rule book
- details of any governance training undertaken by applicant members
- written or video recorded description of the applicant group's governance structures
- copies of the applicant's policies and procedures relating to corporate governance (if applicable). For example, policies relating to cultural and/or meeting protocols or policies for the handling of dispute resolution or conflicts of interest.
- copies of decision making processes or procedures (if the rule book is not applicable)
- operational and decision making aspects of cultural heritage management, land and resource management (if applicable).

SECTION 5

Ongoing connection to Country

Section 5 asks you to provide information about the region from which you originate and your group's ongoing connection to that area with reference to:

- cultural information
- historical information
- spiritual information, where appropriate and willing to be shared
- anthropological information.

"Ongoing connection to Country" means: *The people inherently belong to and are culturally responsible for the land and waters.*

**Examples of supporting information:
Ongoing connection to country**

- having current members living on Country – 20 members of the group living on Country is a very strong indication of ongoing connection to Country
- practising ceremony and customs
- teaching the young and future generations to honour their culture
- honouring oral history and having strong oral traditions and cultural protocols
- exercising your right to self-determination
- written or video recorded statements that describe cultural and spiritual knowledges, practices, Lore, ways of knowing and being, stories, song, art, and any other cultural practices that are appropriate to be shared
- historical information that can come from anthropological reports, books, journals and other peer reviewed research, photographs, personal letters, diaries, other documentation or personal or archival materials
- examples of meetings that take place on Country
- kinship relationships and obligations
- responsibilities to care for Country
- activities on Country – these could include examples of involvement in protecting and restoring health to Country and waterways, protecting and restoring secret and sacred sites, protecting, managing and exercising guardianship of tangible and intangible cultural heritage, returning ancestors to Country, involvement in policy and advocacy processes on Country or in relation to Country
- additional supporting information from other Traditional Owner groups in Victoria which support your application, and which recognise you as Traditional Owners of Country
- any other forms of showing ongoing connection to Country.

External support

Our process does not require you to seek formal recognition of your Traditional Owner status through existing legislative processes. The Additional Traditional Owner Group Criteria have been adopted to provide an additional pathway.

However, for some groups, an application for a new reserved seat might be the first step on the journey to formal recognition under legislation. The Assembly's process allows these groups to submit information to the Assembly that was used in an external State-based process to support or strengthen their application. State-based resources may be available to these groups through programs such as the Strong Roots for our Futures program, Right People for Country and the Nation Building Support Package.

Below is a list of external supports, including some State-based resources, for your reference.

Strong Roots for Our Future

<https://www.firstpeoplesrelations.vic.gov.au/strong-roots-our-futures-program>

Right People for Country

<https://www.firstpeoplesrelations.vic.gov.au/right-people-country-program>

First Nations Legal and Research Services

<https://www.fnls.com.au/>

Victorian Aboriginal Heritage Council

<https://www.aboriginalheritagecouncil.vic.gov.au/>

Koorie Heritage Trust

<https://korieheritagetrust.com.au/visit-us/korie-family-history-service/>

Objection process

The *Additional Reserved Seats: Guidelines for Objections* detail the process for making an objection to an application for a new reserved seat. You are encouraged to read these Guidelines. They are available on the Assembly's website.

General information

Assembly's policies

Assembly Members and staff, applicant groups and objecting parties are all expected to comply with Assembly policies, including the:

- Confidentiality Policy
- Cultural Safety Policy
- External Complaints Policy
- Privacy Policy.

These policies will be made available to applicant groups and to objecting parties.

Additional Information

The Assembly may ask you to provide further information if we think it is necessary to supplement or strengthen your application.

We may generally rely on the cultural knowledge of our Members as well as any information received through our own enquiries with third party organisations when giving guidance or making a decision in relation to an application. You will be given the opportunity to respond to any cultural knowledge of Assembly Members which may be relied on by the Assembly.

Timelines

After submitting Part 1 of the application form, you must submit Part 2 within 3 months after the date of submission of Part 1. If more time is needed, then you can request an extension of time.

The period for objections will commence after both Parts 1 and 2 of the Application Form have been completed and after you have had an opportunity to discuss your application with Assembly Members and decided to continue. The period for objections will run for 30 days.

The Assembly will ensure applications are managed and determined in a timely manner, while remaining flexible to respond to your needs. This includes by providing a reasonable time to prepare a response to any objections which are received and to make arrangements to meet with you on Country, at the Assembly's offices or by video conference.

Notification of outcome

We will notify you in writing of the outcome of an application. If your application is unsuccessful, we will give you the reasons why the application was refused.

Re-submission

If a decision is made that you do not meet the Additional Traditional Owner Group Criteria, a new application for a reserved seat cannot be made again unless new information arises which is likely to change the outcome of the decision.

Confidentiality and privacy

Information we receive in connection with your application will be treated as confidential, subject to the following exceptions:

- information disclosed to third party organisations for the purpose of the Assembly making its own enquiries about, or in relation to, your application
- information included in a notice of invitation to object, including the name of the applicant group and the area over which the application has been made
- information included in a public notice made by the Assembly to announce the creation of a new reserved seat, if the application is successful.

Your personal information will be handled in accordance with our Privacy Policy.

Complaints and disputes

You can make complaints about:

- the behaviour, engagement or quality of service which you have received by an Assembly Member or staff member; or
- the way the Assembly has handled an application or objection.

A complaint cannot be made about the outcome of a decision made by the Assembly Chamber.

Complaints should first be directed to the person you have dealt with. The Assembly may be able to resolve the issue quickly and effectively at that point.

If the complaint cannot be resolved or if you prefer to make a formal complaint, you can do so verbally or in writing to the Chief Executive Officer (CEO):

- **By telephone:** 1800 873 289
- **By email:** AndyGargett@firstpeoplesvic.org

The CEO will handle your complaint in accordance with the Assembly's External Complaints Policy.

Principles for decision making

We will manage the application and decision making process according to the following guiding principles:

- all First Peoples in Victoria have the right to self-determination, as acknowledged in the *United Nations Declaration on the Rights of Indigenous Peoples*.
- all First Peoples in Victoria have the right to freely determine their identity as a group or mob in relation to an application for a reserved seat
- all interested parties, including groups who wish to object to an application, will have the opportunity to be heard
- the Assembly will distance itself from any sensitive discussions regarding boundary disputes or in relation to the support of other mobs
- each applicant group will have the opportunity to respond to any new evidence or information, including information received from third party organisations, objections or as a result of an Assembly Member's own cultural knowledge
- the Assembly will act with honesty and integrity and decisions should be made with transparency
- Assembly Members will form their own views based on the material before them and the relevant facts
- Assembly Members will justify their decision based on evidence that is relevant and is able to support the decision
- Assembly Members will assume responsibility and be accountable for their decisions
- Assembly Members will declare and manage conflicts or potential conflicts of interests
- a new reserved seat that has been created for a successful applicant group will be cancelled in the future if another Traditional Owner Group is formally recognised under existing legislative process over all or part of the same application area.

Glossary

The following terms are used in these Guidelines.

- **Additional Traditional Owner Group Criteria** means the criteria under the Assembly's constitution that must be met before the Assembly can grant a new reserved seat.
- **Applicant group** is a group of Traditional Owners applying to the Assembly for a reserved seat.
- **Assembly** is the First Peoples' Assembly of Victoria Ltd declared to be the Aboriginal Representative Body under s 11 of the Advancing the Treaty Process with Aboriginal Victorians Act 2018 (Vic).
- **Assembly constitution** is the constitution of the First Peoples' Assembly of Victoria Ltd.
- **Assembly Chamber** is a formal meeting of Assembly Members and is the central decision making body of the Assembly.
- **Assembly Member** means a current Member of the Assembly who has been elected as a general member or appointed as a reserved member by an existing reserved seat holder.
- **Objecting party** means a person or group who may have an interest in the application area and a right to be heard in relation to an application, for example, Traditional Owners for the area or in a neighbouring area.
- **Reserved seat** is a seat on the Assembly reserved for each Traditional Owner Group and occupied by a representative selected by that group.



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