



VACCA
Connected by culture

VICTORIAN ABORIGINAL CHILD CARE AGENCY



VACCA'S TREATY FAQs

BACKGROUND

Australia is the only Commonwealth country that does not have a treaty with the First Peoples. Aboriginal and Torres Strait Islander peoples have never ceded sovereignty and have long called for treaty/ treaties with both state and federal governments. The Victorian Government is currently engaging with the Aboriginal community in Victoria to develop a self-determination framework which will involve treaty-making. In February 2016 the Victorian Government held a state-wide meeting, inviting the Aboriginal community in Victoria to help set the agenda and priorities for future policy and practice. The message was clear, treaty and self-determination were the two key priority areas; and the Victorian government committed to progressing these two issues, working alongside Aboriginal Victorians.

After a series of regional consultations and state-wide forums, Victoria is now undergoing a process of treaty-making, based on the principle of self-determination. In January 2018 the Treaty Advancement Commission was established and in June 2018 the *Advancing the Treaty Process with Aboriginal Victorians Bill 2018* was passed tasking the Treaty Advancement Commission with setting up an Aboriginal Representative Body, now renamed, the *First Peoples' Assembly of Victoria*, by mid-2019.

What is a treaty?

- A treaty is a legally binding agreement between two sovereign parties that:
 - Acknowledges the wrongs of the past and recognises First Peoples communities as distinct political communities and polities
 - Is reached through a process of negotiation between two parties, and can only be changed by the consent of both parties
 - Achieves a binding, mutually-agreed arrangement/outcome where the rights and responsibilities are established that create ground rules for engagement and enable First Peoples to maintain and realise their self-determination
- Treaties made between Indigenous peoples and governments are not internationally binding but still have considerable moral and legal force
- Treaties may include commitments for the future and recognition of the past
- Treaties can combine aspects of modern and existing historic treaties

What can a treaty achieve and what can it include?

- A treaty can say and do anything that the parties agree on within their authority. Aboriginal people need to decide what they want from a treaty such as recognition and reconciliation, self-government and sovereignty, land and resources, cultural heritage managing the relationship between Aboriginal peoples and the Victorian Government
- It can include statements of principles, rules and plans for future relationships, compensation for past injustices and promises about Indigenous land, sovereignty and identity
- For Victoria, it must be kept in mind that as a State within the Australian Commonwealth, the Victorian Government can only enter into an agreement on matters that are within its own constitutional powers.

What about sovereignty?

- Sovereignty is often used to describe independence of nation states. Many Aboriginal and Torres Strait Islander people in Australia claim sovereignty as they never surrendered to the government and therefore claim their sovereignty was never extinguished
- Sovereignty is a way for Aboriginal and Torres Strait Islander peoples to gain greater control over their lives with reduced government interference
- A treaty may acknowledge that Aboriginal Victorians share some of the sovereignty exercised by the Victorian Government

What is the First Peoples Assembly of Victoria?

- The First Peoples Assembly of Victoria (FPAV) is an elected Aboriginal representative body that will work together with the Victorian Government to set up:
 - The Treaty Negotiation Framework. This framework will set out ground rules for treaty and will negotiate what may be included in a treaty
 - The Treaty Authority – an independent umpire through the treaty process
 - The Self-Determination Fund – to enable Traditional Owners who have not, as yet, been formally recognized by the state government to become 'treaty-ready'
- The FPAV will represent all Victorian Aboriginal peoples, and only Traditional Owners of Victoria may be elected onto the Assembly.

Why should I vote?

- Voting for the FPAV is not compulsory, it is an opportunity for Aboriginal Victorians to have a voice in establishing the FPAV, a democratically elected voice who will develop and inform the treaty process in Victoria. By voting, you are exercising your political, social, economic and cultural rights.
- Elections will be held every three years, so if you choose not to vote in this election you can review your decision in three years.

What am I voting for?

- All Aboriginal and Torres Strait Islander peoples living in Victoria can vote for who should be elected onto the FPAV. Nominees however must be a Victorian Traditional Owner.
- At this stage, the Assembly will be made up of 33 Victorian Traditional Owners (21 elected and 12 from formally recognised Traditional Owner groups)
- The 21 elected seats will be determined from votes in five voting regions.
- Traditional Owners who live interstate will be able to vote, meaning every Victorian Traditional Owner aged 16 or over can be involved, no matter where they live

Who can vote?

You can vote if you are:

- Aboriginal and/or Torres Strait Islander, and
- are aged 16 or above, and
- either:
 - A Traditional Owner of Country in Victoria; or
 - Live in Victoria (and have done so for at least three of the last five years)

Can I run as a candidate for the Assembly?

- Only Traditional Owners in Victoria can run as a candidate for the FPAV. You must be 18 years or older to run as a candidate.

Voting Regions

- Your enrolment and your vote is in the region where you live. The Commission will allocate your enrolment to the correct region when you enrol.
- There are five regions. Your vote will be for an individual candidate rather than a specific Traditional Owner Group.
- If you are a Victorian Traditional Owner – i.e. your Country is in Victoria – and you live outside Victoria, you are eligible to enrol and vote.
 - Your vote will be counted in the region where you had previously lived. If you have never lived in Victoria, the Commission will count your vote in the region where your family lives or has lived.

Voting Process:

- **Do I need to prove my Aboriginality?**
 - i. You do not need to provide proof of Aboriginality when you enrol to vote. However, below is the '3-pronged test' which allows for self-identification to form the basis of the definition, balanced with acceptance in the Aboriginal community. This respects Article 33(1) of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and is used in most Australian legislation and policy.

An Aboriginal or Torres Strait Islander is a person who is:

 - a. of Aboriginal or Torres Strait Islander descent
 - b. identifies as an Aboriginal or Torres Strait Islander and
 - c. accepted as such by the community in which they live

• ID required to vote

- To enrol and vote you will need to confirm your name, date of birth and, in most cases, a residential address.
 - A driver's licence, proof of age card, or Keypass will confirm this.
 - You could also use a combination of a valid passport, concession card, Medicare card, bank card, lease agreement, and/or utility bill (gas, water, electricity, phone).
 - There are special enrolment arrangements in place for people who are in prison, serving in the armed forces, living in out-of-home-care, or experiencing homelessness.
 - If you are unable to provide the necessary identification, please contact the Commission and we'll make alternative arrangements.

• You can enrol to vote:

- i. You can enrol to vote and vote on the same day. Voting opens from 8-21 July, so if you haven't enrolled by then, you can do both on the same day.
- ii. You can enrol and vote online, in person, or via post.
 1. You must request a postal ballot by 5pm on 15th July
 2. You must request an online ballot by 9pm on 21st July
 3. To enrol and for more information visit:
www.austelect.com/vtac-enrolment/

• Information Privacy

- The Aboriginal Electoral roll is independent from government. Your details will be held by the Victorian Treaty Advancement Commission Office, and then transferred to the First Peoples Assembly of Victoria once they have been set up. Your personal details will not be shared with the Australian or Victorian Electoral roles.

What about the 12 formally recognised Traditional Owner groups – how will they choose who represents them on the FPAV?

- The 12 formally recognised Traditional Owner group (either through a Native Title determination or via an agreement under the Traditional Owner Settlement Act) are each guaranteed 1 seat on the FPAV.
- As of May 2019, one TO group has chosen not to take up their guaranteed seat.
- Each of the 11 groups is able to self-determine how it chooses who is selected to sit on the FPAV, this is in line with the rights set out in the UNDRIP.
 - i. If you are a member of any of the recognised Traditional Owner Groups then you can work within its structures to help determine who will take on this reserved seat.
- It should be noted that if another group achieves formal recognition then they too will receive a reserved seat as part of the FPAV.

Key Dates for Election

- May 10: Enrolment opens
- May 27: Candidate nominations open
- 16 August: Candidate nominations close
- 16 September: Voting opens
- 20 October: Voting Closes
- November: Results released

How will the treaty process be funded?

The recent Victorian Budget announced that there will be \$11 million attributed over 2 years for the First Peoples' Assembly of Victoria, and \$13.5 million over 2 years to support Victorian Traditional Owners to build capacity in the lead up to Treaty negotiations in the years to come. Funding will go to the Assembly once it is set up.

What is the current Treaty Process?

This process will take considerable time, possibly decades, so it is important to get the frameworks right and engage with the Aboriginal Victorian community so all members feel informed and engaged.

Establish the Victorian Treaty Advancement Commission



Establish the First Peoples Assembly of Victoria



First Peoples Assembly of Victoria and Vic Government work together to create elements of treaty negotiations



Create;
a) Treaty Negotiation Framework
b) Treaty Authority
c) Self-Determination Fund



Commence negotiations between Aboriginal negotiating parties and Victorian Government negotiating parties



Treaty or treaties established

FURTHER RESOURCES

Victorian Treaty Advancement Commission Website: <http://victreatyadvancement.org.au/>

First Peoples Assembly of Victoria Website: <http://www.firstpeoplesvic.org/>