



TREATY NEGOTIATION FRAMEWORK

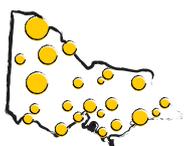
The ground rules for Treaty negotiations

The Assembly has reached agreement with the State on a Treaty Negotiation Framework. The Framework has self-determination and empowerment at its heart.

The Framework represents a new relationship between First Peoples and the State that restores Cultural Authority to its rightful place and recognises Aboriginal Lore, Law and First Peoples' rights and responsibilities.

This new relationship requires the State to step back so that First Peoples can self-determine our participation in Treaty negotiations.

The Treaty Negotiation Framework sets the ground rules for Treaty negotiations for:



Traditional Owner Treaties between Traditional Owner groups and the State, on matters that Traditional Owners determine, which may include matters relating to Country and Community.



A Statewide Treaty between the Assembly, as the democratic voice for Aboriginal and Torres Strait Islander peoples living in Victoria, and the State.

In a Statewide Treaty, we can negotiate significant changes to Victoria's structures and systems of government to achieve greater control over our own lives and destinies.

The Treaty Negotiation Framework includes requirements for:

-  Respecting Aboriginal Lore, Law and Cultural Authority
-  Entering into Traditional Owner Treaty negotiations
-  Entering into Statewide Treaty negotiations
-  Inviting additional parties to join Treaty negotiations
-  Formalising agreement to Treaties
-  Enforcing Treaties
-  Reporting
-  Resolving disputes

Requirement to respect Aboriginal Lore, Law and Cultural Authority

The Framework sets out standards which the parties to negotiations must stick to. The standards are designed to ensure that negotiations are fair, inclusive, safe and culturally appropriate. They have a cultural overlay and are respectful of First Peoples' diversity, governance and practices of belonging.

In recognising the history and ongoing power imbalance between First Peoples and the State, Treaty negotiations will be conducted according to negotiation standards that are respectful of Aboriginal Lore, Law and Cultural Authority.

The Framework does not define Aboriginal Lore, Law and Cultural Authority, as its meaning varies between communities and will be a matter for each community to self-determine.



All parties negotiating a Treaty will be also required to act in line with certain principles, including:



SELF-DETERMINATION AND EMPOWERMENT

This is the central principle for Treaty-making and informs every element of the Framework.

This means that First Peoples decide First Peoples' matters. First Peoples freely determine how we participate in the Treaty negotiation processes and who represents them.



FAIRNESS AND EQUALITY

The Treaty negotiation process must ensure fairness to all parties and support outcomes that promote equality for First Peoples in Victoria.



PARTNERSHIP AND GOOD FAITH

Parties to Treaty negotiations must act in good faith in dealings with each other and try to resolve any disputes as quickly as possible.



MUTUAL BENEFIT AND SUSTAINABILITY

Parties to Treaty negotiations must commit to a process that provides material, social, economic and cultural benefits to First Peoples, and promotes reconciliation and celebration of First Peoples' cultures, ensuring benefits to the entire Victorian community.



TRANSPARENCY AND ACCOUNTABILITY

Parties to Treaty negotiations must act with honesty and integrity and be held accountable for their shared commitment to First Peoples self-determination.

Additional negotiating standards apply to the State to address the power imbalance. For example, the State negotiators must complete cultural competency training and apply cultural awareness throughout negotiations.



TRADITIONAL OWNER TREATIES

The Framework empowers Traditional Owners to negotiate Traditional Owner Treaties with the State on a wide a range of matters.

Informed by what the Assembly has heard from Community, the Framework signposts important matters that Traditional Owners may be looking for Traditional Owner Treaties to cover.

This is not intended to limit the topics for discussion.

Important matters that may be discussed could include:

- traditional relationships with land and waters
- protecting land and waters and cultural heritage
- culture and language
- economic sustainability and empowerment.

Who can negotiate Traditional Owner Treaties?

The Framework provides an opportunity for all Traditional Owners to enter into Traditional Owner Treaty negotiations so that no one is left behind.

The Framework sets out the criteria and standards that all Traditional Owners must meet to enter into Treaty negotiations. The criteria are grouped into four categories:

- **Land and Waters:** Traditional Owners must identify the Country that they intend to negotiate a Traditional Owner Treaty over.
- **Community:** Traditional Owners must identify all members of their Traditional Owner group.
- **Leadership:** Traditional Owners must choose and authorise their negotiating team.
- **Inclusivity:** Traditional Owners must ensure that Aboriginal Lore, Law and Cultural Authority is respected and that Traditional Owner Treaties have the collective support of their members.

Traditional Owner groups with existing status under legislation, including the *Native Title Act 1993* (Cth), *Traditional Owner Settlement Act 2010* (Vic), and *Aboriginal Heritage Act 2006* (Vic) will have their current rights respected and will automatically meet the criteria for the Country over which they have existing status.

The door is open for Traditional Owner groups without existing status to meet the criteria and participate in Traditional Owner Treaty negotiations.



First Peoples' Treaty Delegation

Traditional Owners must form a First Peoples' Treaty Delegation (Delegation) before commencing Traditional Owner Treaty negotiations. A First Peoples' Treaty Delegation must represent all Traditional Owners who meet the criteria, listed above, in relation to the same Country.

The process, which is supported by the Treaty Authority, enables Traditional Owners to decide how they come together politically and make collective decisions. It also ensures hard-won rights are not diminished, while acknowledging that not all Traditional Owners have been able, or wanted, to engage with existing processes.

This approach allows Traditional Owners to restore Cultural Authority to its rightful place and reclaim control over dispute resolution and agreement-making.

The State has no role to play in the formation of a Delegation. As such Traditional Owners are free from government interference.

The State must also meet the same criteria and demonstrate that it is ready and willing to start negotiations.

The negotiating parties may invite other persons or groups to participate in the Treaty negotiations. For example, Traditional Owners may choose to invite Aboriginal Controlled Community Organisations (ACCOs), Local Government or businesses to participate in negotiations on certain subject matters.

Reaching Agreement

The Framework is a vehicle for delivering better outcomes for First Peoples.

Interim agreements may be sought on certain matters. This allows for the early activation of rights and can bring benefits to Community during Treaty negotiations.

Traditional Owners will self-determine what collective decision-making process or processes will demonstrate First Peoples' Community support or agreement.

Traditional Owners may choose how they formalise Treaty. For example, through existing governance structures or through ceremony.

Traditional Owner Treaties will be binding and all parties will be accountable to uphold and implement them.

STATEWIDE TREATY

The Treaty Negotiation Framework empowers First Peoples to negotiate a Statewide Treaty with the State on a wide a range of matters.

Informed by what the Assembly has heard from Community, the Framework signposts important matters that First Peoples may be looking for Treaties to cover.

This is not intended to limit the topics for discussion.

This includes changes to current systems and structures of government, such as:

- a First Peoples' representative decision-making body that gives effect to self-determination by making decisions about First Peoples issues – for example, a permanent version of the Assembly.
- an authoritative First Peoples' Voice to Parliament, which can give advice and input to the Victorian Parliament on matters that affect First Peoples
- dedicated First Peoples' seats in Victorian Parliament
- recognition of the Statewide Treaty in the Victorian Constitution.

Recognising the Assembly as the sole representative of First Peoples for Statewide Treaty

The Framework includes the process for the Assembly to become the First Peoples' Representative Body and enter into negotiations with the State on a Statewide Treaty.

The Framework sets out the criteria and standards that the Assembly must meet to enter into Treaty negotiations. The criteria are grouped into four categories:

- **Land and Waters:** The Assembly must identify the Country which it intends to negotiate a Statewide Treaty over.
- **Community:** The Assembly must represent the diversity of First Peoples in Victoria.
- **Leadership:** The Assembly must choose and authorise it's negotiating team.
- **Inclusivity:** The Assembly must ensure that Cultural Authority is respected, and that a Statewide Treaty has the collective support of First Peoples in Victoria.

Following the Assembly's next election and upon meeting the criteria in the Framework, the Assembly will become the sole representative of First Peoples for the purpose of a negotiating Statewide Treaty.



The State must also meet the same criteria and demonstrate that it is ready and willing to start negotiations. As in Traditional Owner Treaty negotiations (see above) additional negotiating parties may be invited to join the Statewide Treaty negotiations.

Reaching Agreement

First Peoples will self-determine what collective decision-making process or processes will demonstrate First Peoples' Community support or agreement.

First Peoples will choose how they formalise Treaty. For example, through existing governance structures or through ceremony.

Statewide Treaty will be binding and will recognise the inherent rights and interests of First Peoples as well as respect and uphold Aboriginal Lore, Law and Cultural Authority.

Next steps

The Treaty Negotiation Framework outlines the process for negotiating Traditional Owner Treaties and Statewide Treaty. This means that Traditional Owner groups can now look ahead and begin preparing for Traditional Owner Treaty negotiations.

The Assembly is still in the process of setting up the Self-Determination Fund and Treaty Authority, which will help First Peoples on their journey to Treaty.

The Assembly will also begin preparing for a Statewide Treaty. This involves holding elections in 2023, giving Victoria's First Peoples the opportunity to elect the Assembly which will be the First Peoples' Representative Body to negotiate a Statewide Treaty with the State.