



FIRST PEOPLES'
ASSEMBLY OF
VICTORIA



A PATH TO TREATY

First Peoples' Assembly of Victoria
Treaty Information Pack

firstpeoplesvic.org | November 2022



FIRST PEOPLES' ASSEMBLY OF VICTORIA

Treaty Information Pack

ABOUT THIS PACK

The First Peoples' Assembly of Victoria is the independent and democratically elected body to represent Traditional Owners and Aboriginal and Torres Strait Islander peoples in Victoria. We believe it's time to negotiate Treaties between our people and the State and we're establishing the foundations to enable that.

We've spent three years yarning with mob all over the state and looking to examples from around the world. With Community's guidance we developed and reached agreement with the State on the foundations for Treaty negotiations, which include a Treaty Negotiation Framework, a Treaty Authority, and a Self-Determination Fund.

This pack explains the foundations for Treaty negotiations and the work we have been doing to set up them up.

Treaty is our opportunity to make sure we always have the freedom and power to make the decisions that affect our Communities, our culture and our Country.

If you're mob, show your support and help decide the next steps on the journey by enrolling with us today.

firstpeoplesvic.org/enrol

OUR COMMITMENT TO COMMUNITY

The path ahead might not be a straight one, but these are the commitments we make to each other and to Community on the journey.

WELCOME

Our strength is drawn from our Community's diversity. We aim to make sure everyone is welcomed and everyone is listened to.

RESPECT

We will always treat each other with respect and we'll call out disrespect when we see it.

LISTEN

Like our culture, our Community's ideas are rich and diverse, we'll always be up for a yarn. We need your ideas, feedback and guidance.

FOUNDATIONS FOR TREATY NEGOTIATIONS

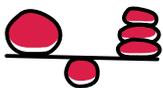
The Assembly has reached agreement with the State on three key foundations for future Treaty negotiations.



Treaty Negotiation Framework

Sets out the ground rules for negotiating Traditional Owner Treaties and a Statewide Treaty, including who will negotiate Treaties and the process for Treaty negotiations.

The Framework empowers First Peoples to shape our own path forward. It supports First Peoples to decide how we want to approach Treaty negotiations.



Treaty Authority

An independent, First Peoples led umpire to facilitate and oversee Treaty negotiations consistent with the Treaty Negotiation Framework and in a way that respects Aboriginal Lore, Law and Cultural Authority.



Self-Determination Fund

A First Peoples controlled financial resource empowering First Peoples to negotiate Treaties on a level playing field with the State and to build capacity, wealth and prosperity for current and future generations.



TREATY NEGOTIATION FRAMEWORK

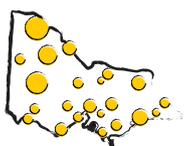
The ground rules for Treaty negotiations

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.



TREATY AUTHORITY

An independent umpire to oversee and facilitate Treaty negotiations

The Treaty Authority will be independent from the Assembly and the government.

The Assembly has secured agreement for the creation of a Treaty Authority that sits outside of existing State structures and does not answer to government.

Historic legislation to facilitate the Treaty Authority's establishment has also been passed by the Victorian Parliament and was supported by all political parties.

The Assembly's agreement with the State will see the Treaty Authority have its own authority and will operate in a way that reflects and embodies First Peoples communities, culture and ways of being and doing.

The Treaty Authority will perform its role in a way that respects, observes and upholds Aboriginal Lore, Law and Cultural Authority.

The Treaty Authority will be made up of five First Peoples members. There will be a rigorous and transparent selection process for the Treaty Authority members, which will include a public call for nominations.

Its members will have to meet selection criteria which reflect the need for appointments to be made in light of Cultural Authority and standing in Community.

The selection criteria includes:



Impartiality



Commitment to self-determination and empowerment



Good character, courage and integrity



Cultural knowledge, wisdom and humility



Technically competent and experienced



TREATY AUTHORITY'S ROLE

The Treaty Authority's role is to oversee and facilitate Treaty negotiations. It will make sure that parties follow the process for entering Treaty negotiations and negotiate Treaties in accordance with the Treaty Negotiation Framework. It will also help resolve any disputes that arise in the Treaty negotiation process.

It is important that the Treaty Authority is accountable to First Peoples and the wider Victorian community. The Treaty Authority must act in a way that is consistent with certain standards.

The Treaty Authority will:

- be guided by Aboriginal Lore, Law and Cultural Authority
- uphold human rights
- have rules to ensure good governance and decision making
- have rules to ensure the good conduct of Treaty Authority members
- report on operations and Treaty negotiation process.

Facilitate and oversee Treaty negotiations

Administer the Treaty Negotiation Framework

Assist parties to resolve disputes that may arise in Treaty negotiations

Carry out research to support and inform Treaty negotiations

The Treaty Authority must conduct its role in accordance with certain principles. This includes:



SELF-DETERMINATION AND EMPOWERMENT

The Treaty Authority will respect Aboriginal Lore, Law and Cultural Authority.



INDEPENDENCE AND IMPARTIALITY

The Treaty Authority will operate in a way that is independent, impartial and free from interference from the Assembly, the State and parties to Treaty negotiations.



ACCOUNTABILITY

The Treaty Authority will be accountable to First Peoples living in Victoria and the broader community and will respect and listen to Elders' cultural and ethical advice and wisdom.



RELATIONSHIPS AND FACILITATING TREATY-MAKING

The Treaty Authority will work in a way that preserves, restores and builds just and respectful relationships between First Peoples and the State.



INTEGRITY OF THE TREATY PROCESS FOR ALL

The Treaty Authority will respect Aboriginal Lore, Law and Cultural Authority, and consider the cultural context of all negotiating parties, to ensure a strong Treaty process for the Victorian community.



Next steps

The Treaty Authority Agreement sets out the process for setting up the Treaty Authority.

The first step is for the Assembly and the State to appoint the Panel that will run an independent appointment process for members of the Treaty Authority.



SELF-DETERMINATION FUND

To benefit all First Peoples in Victoria throughout the Treaty negotiation process and beyond

The Assembly has reached agreement with the State on a First Peoples controlled and managed Self-Determination Fund.

The Fund is a new financial resource designed by and for First Peoples and will support First Peoples economic self-determination.

Consistent with what we have heard from Community, the Fund will operate independently from government. The Assembly will be responsible for administering the Fund. This means that First Peoples are making decisions about First Peoples' financial resources.

The Fund will have strong cultural governance processes, high standards of good governance and financial responsibility, and it will be transparent and accountable to Community in its operations.

The Fund will empower First Peoples to freely pursue their economic, social and cultural development in exercise of First Peoples' inherent right to self-determination, a fundamental right that is affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).

What will the Self-Determination Fund do?

The Self-Determination Fund will have two main purposes.



To support First Peoples to negotiate Treaties on a more level playing field with the State, recognising the imbalance of financial resources and power between First Peoples and government. This will help ensure that First Peoples have the resources needed to prepare for and engage in Treaty negotiations.



To empower First Peoples to build capacity, wealth, and prosperity for current and future generations.

The Fund will not be able to provide resources that would duplicate existing service delivery and the important work of Aboriginal Community Controlled Organisations.

To achieve its purposes, the Fund may provide resources to engage collaboratively with other organisations or groups involved in Community service delivery.

The direction of the Fund will be capable of changing over time so that it can remain responsive to First Peoples' priorities in delivering its purposes.

How will the Self-Determination Fund operate?

The Self-Determination Fund will operate as a public charitable trust and be administered for the benefit of First Peoples now and into the future.

The Assembly will appoint a First Peoples controlled trustee to operate the Fund and decide how funds are prioritised based on Community needs.



Next steps

Now that the Assembly and the State have reached agreement on the Self-Determination Fund, the Assembly is working to establish the Fund and appoint a trustee that will operate the Fund under the direction and control of the Assembly.

Recruitment and establishment of the Self-Determination Fund is likely to take at least the first half of the 2023, but it is hoped that Traditional Owners will be able to access funding from the Self-Determination Fund from mid-year.

The Fund must also operate consistently with certain principles. This includes:



SELF-DETERMINATION AND EMPOWERMENT

The Fund will give effect to self-determination and empowerment and support First Peoples to make decisions about First Peoples financial resources.



FAIRNESS AND EQUITY

The Fund will be administered in a way that fairly and equitably benefits First Peoples.



RESPONSIVENESS

The Fund will be a flexible and adaptive financial resource that First Peoples can access in line with our needs and priorities.



INNOVATION

The Fund will support innovative processes and programs and improve on existing approaches to resourcing First Peoples.



RESPECT

The Fund will reflect First Peoples' values and ways of doing business as well as respect and support First Peoples' governance structures.



SAFETY

The Fund will be administered with care, diligence, and prudence.



TRANSPARENCY AND ACCOUNTABILITY

The Fund will be administered with transparency and be accountable to First Peoples.

GET INVOLVED

Treaty is about having the freedom and power to make the decisions that affect us and our Community – and that starts now.

If you're mob, we want you to help decide the next steps on the journey to Treaty!

You can enrol to vote in the Assembly's elections if you are a Traditional Owner of Country in Victoria (living either in Victoria or interstate) or an Aboriginal and/or Torres Strait Islander person who has lived in Victoria for at least three of the last five years, and are 16 years old or over.

Our electoral roll is ours. It is made by First Peoples for First Peoples and is completely independent from government.

Your vote will help choose the people that will negotiate the Statewide Treaty!

So get involved, show your support and have your say in our elections by enrolling with the Assembly today.

For more information, get in touch with your local Assembly Member or one of our Engagement Team members for a yarn.

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Replacing Rob Ogden who retired this year.

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FIRST PEOPLES'
ASSEMBLY OF
VICTORIA

TREATY
FOR VICTORIA



STRENGTH IN NUMBERS

Enrol now!

By enrolling with the First Peoples' Assembly of Victoria, you get to choose the people who will best represent your views on the journey to Treaty. There's also strength in numbers – with more and more mob joining the Assembly's electoral roll, it sends a clear message that we're serious about securing meaningful change to improve the lives of our people.

firstpeoplesvic.org/enrol