

Additional Reserved Seats – Guidelines for Comments

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 32 Members, with 22 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 any relevant and evidence-based 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. It is important to note that:

- Having a reserved seat on the Assembly does not change a group's status under legislation.
- Having a reserved seat in the Assembly does not give a group specific rights to negotiate a Traditional Owner 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 seats holders.

Additional pathway

The additional pathway for a reserved seat requires an applicant group to demonstrate that they 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*

The *Additional Reserved Seats: Guidelines for Applicant Groups* detail the requirements and explain the process for making an application for a new reserved seat. They also set out how we will make decisions on applications.

If you are considering commenting on an application, you are encouraged to read those Guidelines for more information about the type of information and evidence which will be considered by the Assembly in relation to an application. They are available on the Assembly's website.

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

About the process

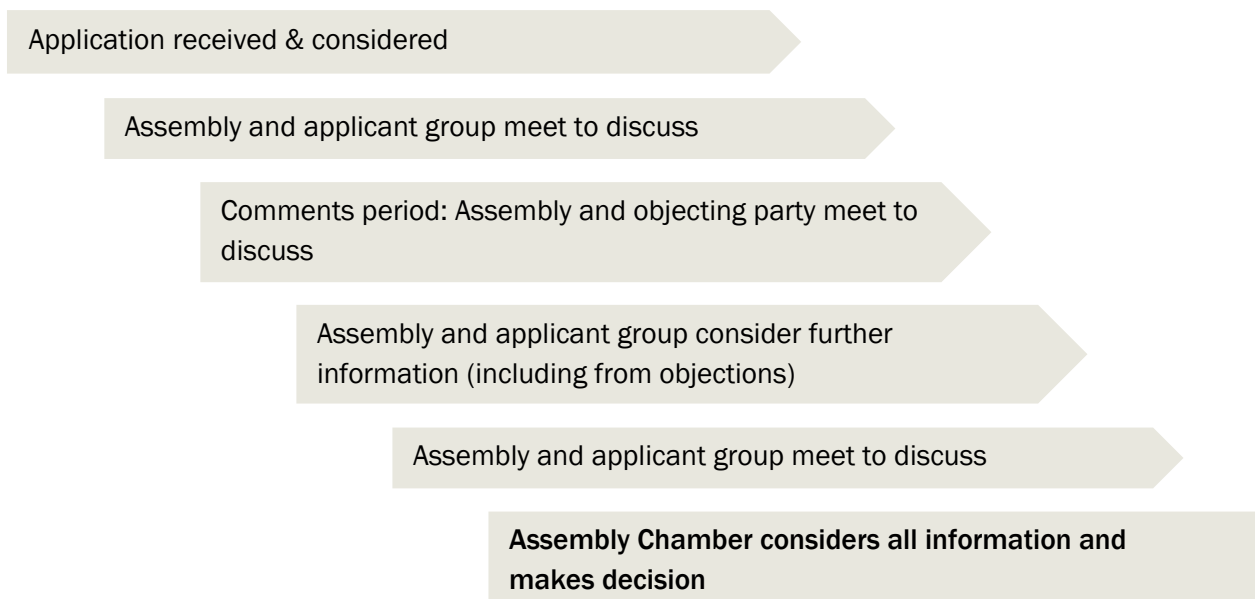
We have developed a process that is fair, culturally strong and culturally safe. It respects the right to self-determination of all First Peoples in Victoria and honours our oral traditions.

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 be given relevant information to enable you to comment and if your comment is objecting to an application you will have an opportunity to speak and meet with Assembly Members and staff to discuss your objection.
- Applicant groups will be notified if a comment is made and will be given the opportunity to respond and provide any additional information if they wish.
- The Assembly Chamber is the decision maker in relation to an application made by an applicant group. An opinion expressed by individual Assembly Members during the comments process is indicative only and is not part of the decision of the Assembly Chamber.
- The Assembly Chamber will decide the application based on whether the applicant group meets each of the Additional Traditional Owner Group Criteria, taking into account all the available evidence, including objections.



KEY STEPS IN THE APPLICATION PROCESS



How to make a comment

Notice inviting comments

When an applicant group makes an application for a new reserved seat, we will publish a notice of the application on our website to invite comments in writing from interested parties, including Traditional Owners groups for the area and Traditional Owner groups in neighbouring areas. Comments can support or object to the application.

In addition to the public notice, we may directly notify groups who we know are in the area or neighbouring the area to give them the opportunity to comment.

The notice will include the information needed to make a comment, including:

- the name of the applicant group that has applied for a new reserved seat
- the area over which the application has been made
- the nature of the application, including the criteria that need to be demonstrated by an applicant group
- the consequences of a possible decision by the Assembly that an applicant group meets the Additional Traditional Owner Group Criteria.

Commenting parties will not have access to the full details and evidence submitted in support of an application.

Requirements for a comment

A comment must:

- give the reasons for supporting or objecting to the application and
- in the case of an objection, explain how a decision by the Assembly to grant a new reserved seat to the applicant group would have a negative impact on you.

This information may be shared, in summary form, with the applicant group for the purpose of preparing a response.

We will not take into account any parts of your comment that are defamatory, offensive, trivial or vexatious. Cultural safety is paramount and lateral violence will not be tolerated.

Comment period

You will have 30 days from the date of the notice to submit a comment.

How can comments be made?

To make a comment, please complete the Comment Form available in the public notice of the application. This can be found via <https://firstpeoplesvic.org/additional-pathway>

You will be given the opportunity to attend a face-to-face meeting to explain an objection.

After a comment is made

An applicant group is entitled to know the substance of an objection and reply to it before the objection is considered by the Assembly. This ensures procedural fairness is accorded to the applicant group.

Therefore, after the period for comments has ended, we will share a summary of your comment with the applicant group and give them an opportunity to provide a response. To maintain neutrality, the summary will be objective and will not contain any pre-judgment or indication of the strength of the claim which has been made by you against the applicant group's application.

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 commenting parties.

Additional Information

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

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 assessing your comment and making a decision in relation to an application.

Timelines

The period for comments will commence after both Parts 1 and 2 of the Application Form have been completed by the applicant group and after they have been given the opportunity to discuss their application with Assembly Members and decided to continue. The period for comments will run for 30 days.

The Assembly will ensure applications are managed and determined in a timely manner. This includes by providing a reasonable time for applicants to prepare a response to any comments, including objections, which are received.

Notification of outcome

We will notify you in writing of the outcome of an application.

Confidentiality and privacy

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

- information may be shared, in summary form, with the applicant group for the purpose of preparing a response
- information may be disclosed to third party organisations for the purpose of the Assembly making its own enquiries about, or in relation to, your comment.

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 comment.

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 the 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 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.

Commenting 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.

