



YOORROOK

for Transformation

Third Interim Report
Volume 5



Cover photo: Scar Tree, Wotjobaluk Country.
Courtesy Uncle Jim Berg, Gunditjmara Elder.

The scarred Trees are a witness to a way of life, and freedom for People to roam at will throughout their own Country. They are a reminder of the past, and they are linked to all Trees. Take the memory of these scarred Trees with you forever. Share their story with your family.

UNCLE JIM BERG, GUNDITJMARA ELDER

From ‘Silent Witness – A window to the past’:
A personal collection of Scar Trees images and poems by Uncle Jim Berg, Gunditjmara Elder.

With tears on
the landscape
and scars on our
heart, our truth
needs to be told.¹

AUNTY JILL GALLAGHER

Published by order, or under the authority, of the
Parliament of Victoria, June 2025.

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Content warning

Please be aware that this report touches on sensitive material that may be distressing. Some chapters contain graphic descriptions and strong language. It touches on topics such as violence and massacres, systemic injustices against First Peoples including assimilation and protectionist policies, and the separation of families and policies of child removal, abuse within institutions, deaths in custody and healthcare settings, devastation of Country, desecration of cultural heritage and theft of Ancestor remains.

The report occasionally draws on historical sources which use antiquated racist language to refer to First Peoples and racist depictions of First Peoples.

The report may contain references to self-harm and suicide.

The report contains stories and mention of First Peoples who have passed away.

We suggest readers consider their wellbeing before, during and after reading. If you are distressed by material in this report, or if you or a loved one require support, there are services to support you.

Services and Supports

In the case of an emergency (000).

Below are a series of support services that may be useful. Further support services, including for specialist services by area, are available on the [Yoorrook website](#).

13 Yarn

The first national crisis support line for mob who are feeling overwhelmed or having difficulty coping. They offer a confidential one-on-one yarning opportunity with a Lifeline-trained Aboriginal & Torres Strait Islander Crisis Supporter.

Hours: 24/7

Phone: 13 92 76

Email: enquiries@13yarn.org.au

www.13yarn.org.au

First Peoples' Health and Wellbeing

First Peoples' Health and Wellbeing is an Aboriginal community controlled health service aiming to improve access to affordable primary health care in urban Melbourne. Clinics are located in Thomastown and Frankston, and online appointments are available.

Hours: Mon-Thurs 9:00am to 5:00pm, Fri 9:00am to 1:00pm

Email: info@fphw.org.au

www.firstpeopleshealthandwellbeing.org.au

Yarning SafeNStrong

The Victorian Aboriginal Health Service (VAHS) have established a free and confidential 24/7 counselling service for Aboriginal and Torres Strait Islander Peoples. Yarning SafeNStrong is available to people and families who need to have a yarn with someone about their wellbeing.

Hours: 24/7

Phone: 1800 959 563

Email: ysns@vahs.org.au

www.vahs.org.au/yarning-safenstrong

Part H

Economic and political life

Economic disparity is a significant colonial legacy for First Peoples.¹

✗ First Peoples in Victoria have lower weekly personal income levels than non-First Peoples.

In 2021, the median weekly personal income for First Peoples in Victoria was

 \$619

compared to all people in Victoria which was

 \$803²

Between 2016 and 2021, the employment rate for First Peoples in Victoria aged 25 to 64 rose 4.7% to

 62%³

This is still significantly lower than the

78.4%

employment rate for non-First Peoples in Victoria.⁴

✗ First Peoples in Victoria are less likely to hold high-paying jobs than non-First Peoples.⁵

State investment in First Peoples businesses remains low.

In 2022-23, Victorian Aboriginal businesses generated an estimated

\$1.05bn⁶

The value added to the wider Victorian economy by these businesses was estimated to be

\$520.6m⁷

In 2021-22, state purchase agreements with small-to-medium First Nations businesses were just 0.7% of all agreements, at

 \$21.6m⁸

First Peoples experience marginalisation and exclusion in political life.



0.9%

of Victorian Public Service grade 6 and above positions were filled by First Peoples in 2021.⁹

To date, Victoria has elected only



4 First Peoples parliamentarians¹⁰

Economic and political life timeline

Pre-invasion

Prior to colonisation, First Peoples had thriving economies, including extensive trade networks.¹¹ First Peoples’ economies were disrupted by colonisation,¹² including through theft of land and resources,¹³ forced labour,¹⁴ control of property and stolen wages.¹⁵

1835

Ngurangaetas (Elders / headmen) from Kulin nations met with John Batman and others from the Port Phillip Association. This meeting has been referred to as the signing of the Batman Treaty, but the Tanderrum that occurred held very different meanings for the Kulin ngurangaetas and the colonisers. The ngurangaetas were welcoming strangers onto Country. The Port Phillip Association were attempting to use the treaty to gain access to land, forcing the Imperial and colonial governments to extend the areas of settlement. Governor Richard Bourke delivered a proclamation that voided the treaty and ignored First Peoples relationship with Country, reiterating instead the notion of terra nullius.¹⁶

The British Government set up the Select Committee on Aborigines [sic]:

It was led by evangelical politician Thomas Fowell Buxton and developed originally because of concern about the violence of colonisation in the Cape Colony. Its 1837 report, known as the Buxton report, recommended the protection of Indigenous people as a moral and economic imperative for the Empire.¹⁷

1838

The British Government, through the Colonial Office, established the Port Phillip Aboriginal Protectorate in the Port Phillip district. ‘Protectors’ distributed rations such as flour and blankets in return for unpaid labour a to those who were sick and to children who attended schools at the Protectorate stations.¹⁸ The New South Wales government closed the protectorate in 1849.

1839

With the arrival of the Protectors the Port Phillip Aboriginal Protectorate commenced. The Protectorate was the idea of the Colonial Office and was funded by colonial money from the sale and leasing of First Peoples’ Country. The Protectors were charged with stopping colonists murdering and harming First Peoples.¹⁹

1849

Colonial authorities in New South Wales and Melbourne closed the Port Phillip Aboriginal Protectorate.²⁰

1851

The Port Phillip District separated from the colony of New South Wales and became the colony of Victoria, with the first Victorian Legislative Council elected that same year.²¹

1855

The British Government passed the Constitution of Victoria (Victoria Constitution Act 1855).²²

1858

The Colonial Government established the Select Committee of the Legislative Council on the Aborigines. The Committee recommended that First Peoples be moved to reserves.²³

1859

Taungurung men Beaning, Murrin Murrin, Parugean, Baruppin and Koo-gurrin, with Wurundjeri ngurungaeta Wonga and Wurundjeri man Munnarin, approached Guardian of the Aborigines, William Thomas and the colonial government for use of land that became Acheron Station. Colonisers and politicians worked together to get the approval of the colonial government to forcibly move the Taungurung from Acheron Station to another site, Mohican.²⁴

1860

The Colonial Government established Central Board to Watch Over the Interests of the Aborigines with oversight of existing and new reserves.²⁵ The Central Board established reserves and a rationing scheme to supply First Peoples off the reserves through a system of Honorary Correspondents across the colony (until this ended in 1904).²⁶

1862

Bunurong / Boon Wurrung Arweet Derrimut complained to Thomas about the government’s cancelling of Mordialloc reserve.²⁷

1863

In March 1863 Wurundjeri and Taungurung people made a home on Wurundjeri Country where Coranderrk (Badger) Creek joined the Birrarung (Yarra) River. In May 1863 Wurundjeri ngurungaeta Simon Wonga led a deputation which included William Barak to Naarm/Melbourne to meet with Governor Sir Henry Barkly at the Governor’s levee. During their brief discussion they mentioned the need for land. Coranderrk was gazetted shortly afterwards.²⁸

1865

The Electoral Act 1865 (Vic) expressly excluded those receiving charity from voting, denying franchise to any First Peoples living on reserves and missions or receiving rations, medical care or other forms of assistance.²⁹

1867

First Peoples resisted their forced relocation from Framlingham after the Central Board wanted to relocate residents to Lake Condah mission.³⁰

1869

Framlingham residents coordinated a deputation to the Central Board to request Framlingham be re-opened.³¹ The Board complied.

The Colonial Government passed an Act to provide for the Protection and Management of the Aboriginal Natives [sic] of Victoria (more commonly referred to as the Aborigines Protection Act 1869 (Vic)).³² The Act established the Board for the Protection of the Aborigines (BPA). The government, through the BPA, controlled where First Peoples lived and worked, the condition of their employment and where their wages were paid.³³ From 1871 work certificates were introduced for First Peoples who wished to work off reserves. These controls remained in place until 1957.³⁴

1874

The Colonial Government passed the Neglected and Criminal Children’s Amendment Act 1874 (Vic). First Peoples children who were considered ‘neglected’ were detained until 16 and apprenticed out for work.³⁵

After protests First Peoples living at Coranderrk received wages for growing hops. However, they only received one-third of the non-Indigenous rate. The proceeds from selling the hops were taken by the BPA. During the 1870–80s, First Peoples were employed to build and maintain reserves and missions, including ‘clearing, building, fencing and farming on the reserves’ and this work ‘was often a requirement for Indigenous people to receive rations’.³⁶ However, often Aboriginal people received ‘little or no pay’.³⁷ ‘At Framlingham, Indigenous people working between 1869 and 1877, and for periods after 1877, received no wages’.³⁸

1877

The Colonial Government established a Royal Commission regarding the ‘present condition’ of First Peoples in the colony. The Commissioners recommended all First Peoples working on reserves be paid and that the reserve managers have control over the employment conditions and wages of First Peoples working on or off reserves.³⁹

1881

Ngarangaeta William Barak led a deputation walking 67 kilometres to parliament house to Premier Graham Berry. This was part of a longer campaign of political activism including letter-writing and petitions to representatives of the government, and the media. This action resulted in the 1881 Parliamentary Inquiry into conditions at Coranderrk.⁴⁰

42 men living at Maloga Mission wrote to Governor of NSW Augustus Loftus requesting land. The petition was taken to Sydney and published in the Sydney Morning Herald on 2 July 1881.⁴¹ In 1883, in response to the petition, ‘the New South Wales government set aside an 1800-acre reserve across the river from Maloga’, in an area known as Cummeragunja.⁴²

1882

The BPA members appointed to the Inquiry into Coranderrk Aboriginal Station recommended ‘small wages’ be paid to ‘full-blooded’ First Peoples working on reserves to help develop a ‘work ethic’ and the apprenticing out of First Peoples of mixed parentage over 13 years of age.⁴³

1886

William Barak presented a petition to Chief Secretary Duncan Gillies asking for freedom from the BPA and arguing against the proposed new Act (see below).⁴⁴

The Colonial Government passed the Aborigines Protection Act 1886 (Vic) and changed the definition of Aboriginality, creating two legal categories ‘Aboriginal natives’ and ‘half castes’ [sic]. First Peoples of ‘mixed Aboriginal blood’ forced off reserves and to no longer receive government supplies.⁴⁵ The government also used the Act and the new definition to reduce spending on First Peoples.⁴⁶ Regulations made under this Act allowed reserve managers to apprentice First Peoples over the age of 13. As a result many boys were apprenticed to farms and girls were sent to work as domestic servants.⁴⁷

1887

In July 1887, residents of Maloga presented the Governor (Lord Carrington) with a petition requesting Queen Victoria grant land to the community (no less than 100 acres to each family).⁴⁸ In November 1887, William Cooper and Johnny Atkinson wrote to their local member of parliament John Chanter asking him to advocate for them to obtain land near Maloga.⁴⁹

1887

The Neglected Children’s Act 1887 (Vic) included sections relating to the employment and wages of children. The Colonial Government passed the Act allowing it to take the wages earned by children covered by this Act and pay them into the State Wards’ Fund. The government used such funds to cover costs incurred by the State and withheld children’s access to funds for ‘misbehaviour’.⁵⁰

1888

In June 1888 the Cummeragunja mission station was established on land previously reserved for ‘Aboriginal use’ (see 1881 Maloga petition).

1890s

During the 1890s, an economic depression impacted Australia. As legislated in the Aborigines Protection Act 1886 rations and supplies for First Peoples of mixed parentage forced off reserves stopped during this time.⁵¹

1890

First Peoples actively protested and resisted the closure of Framlingham and their forced removal. The BPA unanimously voted to close Framlingham Reserve as part of its policy to amalgamate reserves and missions. Because of resistance and campaigning by the residents, they were permitted to continue to live at the Framlingham site, after land was exclusively reserved for their use.⁵²

The wages of ‘half caste’ children who had been licensed or apprenticed out for work had to be paid to the Inspector of the BPA, who was then supposed to place that money into a bank account for the child, paying them half quarterly and half at the end of their service.⁵³

The Colonial Government passed the Aborigines Act 1890 (Vic).

Under this Act, the BPA were authorised to enter into contracts for the employment of First Peoples, determine where wages were directed (e.g. third parties), and remove ‘neglected’ children to reserves or industrial or reformatory schools.⁵⁴

1893

The government cancelled 2400 acres of the Coranderrk reserve through the *Crown Lands Reserve Act 1893* (Vic) at the request of the Minister of Lands and Agriculture and in response to the *Settlement of Lands Act 1893* (Vic). Residents protested the decision despite BPA attempts to keep the land revocation quiet.⁵⁵

1901

Federation of Australia, and establishment of the Commonwealth of Australia Constitution Act 1901 (Cth) which excluded First Peoples from being counted in the census.⁵⁶

The Australian Government passed the *Immigration Restriction Act 1901* (Cth) (The White Australia Policy)⁵⁷ which outlined a set of policies designed to prohibit people of non-European ethnic origins from immigrating to Australia.⁵⁸

1902

First Peoples were excluded from voting at the Federal level with the introduction of the *Commonwealth Franchise Act 1902* (Cth).⁵⁹

1908

Non-Indigenous women were given the right to vote in Victoria.⁶⁰ The Australian Government passed the *Invalid and Old-age Pensions Act 1908* (Cth) which excluded First Peoples across Australia from accessing invalid and old-age pensions.⁶¹

1909

The Australian Government passed the *Defence Act 1909*, prohibiting persons not of substantially European origin from serving in armed forces.⁶²

1910

The Victorian Government passed the *Aborigines Act 1910* (Vic) which brought First Peoples of mixed parentage under BPA control again.⁶³

1912

The Australian Government passed the *Maternity Allowance Act 1912* (Cth) which excluded ‘full blood’ First Peoples.⁶⁴

1915

The Victorian Government passed the *Aborigines Act 1915* (Vic). This Act codified biological definitions of Aboriginal identity through the distinction between ‘half caste’ and ‘full blood’. Additional harsh controls were added through Regulations issued in 1916.⁶⁵

1916

Regulations made by the Executive Council of the Victorian Government under the *Aborigines Act 1915* (Vic) ‘enforced strict controls over Indigenous peoples living on reserves, including over their employment and wages’.⁶⁶

1917

The BPA committed to concentrate and compel all First Peoples to live at Lake Tyers, however First Peoples living at places such as Coranderrk and Lake Condah protested and refused to move.⁶⁷ The Victorian Government used this ‘concentration’ to reduce spending on First Peoples and sell, lease out and use land from the reserves for other purposes.⁶⁸

The Victorian Government passed the *Discharged Soldier Settlement Act 1917* which ‘provided for the selling or leasing of freehold land, acquired compulsorily or by agreement, from its owners, or Crown land, to returned soldiers from World War I through a closer settlement scheme.’⁶⁹

The BPA offered First Peoples reserve land to the government for the scheme.⁷⁰

1920

The Australian Government passed the Nationality Act 1920 (Cth). All First Peoples born after 1 January 1921 gained the status of British subjects through this Act.⁷¹

The Australian Government passed the *Australian Soldiers Repatriation Act 1920* (Cth) and subsequent legislation regarding war and service pensions. The government did not explicitly exclude First Peoples, however the discriminatory administration of the Act excluded First Peoples in practice.⁷²

1924

The BPA, with government approval, closed Coranderrk.⁷³

1925

Australian Aborigines Progressive Association formed in NSW.⁷⁴ Report on the Lake Tyers Aboriginal Station found ‘there are few people actually working’ because ‘the Aborigines can make money too easy elsewhere’ for example selling goods to tourists and recommended ‘tourists be requested to buy nothing direct from the Aborigines’.⁷⁵ This was an ongoing tension during the 1910s to the 1940s, with the BPA and Lake Tyers’ managers attempting to restrict tourist visits and in 1930 the BPA ‘ordered’ money from sales to be put in the reserve income, rather than the artist or creator.⁷⁶

1928

The Victorian Government passed the Aborigines Act 1928 (Vic). First Peoples of mixed descent had to apply for a licence to reside on a reserve.⁷⁷

The Victorian Government passed the *Children’s Welfare Act 1928* (Vic). The Act controlled children’s wages similarly to the earlier versions of the *Neglected Children’s Act* (Vic).⁷⁸

1930s

The Great Depression.

1931

The Executive Council of the Victorian Government established the Aborigines Board Produce Fund under regulations in relation to the *Aborigines Act 1928* (Vic). Monies earned from the labour of First Peoples, such as through the cultivation of grains and vegetables, sale of stock reared by residents, leasing of reserve land and contracts for wattle bark and timber, were paid into the fund. The BPA could ‘from time to time ... pay to the [First Peoples] who have laboured on reserves such sums as it may determine’. The BPA used the money also for buying stock, material and other goods.⁷⁹ The BPA and reserve manager determined the wages of First Peoples.⁸⁰

1933

Australian Aborigines’ League (AAL) established by William Cooper, Sir Pastor Doug Nicholls, Margaret Tucker, Bill and Eric Onus and others in Melbourne. Membership was open to all First Peoples.⁸¹

1937

William Cooper sent a petition to Prime Minister Joseph Lyons to be further sent to King George VI, requesting action ‘for the preservation of our race from extinction and to grant representation to our race in the Federal Parliament.’⁸² The petition was not successful.⁸³

Commonwealth and State Native Welfare Conference adopted assimilation as the national policy, although the war delayed its adoption.⁸⁴

1938

On 26 January 1938, William Cooper, Pastor Doug Nicholls, Margaret Tucker and others protest the invasion of Australia, in a Day of Mourning. At a conference held in Sydney around 100 First Peoples unanimously voted for a resolution asking for new laws for the education and care of First Peoples and ‘a new policy which will raise our people to full citizen status and equality within the community.’⁸⁵ This day became an annual protest known as Aborigines Day until 1955, when it was moved to the first Sunday in July (and later was transformed into NAIDOC celebrations).⁸⁶

1939

Residents at Cummeragunja Mission walk off due to the poor living conditions, mismanagement of land and harsh treatment.⁸⁷

1942

Pastor Doug Nicholls established the Aboriginal Church of Christ in Gore Street, Fitzroy.⁸⁸ The Australian Government passed the *Maternity Allowance Act 1942* (Cth). The amended Act opened the potential for some First Peoples to access it, but with strict criteria – they needed to be exempt from legislation controlling the lives of First Peoples in the state or territory in which they lived.⁸⁹ The Australian Government passed the *Invalid and Old Age Pension Act 1942* (Cth) amending earlier versions of the Act to make some First Peoples able to access the pension in certain circumstances.⁹⁰ First Peoples eligible for the pension were to be paid less than non-Indigenous people and the Commissioner could direct for the pension to be paid to a third party.⁹¹

1945

The Victorian Government passed the *Soldier Settlement Act 1945* allowing the compulsory acquisition of land for soldier settlement.⁹²

1947

Aborigines’ League march in the May Day parade to Birrarung/speakers corner.⁹³

1948

The Australian Government passed the *Australian Citizenship Act* (Cth) which established that all peoples born in Australia are Australian citizens.⁹⁴ The *Universal Declaration of Human Rights* was adopted by the United Nations General Assembly.⁹⁵ The permanent status of Coranderrk was revoked by the Victorian Government through the passing of the *Coranderrk Lands Bill 1948* (Vic). Aside from the cemetery, the land at Coranderrk was sold by the Lands Department for soldier settlement following World War 2.⁹⁶

1949

The Australian Government passed amendments to the *Commonwealth Electoral Act*, which allowed First Peoples who had served in the Defence Force to vote in federal elections.⁹⁷

1951

The Lands Department sold most of the Lake Condah mission site, except the cemetery, an access road and the mission buildings, through the Soldiers Settlement Commission.⁹⁸

The federal Australian Native Welfare Conference officially adopted the policy of assimilation agreed to in 1937.⁹⁹ In 1961, the Conference of Native Welfare Ministers reaffirmed assimilation as policy.¹⁰⁰

1956

National Aborigines Day Observance Committee (NADOC) was established with support from Aboriginal organisations, state and federal governments.¹⁰¹ Later became the National Aborigines and Islanders Day Observance Committee (NAIDOC).

1957

Pastor Doug Nicholls and others established the Victorian Aboriginal Advancement League (AAL).¹⁰² The AAL empowered the proliferation of a diverse range of First Peoples organisations in Victoria, playing the critical role of coordinating various community-controlled organisations.¹⁰³ Charles McLean released the *Report upon the Operation of the Aborigines Act 1928*. During his inquiry he found ‘racial prejudice from the wider Victorian community adversely impacted upon Indigenous employment’. McLean called for a change to government policy to assimilation.¹⁰⁴

1957

The Victorian Government passed the *Aborigines Act 1957* (Vic). The government established the Aborigines Welfare Board (AWB) through the Act, replacing the BPA and broadening its control to anyone of Aboriginal descent. The government gave the AWB the power to prescribe conditions of employment where an industrial award did not already prescribe them – this included prescribing housing in relation to employment. The Aborigines Board Produce Fund was closed and monies transferred to the newly formed Aborigines Welfare Fund, housed within Treasury. Money raised from reserves was paid into the Fund and used to pay AWB expenses.¹⁰⁵

1958

Regulations made under the *Aborigines Act 1957* (Vic) required all ‘able bodied people’ on reserves to perform ‘a reasonable amount of work’ with any remuneration determined by the manager on AWB approval (unless an industrial award was applicable). First Peoples’ living on reserves could be fined for misconduct and the AWB could deny or revoke a person’s permit to live on a reserve, forcing them to leave.¹⁰⁶

1959

The Australian Government passed the *Social Services Act 1959* (Cth). Whilst passing of the Act allowed more First Peoples to access invalid and old-age pensions, First Peoples considered to live a ‘nomadic or primitive’ life ‘in the opinion of the Director-General’ could not access any form of pension, benefit, endowment or allowance under the Act.¹⁰⁷

1962

The Australian Government passed the *Commonwealth Electoral Act 1962* (Cth) ensuring the votes of First Peoples at the federal level.¹⁰⁸

1963

First Peoples living at Lake Tyers/Bung Yarnda, along with Pastor Doug Nicholls, marched in Melbourne to protest the government’s decision to close Lake Tyers.¹⁰⁹ Activism to protect Lake Tyers and put it under community management had been happening since the mid-1950s. These actions ultimately led to the 1970 *Aboriginal Land Act* and under the Act Lake Tyers families were given unconditional title deeds in 1971.¹¹⁰

1965

Charles Perkins led the ‘Freedom Rides’, a tour of University of Sydney students around regional areas of NSW.¹¹¹ This rose awareness of the issues facing First Peoples, particularly the extent of racism in regional areas.

1967

A national referendum was held to change two sections of the Australian Constitution in relation to First Peoples. More than 90 per cent of the electorate voted ‘Yes’ to amend the constitution to allow the Commonwealth Government to make laws on the behalf of First Peoples and to count them in the Census.¹¹²

As a result, the Commonwealth Constitution was altered and First Peoples were included in the Census and other documentation practices.¹¹³

Aborigines Welfare Board (AWB) was abolished with the passing of the *Aboriginal Affairs Act 1967* (Vic) and a Minister of Aboriginal Affairs and Aboriginal Advisory Council established.¹¹⁴ The Aborigines Welfare Fund was closed and monies transferred to the Aboriginal Affairs Fund.¹¹⁵

1968

Over 100 protesters hold a 24-hour vigil in Spring St to demand land rights as part of lands rights protests across Australia.¹¹⁶

Federal funding was allocated to state governments to support First Peoples under the *States Grants (Aboriginal Advancement) Act 1968* (Cth).¹¹⁷

The Victorian Government passed the *Aboriginal Affairs (Amendment) Act 1968* (Vic). The Act allowed the Ministry of Aboriginal Affairs to employ First Peoples ‘without having to comply with the provisions of the Public Service Act’.¹¹⁸

1969

First Peoples man David Kennedy (legally Andrew David Kennedy) was the first Indigenous Australian to be elected to the federal Parliament through a by-election in 1969 (as the member for Bendigo in the Commonwealth House of Representatives) but was defeated at general elections in 1972.¹¹⁹ At the time, it was not publicly known that David Kennedy was Aboriginal. David and his brother Cyril are now believed to be Tasmanian Aboriginal.¹²⁰ For this reason, Neville Bonner (Jagera) is commonly recorded as the first Indigenous federal Parliamentarian in 1971.

David Kennedy was also elected to the Victorian Legislative Assembly in 1982.¹²¹

1970

The Victorian Government passed the *Aboriginal Lands Act 1970* (Vic). Through this Act, and years of activism by community, families at Lake Tyers and Framlingham were granted the Crown grant of the reserves.¹²²

1971

First Peoples man Neville Bonner AO (Jagera) was elected to the Australian Parliament.¹²³ Neville Bonner is commonly considered the first Indigenous man to be elected to the Australian Parliament, however, see David Kennedy 1969.

1972

Aboriginal Tent Embassy established outside Parliament House on Ngunnawal/Ngambri Country (Canberra).¹²⁴ It continues today as the longest running protest in Australia.

The Whitlam Federal government adopted a policy of self-determination and provided more support for First Peoples controlled institutions and programs.¹²⁵

The Commonwealth Department of Aboriginal Affairs was established.¹²⁶

Uncle Jack Charles and Bob Maza set up Australia’s first Aboriginal Theatre Company in 1972 in Melbourne (Naarm) and name it ‘Nindethana’.¹²⁷

1974

The Commonwealth Ministry for Aboriginal Affairs was abolished by the *Aboriginal Affairs (Arrangements with the States) Act 1973* (Cth) and the *Aboriginal Affairs (Transfer of Functions) Act 1974* (Vic). The Commonwealth assumed legislative power for ‘[A]boriginal affairs’ and primary responsibility for funding, while State departments and Ministers continued to provide health, housing, education, employment and welfare services for First Peoples.¹²⁸

1975

The Victorian Aboriginal Affairs Unit was established to coordinate state policies and administer Victorian State sponsorship of economic development and cultural initiatives.¹²⁹

The Constitution of Victoria was amended to acknowledge First Peoples as the original custodians of the land but expressly stated that there were no legal rights arising from this acknowledgment.¹³⁰

1976

3CR Aboriginal Radio Program first aired.¹³¹

1979

First Peoples man Cyril Kennedy becomes the first Indigenous parliamentarian in Victoria.¹³² Like his brother David Kennedy (who was elected to the Victorian Parliament in 1982), during his time in Parliament it was not publicly known that he was Aboriginal. It is now believed that Cyril and David were Tasmanian Aboriginal.¹³³

Framlingham community occupied Sherbrooke Forest blockaded Framlingham Forest to secure land rights.¹³⁴

1980

In 1980, Aunty Sandra Onus and Aunty Christina Saunders took on the mining company Alcoa and won their High Court case (Onus v Alcoa) which led to the handback of land at the Lake Condah/Tae Rak mission.¹³⁵

1982

David Kennedy was the second Indigenous person to be elected to the Victorian Parliament (Legislative Assembly) in 1982.¹³⁶ At the time, like his brother Cyril Kennedy, it was not publicly known that he was Aboriginal, however it is now thought that they were Tasmanian Aboriginal.¹³⁷

1982

The Victorian Government established a Parliamentary Committee ‘to report on compensation for the dispossession of Victorian Traditional Owners.’¹³⁸ In 1984 the Committee recommended that the ‘land rights issue’ could not be resolved without providing compensation to Traditional Owners and proposed a minimum annual amount of \$5 million from Victorian and Federal Government revenue as compensation.¹³⁹ The Government provided in principle support but proposals in the *Aboriginal Land Claims Bill 1983* (Vic) were not revived.¹⁴⁰

1983

Koori Mural for the AAL.¹⁴¹

1984

Voting becomes compulsory for First Peoples.¹⁴²

Uncle Jim Berg successfully wins major court cases against the University of Melbourne (*Berg v University of Melbourne*) and the Museum of Victoria¹⁴³ to hand back control of First Peoples ancestors’ remains.

1990

The Aboriginal Provisional Government (APG) was formed, leading a campaign to assert sovereignty. APG issues Aboriginal passports and other forms of documentation.¹⁴⁴

Indigenous Business Australia created.¹⁴⁵

The Aboriginal and Torres Strait Islander Commission (ATSIC) was established to replace the National Aboriginal Conference, as the first Aboriginal-lead national representative organisation and development grant agency.¹⁴⁶

Protests over the closure of the Northland Secondary College began and a rebel school was established.¹⁴⁷

1993

The first registered political party dedicated to Aboriginal and Torres Strait Islander peoples was the Australia’s Indigenous Peoples Party (1993–1999).¹⁴⁸

1997

The *Bringing Them Home* report identified the economic injustice faced by First Peoples and ‘recommended that social justice packages should be developed to support our children and families.’¹⁴⁹ This has never been implemented.

1999

First Nations Credit Union is started in Shepparton.¹⁵⁰

2000

Department of Natural Resources and Environment Aboriginal Employment Strategy – *Wur-cum barra (2000–2005)*.¹⁵¹

2004

The Victorian constitution was amended to acknowledge the ‘unique status of Aboriginal peoples, and to recognise that Aboriginal peoples have made a unique and irreplaceable contribution to the identity of Victoria’.¹⁵²

2005

ATSIC was abolished.¹⁵³

2006

Uncle Robbie Thorpe, Auntie Marg Thorpe and Uncle Gary Foley establish the Black GST group in 2005. Protests held by the group include protests of the Commonwealth (Stolenwealth) Games in 2006, and establishment of Camp Sovereignty in 2006.¹⁵⁴ The Howard Government passed legislation which removed the right to vote from people in prisons.¹⁵⁵ ‘The ban prohibited all prisoners from voting no matter the severity of the crime they were imprisoned for or length of their sentence.’¹⁵⁶

First Nations Foundation is created to support the financial skills of First Peoples.¹⁵⁷

2006

Commonwealth Senate Standing Committee on Legal and Constitutional Affairs report *Unfinished Business: Indigenous Stolen Wages* published.¹⁵⁸ The report identified systemic government practices of withholding and mismanaging First Peoples’ wages and entitlements that occurred until the 1980s.¹⁵⁹

2007

Auntie Vicki Roach supported by the Human Rights Law Centre takes the Commonwealth of Australia and the Australian Electoral Commission to the high court (Roach v Electoral Commissioner), wining her case.¹⁶⁰ ‘This case successfully challenged the constitutional validity of the Howard government’s 2006 prisoner voting ban This case upheld the notion that the Australian government is chosen “by the people”, which includes people who are incarcerated.’¹⁶¹

2009

Australian government supported the United Nations Declaration on the Rights of Indigenous People. It had been adopted in September 2007, with Australia initially one of four states to vote against it.¹⁶² Supply Nation established.¹⁶³

National Congress of Australia’s First Peoples established.¹⁶⁴

2010

Department of Innovation, Industry and Regional Development Aboriginal Employment Strategy – *Karreeta Yirramboi (2010–2015)*.¹⁶⁵

The Victorian Government passed the *Equal Opportunity Act 2010* (Vic) for positive affirmation strategies including identified Aboriginal positions.

2011

First Peoples protest the establishment of a sand mine in a culturally significant area near Ouyen.¹⁶⁶

Victorian Aboriginal Honour Roll established.¹⁶⁷

Kaiela Institute for Leadership and Innovation established (combines Koori Resource and Information Centre (KRIC) and Shepparton Policy and Planning Unit (SPPU))¹⁶⁸

2013

Nova Peris becomes the first Indigenous woman to be elected to the Commonwealth Senate in 2013.

The Victorian Government launched its Victorian Aboriginal Economic Strategy (2013–2020).¹⁶⁹

2014

Kinaway Chamber of Commerce established¹⁷⁰ (incorporated 12 June 2014).¹⁷¹

2015

Indigenous company, First Australians Capital was established.¹⁷²

2016

The Victorian Government announced the appointment of Victoria’s first Aboriginal Economic Board¹⁷³ in 2016, to be co-chaired by Karen Milward and Mark Stone.

Linda Burney becomes the first Indigenous woman to be elected to the Commonwealth House of Representatives.

2016–2019

Victorian Treaty proposal and establishment of the First Peoples’ Assembly of Victoria.¹⁷⁴

2017

Barring Djinang Aboriginal Employment Strategy (2017–2022) was introduced.¹⁷⁵ This was later updated in 2024 to *Barring Djinang (2024–2028)*.¹⁷⁶

Tharamaba Bugheen – Victorian Aboriginal Business Strategy 2017–2021¹⁷⁷

Ngarrimili established to support First Nations businesses and entrepreneurship.¹⁷⁸

Lidia Thorpe (Djab Wurrung, Gunai, Gunditjmarra) was the first Aboriginal woman and the first Victorian First Peoples person to be elected to the Victorian Legislative Assembly in 2017.¹⁷⁹

At this time, she was also the first person to be elected to the Victorian Parliament who was publicly known to be Aboriginal (see David and Cyril Kennedy).

In 2020 she became a federal senator representing Victoria in the senate (for the Greens party until she became Independent in 2023).¹⁸⁰

2018

Victorian Treaty Advancement Commission established¹⁸¹

Victoria passes the first Treaty legislation in June 2018 (*Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic)).¹⁸²

Victorian Government’s Social Procurement Framework established.¹⁸³

2018–2021

Djab Wurrung Heritage Protection Embassy and blockade to protest destruction of birthing trees.¹⁸⁴

2019

Funding for National Congress of Australia’s First Peoples exhausted, following funding being withdrawn in 2013.¹⁸⁵

First Peoples’ Assembly of Victoria inaugurated at Victorian Parliament House.¹⁸⁶

2020

Sheena Watt (Yorta Yorta) was elected to the Victorian Legislative Council.¹⁸⁷ She is the second Victorian First Peoples person to be elected to Victorian Parliament. In March 2025 she remains one of only four Indigenous people ever elected to the Victorian Parliament.

2021

The Indigenous – Aboriginal Party of Australia is the only political party run by Indigenous people and focused on Indigenous issues that is currently registered at the federal level. It was registered in November 2021.¹⁸⁸

2021

The Yoorrook Justice Commission established.¹⁸⁹

2022

Victorian Government, Yuma Yirramboi (Invest in Tomorrow) Victorian Aboriginal Employment and Economic Strategy¹⁹⁰ launched.

2023

The 2023 Referendum on the Australian Indigenous Voice to Parliament (the 2023 Referendum)¹⁹¹ 60 per cent of the Australian population and 54.2 per cent of the Victorian population voted no to a proposed law ‘[t]o alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice’.¹⁹²

2024

State-wide Victorian Treaty negotiations begin.¹⁹³

January 26 2024, Camp Sovereignty is re-established at Kings Domain.¹⁹⁴

Lidia Thorpe approaches King Charles, declaring ‘not my King’ after the King had not responded to requests for a meeting.¹⁹⁵ Thorpe was subsequently censured by the Senate.¹⁹⁶

2025

Yoorrook Justice Commission delivered its final report and was decommissioned on 30 June.

Endnotes

Key facts

1. Data note: All figures are Victorian.

2. Australian Bureau of Statistics, [Victoria: Aboriginal and Torres Strait Islander population summary](#), Median weekly incomes, Aboriginal and Torres Strait Islander people by age(a), Victoria: Aboriginal and Torres Strait Islander population summary, (Webpage, 1 July 2022); Australia Bureau of Statistics, [Victoria: 2021 Census All persons QuickStats](#), [Median weekly income](#) (Webpage).

3. Table CtG8.1 in Australian Government Productivity Commission, ‘Closing the Gap: Information Repository’, [Socio-economic outcome area 8: Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities](#) (Webpage, 2023).

4. Table CtG8.1 in Australian Government Productivity Commission, ‘Closing the Gap: Information Repository’, [Socio-economic outcome area 8: Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities](#) (Webpage, 2023).

5. For instance, in 2021 the most common occupations held by First Peoples in Victoria are Professionals (16.8 per cent), Community and Personal Service Workers (16.2 per cent) and Technicians and Trades Workers (14.1 per cent): Australian Bureau of Statistics, Victoria: Aboriginal and Torres Strait Islander population summary (Webpage, 1 July 2022), Occupation, top responses, [Aboriginal and Torres Strait Islander people by age\(a\)](#), [Victoria: Aboriginal and Torres Strait Islander population summary](#). By comparison, the most common occupations across Victoria are Professionals (25 per cent), Managers (14 per cent) and Technicians and Trades Workers (12.6 per cent): Australian Bureau of Statistics, Victoria: Aboriginal and Torres Strait Islander population summary (Webpage, 1 July 2022).

Australian Bureau of Statistics, 2021, Occupation, top responses, [Victoria: 2021 Census All Persons Quick Stats](#)

6. Federation of Victorian Traditional Owners Corporations, Submission 566 (Economic Prosperity) Attachment 3 Victorian Aboriginal Employment and Economic Strategy, Project 1: Analysis of the state of play of the Victorian Aboriginal economy by Deloitte, 8.

7. Federation of Victorian Traditional Owners Corporations, Submission 566 (Economic Prosperity) Attachment 3 Victorian Aboriginal Employment and Economic Strategy, Project 1: Analysis of the state of play of the Victorian Aboriginal economy by Deloitte, 8.

8. 8.3.2 in First Peoples — State Relations, ‘[Goal 8: Aboriginal workers achieve wealth equality](#)’, Victorian Aboriginal Affairs Framework (VAAF) Data Dashboard (Webpage, 2023).

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Timeline

11. See Dale Kerwin, *Aboriginal Dreaming Paths and Trading Routes: The Colonisation of the Australian Economic Landscape* (Sussex Academic Press, 2010) 1–23, 63–120; Marcia Langton, Odette Mazel and Lisa Palmer, ‘The ‘Spirit’ of the Thing: The Boundaries of Aboriginal Economic Relations at Australian Common Law’ (2006) 17(3) *Australian Journal of Anthropology* 307, 307–310; Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 14; Mick Harding, Submission 891, 21.

12. Outline of Evidence of Aunty Jill Gallagher, 28 March 2024, 2 [16]–[22], 3 [23]–[24]; Transcript of Damein Bell, 25 March 2024, 13 [33]–[42], 15 [15]–[28]; Transcript of Ngarra Murray, Co-Chair of First Peoples’ Assembly of Victoria, 17 April 2024, 4 [39]–5 [5]; Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 8; Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 344 (Land, Sky, Waters), 1; Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 661 (Economic Prosperity), 4–5.

13. Transcript of Professor Richard Broome, 26 March 2024, 23 [33]–[45]; Associate Professor Nikki Moodie, Submission 526, 2.

14. Transcript of Professor Julie Andrews, 26 March 2024, 23 [11]–[25]; Transcript of Nerita Waight, 13 June 2024, 5 [1]–[27]; Transcript of Aunty Muriel Bamblett, 6 December 2022, 103 [16]–[26]; Joseph Toscano, Submission 82, 2; Rosalind Kidd, [Hard Labour, Stolen Wages: National Report on Stolen Wages](#) (Report, 2007), 8.

15. Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 9; Andrew Gunstone and Sadie Heckenberg, *The Government Owes a Lot of Money to Our People: A History of Indigenous Stolen Wages in Victoria* (Australian Scholarly Publishing, 2009), 72–7; Rosalind Kidd, [Hard Labour, Stolen Wages: National Report on Stolen Wages](#) (Report, 2007), 9, 117–8.

16. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 11; Rachael Knowles, ‘[It was deception’: Why Australia’s first treaty was actually invalid](#)’, NITV (Webpage, 30 January 2024); Deadly Story, ‘[The Batman ‘treaty’ is signed](#)’ (Webpage); Robert Kenny, ‘Tricks or Treats?’ (2008) 5 2 *History Australia*; Bain Attwood and Helen Doyle, *Possession: Batman’s Treaty and the matter of history* (Miegunyah Press, 2009) 40–58; Kate Ashton, ‘[In 1835, John Batman attempted to make a treaty with Melbourne’s Aboriginal owners. Here’s what happened](#)’ (Webpage, 2nd November 2024); Museum of Australian Democracy, ‘[Governor Bourke’s Proclamation 1935 \(UK\)](#)’ Documenting a Democracy (Webpage).

17. Richard Broome, *Aboriginal Victorians: A History since 1800* (Allen & Unwin, 1st ed, 2005) 35; Zoe Laidlaw, ‘Aunt Anna’s Report’: The Buxton Women and the Aborigines Select Committee, 1835–1837’ (2004) 32(2) *Journal of Imperial and Commonwealth History* 1, 3–4; Zoe Laidlaw, ‘Integrating metropolitan, colonial and imperial histories – the Aborigines Select Committee of 1835–1837’, in Julie Evans and Tracey Banivanua Mar (eds), *Writing Colonial Histories: Comparative Perspectives*, (RMIT Publishing, 2002) 75; Elizabeth Elbourne, ‘The sin of the settler: The 1835–36 Select Committee on the Aborigines and debates over virtue and conquest in the early nineteenth-century British white settler empire’ (2003) 4 3 *Journal of Colonialism and Colonial History*; Parliamentary Select Committee, *Report of the Parliamentary Select Committee on Aboriginal Tribes* (British settlements) (Report, 1837).

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24. Uncle Roy Patterson and Jennifer Jones, *On Taungurung Land: Sharing History and Culture* (ANU Press, 2020) 17–9, 22, 24–5, 28, 30–5; Giordano Nanni and Andrea James, *Coranderrk: We Will Show the Country* (Aboriginal Studies Press, 2013) 6–8; Diane Barwick, *Rebellion at Coranderrk* (ANU Press, 2024) 37–9, 44–6.

25. Public Record Office Victoria, ‘[Central Board Appointed to Watch over the Interests of the Aborigines](#)’ (Webpage); Richard Broome, *Aboriginal Victorians: A History since 1800* (Allen & Unwin, 1st ed, 2005) 122, 125.

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28. *Victoria Government Gazette* (3rd July 1863) 69 1471, 1474; Diane Barwick, *Rebellion at Coranderrk* (ANU Press, 2024) 61; Giordano Nanni and Andrea James, *Coranderrk: We Will Show the Country* (Aboriginal Studies Press, 2013) 8, 9.

29. *Electoral Act 1865* (Vic) s 20.

30. Janet F Critchett, ‘A History of Framlingham and Lake Condah Aboriginal Stations, 1860–1918’ (Thesis, The University of Melbourne, 1980) 57–8, 60–5; Diane Barwick, ‘Equity for Aborigines? The Framlingham Case’ in Patrick N Troy (ed), *A Just Society? Essays on Equity in Australia* (George Allen & Unwin, 1981) 173, 178.

31. Janet F Critchett, ‘A History of Framlingham and Lake Condah Aboriginal Stations, 1860–1918’ (Thesis, The University of Melbourne, 1980) 57–8, 60–5; Diane Barwick, ‘Equity for Aborigines? The Framlingham Case’ in Patrick N Troy (ed), *A Just Society? Essays on Equity in Australia* (George Allen & Unwin, 1981) 173, 178.

32. *Act to Provide for the Protection and Management of the Aboriginal Natives of Victoria 1869* (Vic).

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34. These controls remained in place under various iterations of the legislation until 1957 when the Victorian Government passed the *Aborigines Act 1957* (Vic). See Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Unfinished Business: Indigenous Stolen Wages* (Report, December 2006) 24; History Matters, *Indigenous Stolen Wages Preliminary Investigation: Stage One* (Final Report to Aboriginal Affairs Victoria & Public Record Office Victoria, September 2009) 4, 23; Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 9. See also *Aborigines Act 1869* (Vic); Rosalind Kidd, [Hard Labour, Stolen Wages: National Report on Stolen Wages](#) (Report, 2007) 122; History Matters, *Indigenous Stolen Wages Preliminary Investigation: Stage Two* (Final Report to Aboriginal Affairs Victoria & Public Record Office Victoria, September 2009) 4–5.

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37. Andrew Gunstone, ‘Indigenous Peoples and Stolen Wages in Victoria, 1869–1957’ in Natasha Fijn et al (eds), *Indigenous Participation in Australian Economies II: Historical Engagements and Current Enterprises* (ANU E Press, 2012), 183, citing Diane Barwick, *Equity for Aborigines? The Framlingham case*, in Patrick Troy (ed), *A Just Society: Essays on equity in Australia* (George Allen & Unwin, 1881), 178–82.

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42. Witness Statement of Ngarra Murray, Co-Chair of First Peoples’ Assembly of Victoria, 11 April 2024, 4 [13].

43. *Coranderrk Aboriginal Station* (Report, 1882) iii–iv; History Matters, *Indigenous Stolen Wages Preliminary Investigation: Stage One* (Final Report to Aboriginal Affairs Victoria & Public Record Office Victoria, September 2009) 23; Diane Barwick, *Rebellion at Coranderrk* (ANU Press, 2024) 191

44. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 344 (‘Summary of Past and Ongoing Land Injustice’), 2;

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46. History Matters, *Indigenous Stolen Wages Preliminary Investigation: Stage One* (Final Report to Aboriginal Affairs Victoria & Public Record Office Victoria, September 2009) 23–4; Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Unfinished Business: Indigenous Stolen Wages* (Report, December 2006) 25–6.

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Along with genocide and assimilation policies, the oppression of our people through policies and practices that forced our people into poverty has been a defining feature of the colonisation of this land since the British invaded. By making us poor, and then criminalising poverty, so many opportunities for development and improvement are closed off to our people.¹

VICTORIAN ABORIGINAL LEGAL SERVICE

Introduction

First Peoples have been excluded from economic markets and prosperity in Victoria. Land theft, forced relocation to missions, control of labour and wage theft decimated First Peoples' economic systems. Colonial systems have consistently prevented First Peoples from participating in economic life and wealth creation,² including from education, employment opportunities and owning property.³ Cycles of discriminatory treatment as well as the denial of access to capital for business development contribute to the entrenchment of economic disadvantage.

Then Treasurer of Victoria the Hon Tim Pallas MP⁴ acknowledged that current economic disparities and barriers to First Peoples' prosperity are a legacy of 'unlawful dispossession'.⁵ Yoorrook heard that the unlawful dispossession of First Peoples was followed by colonial practices and state-sanctioned exclusion which has further exacerbated economic inequity.⁶ As a result, First Peoples in Victoria have experienced long-term intergenerational economic deprivation and disadvantage.⁷

Self-determination is central to addressing economic injustice. Self-determination over economic development may take different forms, including the establishment and support of First Peoples businesses, commercial use of land, housing development, home ownership and the creation of a capital fund to enable First Peoples' participation in capital markets as investors. As the Federation of Victorian Traditional Owner Corporations (FVTOC) told Yoorrook, such initiatives 'are foundational to the exercise of true self-determination'.⁸ First Peoples told Yoorrook that the Victorian Government must change legislative and policy settings and commit resources to support First Peoples' economic independence and prosperity. The State has made some efforts to address the systemic economic disadvantages First Peoples experience, but many of these efforts have fallen short, underscoring the need for more effective and sustainable solutions.

This chapter traces the impacts of colonisation and oppression on First Peoples economies. It then examines current disparities and contemporary barriers to economic prosperity for First Peoples in Victoria, including in employment and support for First Peoples' businesses and First Peoples' capital investment. The chapter calls for a shift towards a broader understanding of prosperity that goes beyond Western notions of individual wealth and extends to rebuilding a First Peoples' economy.⁹ The chapter then explores the need for legislative and policy change to progress First Peoples' economic independence and prosperity, and how self-determination is critical to addressing historical deprivation and current disparities.

Economic rights and self-determination

International human rights instruments recognise economic rights and the right to economic self-determination for First Peoples. The *International Covenant on Economic, Social and Cultural Rights* (‘ICESCR’) was ratified in Australia on 10 Dec 1975.¹⁰ ICESCR establishes a range of economic rights for all people, including the rights to:

- technical and vocational training¹¹
- fair wages and equal remuneration¹²
- safe and healthy working conditions¹³
- equal opportunity to be promoted to an appropriate higher level.¹⁴

Yoorrook’s Letters Patent¹⁵ refer to ICESCR as an international human rights instrument relevant to Yoorrook’s inquiry.

The *United Nations Declaration on the Rights of Indigenous Peoples* (‘UNDRIP’)¹⁶ affirms the rights of First Peoples to decide their development priorities and pursue economic activities.¹⁷ The First Peoples’ Assembly of Victoria explained the meaning of economic self-determination under UNDRIP:

Economic self-determination empowers and supports First Peoples to make decisions about First Peoples’ financial resources. It encompasses the right to freely pursue economic development, which includes the right to develop, maintain and strengthen a distinct economic institution as well as fully participate in the economic life of the state.¹⁸

FIRST PEOPLES’ ASSEMBLY OF VICTORIA

The United Nations Permanent Forum on Indigenous Issues has explained that the concept of economic ‘development’ as described in UNDRIP extends beyond the creation of individual wealth and engagement with economic markets.¹⁹ Economic development also covers the freedom to decide methods of development, including the creation of culturally appropriate economic activities.²⁰

Australia’s failure to protect and fulfil First Peoples’ economic rights has been recognised internationally. In 2017, the United Nations Committee on Economic, Social and Cultural Rights noted that First Peoples in Australia continue to experience high levels of disadvantage across all socioeconomic indicators, and that the Closing the Gap strategy has made limited progress in addressing these disparities.²¹

What Yoorrook heard

Historical context

The colonial system ensured that all First Nations economic assets were stolen without recompense or provision of any other compensatory resources to maintain their livelihood.²²

KAIELA INSTITUTE

First Peoples economies

Before colonisation, First Peoples had sophisticated economies. As described in the land injustice chapters,²³ First Peoples developed and engaged in sustainable land and resource management practices and had extensive trade networks²⁴ that sustained complex and evolving societies.²⁵ Yoorrook heard about the extent of trade networks from First Peoples, including from Mick Harding (Daung Wurrung/Taungurung), and the Federation of Victorian Traditional Owner Corporations (FVTOC):

And if you look across Australia, you will see trade routes all across Australia where we were trading different commodities, different things for different reasons and, you know, so it’s not like economy is new to us.²⁶

MICK HARDING

These Nations engaged in trade of produce, manufactured goods, and services along ancient trade routes, which created the basis for their economies. While there was trade amongst First Nations on the continent, First Nations also traded internationally with traders from Indonesia and Papua New Guinea.²⁷

FEDERATION OF VICTORIAN TRADITIONAL OWNER CORPORATIONS

The purpose of colonisation was to make wealth

It is impossible to put a dollar value on the impacts of ongoing colonisation, however, it is evident that Aboriginal economies that had endured and evolved over millennia were devastated.²⁸

VICTORIAN ABORIGINAL CHILD AND COMMUNITY AGENCY

As detailed in the land injustice chapters (see Chapter 7: How colonisers stole Country, Chapter 8: Impacts of Country being stolen) European colonisers’ intent to make wealth drove them to take First Peoples’ land and resources. The economic development that accompanied colonisation was based on the dispossession of First Peoples and the transfer of ‘property rights’ and natural resources to colonisers through the granting of runs and pastoral leases.²⁹ Associate Professor Nikki Moodie (Gomerioi) explained:

They wanted our land to grow their food, build their houses, their roads and their ports. They wanted our water to irrigate their crops, to fish for food, drill for gas and nourish their cities. They told themselves we weren’t using it anyway.³⁰

ASSOCIATE PROFESSOR NIKKI MOODIE

Both historical accounts and State representatives acknowledged that the purpose of colonisation was the acquisition of wealth. Edward Curr (coloniser and politician) noted in 1856: ‘No body of men ever created so much wealth in so short a time’.³¹ Minister for Climate Action, Energy and Resources the Hon Lily D’Ambrosio MP described the theft of land and resources as being driven by ‘the quest for wealth’.³² Then Secretary of the Department of Jobs, Skills, Industry and Regions Tim Ada³³ accepted that this continues to contribute to economic injustice today: ‘deprivation of the land and its natural resources has created drivers of intergenerational poverty and disadvantage’.³⁴

State control of First Peoples’ land and labour

From the 1860s, the State forcibly moved First Peoples onto missions and reserves, and between different missions and reserves, often in areas that were deemed undesirable for farming by settlers.³⁵ This facilitated the theft of First Peoples land and resources and also enabled the State to control First Peoples.³⁶ The Victorian Government told Yoorrook:

The [Aborigines Protection Act 1869 (Vic)] ... empowered the Governor to make regulations about where First Peoples lived and whether they could earn money. This strengthened the State’s ability to force First Peoples into poverty and onto newly established missions and reserves, preventing their participation in the colonial economy and allowing the allocation of stolen land to colonial pastoralists.³⁷

DEPARTMENT OF PREMIER AND CABINET

Confinement on missions and reserves continued to exclude First Peoples from the possibility of economic prosperity. Yoorrook heard that the State shut down missions and reserves that were economically successful and largely self-governed by First Peoples, such as Coranderrk.³⁸ From the 1880s with the passing of the *Aborigines Protection Act 1886* (Vic) also known as the ‘Half-Caste Act’, First Peoples of ‘mixed descent’ were forced off reserves.³⁹

First Peoples who left missions and reserves, or were forced off, were denied any State support or benefits, as the late respected Elder Aunty Fay Carter (Yorta Yorta, Dja Dja Wurrung) explained:

At Cummeragunja, our people were taught to be welfare recipients — ring the bell, line up for your rations. When our people walked off Cummeragunja, they received no help from the government whatsoever. It was like the government said, ‘If you don’t want to stay here and be looked after, then you go look after yourselves’, and they did. It was hard for them, but they did. They call our people the ‘sharing and caring people’, well those were the days when there was real sharing and caring. That’s what helped us survive.⁴⁰

AUNTY FAY CARTER

Servitude, stolen wages and child exploitation

[S]tolen wages, stolen land, stolen children, and stolen lives during the early days of colonisation set the Aboriginal population on the back foot in terms of wealth accrual.⁴¹

VICTORIAN ABORIGINAL CHILD AND COMMUNITY AGENCY

The State stole First Peoples’ income.⁴² The evidence submitted to Yoorrook, particularly historical literature including reports and analysis on stolen wages by academics Dr Rosalind Kidd, Professor Andrew Gunstone and Associate Professor Sadie Heckenberg (Wiradjuri), lays bare how the State perpetrated this theft.⁴³ The State exploited First Peoples through sanctioned and enforced domestic and economic servitude⁴⁴ and systemic control of wages and entitlements.⁴⁵

Yoorrook heard that many First Nations people were subjected to the brutal conditions of enforced servitude.⁴⁶ Minister for Treaty and First Peoples the Hon Natalie Hutchins MP explained how:

First Peoples were often forced to work in unpaid farm and domestic labour on reserves and settlers’ properties in exchange for food, clothing and shelter.⁴⁷

MINISTER NATALIE HUTCHINS MP

Yoorrook was told about how First Nations women have experienced ‘sexual and domestic servitude’.⁴⁸ For example, former inaugural Co-Chair of the First Peoples’ Assembly of Victoria, Marcus Stewart (Taungurung) explained how women were stolen by sealers and whalers ‘for their swimming and sealing skills’.⁴⁹

First Peoples in the Native Police⁵⁰ rarely received promised wages, instead often receiving only food and accommodation.⁵¹ Professor Andrew Gunstone explained that ‘only the non-Indigenous officers were regularly paid, while the Indigenous troopers received rations and accommodation, and rations for their families.’⁵²

Co-Chair of the First Peoples’ Assembly of Victoria Ngarra Murray (Wamba Wamba, Yorta Yorta, Dhudhuroa, Jupagulk, Baraparapa, Wiradjuri, Dja Dja Wurrung) explained:

In a single generation, First Peoples went from custodians and effective land managers to slave labourers, caught up in a self-perpetuating system of stolen wealth.⁵³

NGARRA MURRAY, CO-CHAIR OF FIRST PEOPLES’ ASSEMBLY OF VICTORIA

On missions and reserves, wages for First Peoples’ labour were paid directly to the Victorian Board for the Protection of Aborigines (the Protection Board) and a system of work certificates was introduced.⁵⁴ Wages were held indefinitely in ‘trusts’.⁵⁵ The Victorian Aboriginal Child and Community Agency (VACCA) told Yoorrook that wages were stolen by ‘receiving rations rather than wages, having wages paid into a trust which [First Peoples] never had access to, or receiving a pittance compared to non-Aboriginal workers’.⁵⁶

The State also used First Peoples children for child labour. The government forcibly removed children from their families under various so-called ‘Protection’ Acts and frequently used them for unpaid work.⁵⁷ First Peoples told Yoorrook that children were sent to training homes and reformatory or institutional schools, and were then billeted out to homes or farms for domestic labour.⁵⁸ Wages earned in these situations were often kept by farmers or the Protection Board.⁵⁹ Nerita Waight (Yorta Yorta, Narrandjeri), CEO of the Victorian Aboriginal Legal Service said:

Across our Country, our people, including children and young people were forced into servitude and often not paid what was agreed to in the sham employment arrangements. The legal system enabled the British to enslave us and the police enforced that slavery.⁶⁰

NERITA WAIGHT

Aunty Dr Alma Thorpe (Gunditjmara) told Yoorrook that children ‘were stolen and made to work’,⁶¹ and Uncle Talgium Edwards (Mutti Mutti, Boon Wurrung, Yorta Yorta, Taungurung) said that these situations ‘were like child slave labour camps’.⁶²

Premier of Victoria the Hon Jacinta Allan MP acknowledged that:

The State endorsed exploitative and unjust labour practices such as unpaid farm and domestic labour on reserves or settlers’ properties, and unpaid labour in contexts of incarceration such as children’s homes and under domestic service contracts in settlers’ homes, regulated by the Protection Board.⁶³

PREMIER JACINTA ALLAN MP

To date, Victorian Government recognition and research into stolen wages in Victoria has been minimal.⁶⁴ In 2006, a Commonwealth Senate Standing Committee on Legal and Constitutional Affairs found systemic government practices of withholding and mismanaging First Peoples’ wages and entitlements in Victoria between 1869 and 1957.⁶⁵ That Committee did not receive a submission from the Victorian Government.

The Victorian Government engaged a private consultant to undertake an Indigenous Stolen Wages Preliminary Investigation (Stages One and Two) in 2009.⁶⁶ The investigation was limited by poorly managed and indexed state records at the Public Record Office Victoria and the National Archives of Australia.⁶⁷ Due to the lack of documentary records and the limited scope of the preliminary investigation, the review concluded that there was insufficient evidence of stolen wages in Victoria.

The 2009 investigation was criticised in a 2010 legal report commissioned by the Public Interest Law Clearing House on the basis that it focused on limited sources, did not examine archives prior to 1918, excluded an analysis of social security benefits and did not consult with First Peoples.⁶⁸ Other studies, such as those led by Professor Andrew Gunstone, avoided those limitations and did consult with First Peoples communities and therefore have demonstrated that a range of stolen wages practices took place in Victoria.⁶⁹ State representatives who appeared before Yoorrook have now acknowledged the injustice and impacts of forced labour and stolen wages and entitlements.⁷⁰

The legacy of stolen wages and child exploitation continues to affect the economic wellbeing of First Peoples today.⁷¹ Stolen generations survivors and their families are financially worse off.⁷² Yoorrook heard that ‘the enduring impact of stolen wages for First Peoples is catastrophic and is regarded as a key contributor to the intergenerational poverty experienced by First Peoples today’.⁷³ Yoorrook heard that this impact is experienced by whole communities and across generations:

Slavery and stolen wages did not only impact the individuals that were subjected to these practices, but it also impacted their kin and community, for generations. The economic disadvantage that large numbers of our people continue to live with is, in part, a direct result of slavery and stolen wages.⁷⁴

VICTORIAN ABORIGINAL LEGAL SERVICE

The effects of colonisation on our people demonstrate an undeniable connection between the past policies and actions of governments and the current lack of economic prosperity among our community.⁷⁵

WURUNDJERI WOI-WURRUNG CULTURAL HERITAGE ABORIGINAL CORPORATION

Redress for servitude, forced labour and stolen wages is discussed in Chapter 39: Redress.

Economic disparities today

Today, First Peoples in Victoria experience inequity in a range of economic outcomes.⁷⁶ First Peoples are more likely than non-Indigenous Victorians to experience socioeconomic indicators of poverty.⁷⁷ Differential wages and employment rates are signifiers of less economic prosperity for First Peoples than for non-Indigenous Victorians. Yoorrook also heard how the social security and income support systems can exacerbate poverty for First Peoples. These interrelated factors are addressed below.

Intergenerational poverty

Long-term denial of economic supports and opportunities drives First Peoples’ poverty today. Dja Dja Wurrung Clans Aboriginal Corporation told Yoorrook:

As a result of colonisation, too many First Nations People are denied resources and opportunities. First Peoples face prejudicial views that further limit opportunities and affect wellbeing. First Nations People are more likely to be raised in low-income households that are not owned by the family and are less likely to benefit from generational wealth transfer.⁷⁸

DJA DJA WURRUNG CLANS ABORIGINAL CORPORATION

While the descendants of settlers have generated intergenerational wealth from First Peoples’ lands and resources, First Peoples have inherited intergenerational economic disadvantage. Ngarra Murray said:

Just as the impacts of First Peoples’ dispossession continue today, so do the benefits that colonisers gained from exploiting our lands ... While the inheritance of colonial descendants was stolen wealth, the inheritance of our people was the complex, overlapping, harm of dispossession.⁷⁹

NGARRA MURRAY, CO-CHAIR OF FIRST PEOPLES’ ASSEMBLY OF VICTORIA

Economic injustice is associated with injustice in other areas including education, health and housing. For example, VACCA explained, the restriction of educational opportunity passes down intergenerationally and leads to a lack of generational wealth.⁸⁰ The Victorian Aboriginal Community Controlled Health Organisation told Yoorrook that economic inequity means that First Peoples are more likely to live in poor quality housing, and to have less access to healthcare.⁸¹

Treasurer Tim Pallas acknowledged that ongoing economic exclusion contributes to the over-representation of First Peoples in housing services.⁸² The Victorian Aboriginal Housing and Homelessness Forum also told Yoorrook that due to a lack of generational wealth and assets, and lower incomes, First Peoples are marginalised in the housing market.⁸³

Employment and income

First Peoples in Victoria experience barriers to employment, are employed in lower paying jobs and industries, and have lower wages than non-First Peoples in Victoria.⁸⁴

External quantitative datasets show that:

- First Peoples in Victoria have lower weekly personal income levels than non-First Peoples. In 2021, the median weekly personal income for First Peoples in Victoria was \$619 compared to \$803 for all people in Victoria.⁸⁵
- in 2021, 62 per cent of First Peoples in Victoria (aged 25 to 64) were employed, which was significantly lower than the 78.4 per cent for non-First Peoples in Victoria.⁸⁶
- First Peoples in Victoria are less likely than non-First Peoples to be employed full-time,⁸⁷ and less likely to work in occupations and industries with higher earning capacity.⁸⁸
- First Peoples in Victoria experience lower rates of employment than non-First Peoples. In 2021, the unemployment rate for First Peoples in Victoria was 9.6 per cent, compared to 5 per cent for all people in Victoria.⁸⁹

Secretary Tim Ada acknowledged the ongoing economic disparity experienced by First Peoples in Victoria:

First Peoples in Victoria earn on average a 24% lower median working age income and have a lower employment population ratio than non-First Peoples in Victoria. The latest Census data found the median income for working age First Peoples in Victoria was approximately \$34,000 per year compared to \$42,000 for non-First Peoples in Victoria.⁹⁰

SECRETARY TIM ADA

Employment and income disparities are influenced by other factors including education, healthcare and housing. The Self-Determination Fund is overseen by the First Peoples’ Assembly of Victoria and administered by the Self-Determination Fund Limited in its capacity as Trustee for the Self-Determination Fund.⁹¹ In their submission to Yoorrook, the Self-Determination Fund Limited explained how education, health and housing impact First Peoples’ employment:

[F]or example, an Indigenous Australian who is not in the labour force is also more likely to have lower educational standards, poorer health status and less adequate accommodation than an Indigenous Australian who is in the labour force.⁹²

SELF-DETERMINATION FUND

Disparities in employment and income experienced by First Peoples can also subsequently negatively impact other areas of life. For example, the Victorian Aboriginal Community Controlled Health Organisation told Yoorrook:

Participation in employment provides financial and economic security and assists in opening the door to self-determination. Employment status also has associations with outcomes for health, social and emotional wellbeing, and living standards.⁹³

VICTORIAN ABORIGINAL COMMUNITY CONTROLLED HEALTH ORGANISATION

Adam Davids (Wiradjuri), the Managing Partner of First Nations Equity Partners, told Yoorrook that employment and lower wages negatively affect the ability of First Peoples to accumulate superannuation and own homes:

First Nations peoples face economic disparities driven in part by lower rates of engagement in professional, managerial and executive roles, highlighted by a wage gap where they earn 67 cents for every dollar versus non-Indigenous Australians. These disparities extend to wealth, with First Nations people holding about 50% less in superannuation and a 42% homeownership rate compared to 67% for the broader population.⁹⁴

ADAM DAVIDS

Yoorrook heard that First Peoples can experience issues with insurance, loans and other consumer concerns due to a lack of educational and financial literacy.⁹⁵ These systemic inequalities lead to increased individual financial stress.⁹⁶

Social security and income support

When we have new governments, we don’t have a new bureaucracy. They make the same racist decisions. The same people decide whether we get a welfare card, or if our kids stay in our houses or not. That’s where the issues are, the same people write the policies.⁹⁷

DR EDDIE CUBILLO

The social security and income support systems are not adequately addressing the needs of First Peoples in Victoria. Typically, social security and income support systems are primarily Commonwealth responsibilities, but the Victorian Government oversees some systems and supports. Yoorrook heard that State acts have led to intergenerational welfare dependency among First Peoples:

The imposed legislative and policy frameworks established during colonisation, resulted in First Peoples’ dependence on government welfare, creating an imbalance which persists today.⁹⁸

FEDERATION OF VICTORIAN TRADITIONAL OWNER CORPORATIONS

Those who have been displaced, including survivors of the Stolen Generations and out-of-home care leavers, are more likely to require access to social security and other income supports.⁹⁹

In some cases, the social security and income support systems are exacerbating poverty. VACCA cited the Adequacy of Newstart Inquiry (2020), which found that ‘the income support system itself is forcing people into poverty’ and that ‘the social security system has increasingly become punitive’.¹⁰⁰ Yoorrook heard that First Peoples in Victoria face barriers to accessing social security packages,¹⁰¹ such as convoluted application processes and ongoing requirements to maintain payments, payments that are insufficient to meet basic needs and racism from staff when accessing services and support.¹⁰²

Witnesses told Yoorrook that housing-related financial support, especially emergency support,¹⁰³ is not sufficient to cover rental costs for most rentals.¹⁰⁴ Financial support for foster carers is inadequate, and for kinship carers is virtually non-existent, which can exacerbate financial stress for carers.¹⁰⁵

The State also does not adequately support First Peoples’ seeking employment. For instance, despite Jobs Victoria services being a measure of the Victorian Aboriginal Affairs Framework, the State recently scaled down these services, resulting in the lowest annual numbers of First Peoples jobseekers supported into long-term employment since 2017.¹⁰⁶

Barriers to economic prosperity

This section describes some of the major barriers to economic prosperity that First Peoples in Victoria experience. Three key examples are given from Yoorrook’s evidence: barriers in employment, insufficient support for First Peoples’ businesses and inadequate First Peoples representation on corporate and government boards.

Employment barriers

Aboriginal and Torres Strait Islander people often face barriers to accessing employment opportunities, leading to higher rates of unemployment and underemployment. This does not mean that Aboriginal and Torres Strait Islander people are not fit for employment, but shows an ongoing, systemic problem.¹⁰⁷

VICTORIAN ABORIGINAL COMMUNITY CONTROLLED HEALTH ORGANISATION

First Peoples continue to face structural barriers to workforce participation, including racism, culturally unsafe workplaces and cultural load in the workplace.¹⁰⁸ As a result, First Peoples can experience limited opportunities and barriers to career progression.¹⁰⁹ These realities are shaped by colonial legacies and a lack of cultural competency across public and private employment sectors.¹¹⁰

Racism and lack of cultural safety in the workplace

First Peoples continue to face interpersonal and institutional racism, ‘which creates and sustains their lower socioeconomic status by excluding them from economic opportunities’.¹¹¹ A growing body of research describes the high levels of workplace racism and discrimination experienced by First Peoples around Australia.¹¹² The Jumbunna Institute for Indigenous Education and Research at the University of Sydney and the Diversity Council of Australia conducted a national survey of First Nations workers (referred to in Chapter 21: Workforce) which found:

- 38% of First Nations workers reported being treated unfairly because of their Indigenous background.
- 44% reported hearing racial slurs.
- 59% reported experiencing racism relating to their appearance (e.g. receiving comments about the way they look or ‘should’ look as a First Nations person).¹¹³

Evidence provided to Yoorrook suggests that these results might be replicated in Victorian data.

Racism is a barrier to First Peoples being offered employment.¹¹⁴ Rueben Berg (Gunditjmara), Co-Chair of the First Peoples’ Assembly of Victoria, told Yoorrook that racism can be a barrier to being interviewed or hired for a job.¹¹⁵ Rueben Berg said that First Peoples are often put through training programs and courses that do not lead to employment: ‘a constant cycle of being put through training but no actual jobs at the end of it’.¹¹⁶

Yoorrook also heard that First Peoples experience multiple forms of racism in the workplace.¹¹⁷

Many First Peoples employees told Yoorrook that they do not feel culturally safe in the workplace.¹¹⁸ Racism and a lack of cultural safety can mean that First Peoples may miss out on progression development and not progress professionally to higher paying positions.¹¹⁹ The Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation told Yoorrook:

Our people are still locked out of the upper levels of income and employment due to factors such as a lack of cultural safety, a lack of targeted mentoring and development support, a lack of political representation, and due to racism and discrimination among staff, managers, and employers.¹²⁰

WURUNDJERI WOI-WURRUNG CULTURAL HERITAGE ABORIGINAL CORPORATION

The impacts of racism and culturally unsafe workplaces increase the likelihood that First Nations people will leave their employment.¹²¹ These experiences were contrasted with the cultural safety experienced when working in Aboriginal Community Controlled Organisations and services.¹²²

Yoorrook heard that the cultural and colonial load on First Peoples in workplaces must be managed and reduced across all sectors.¹²³ First Nations people must also be remunerated accordingly.¹²⁴ For example, Ngaweeyan Maar-oo, the Victorian Government’s implementation partner under the National Agreement on Closing the Gap, said:

There also needs to be better resources to manage and reduce the cultural load placed on Aboriginal and Torres Strait Islander staff, which can include the expectation to educate non-Aboriginal people, participate in advisory boards or work in racist systems.¹²⁵

NGAWEEYAN MAAR-OO

The State as employer: systemic failings

In 2017, the Victorian Government launched *Barring Djinang: First Peoples Workforce Development Framework*, a five-year First Peoples employment strategy for the Victorian Public Sector (VPS).¹²⁶ Barring Djinang aimed to increase representation of First Peoples employees to 2 per cent by June 2022, increase the number of staff in senior positions and ensure better access to development opportunities, support and career pathways.

The State’s own data indicates little progress towards these aims. In 2023, the proportion of First Peoples employees in the VPS was 1.2 per cent — well below the 2022 target.¹²⁷ Data from the Victorian Public Sector Commission demonstrates that First Peoples are also under-represented in senior roles: 19.9 per cent of First Peoples staff as opposed to 24.2 per cent of non-Indigenous staff have management responsibilities.¹²⁸ First Peoples in the VPS tend to be employed in lower paid positions; twice as many First Peoples staff than non-First Peoples staff earn less than \$55,000 per annum.¹²⁹ Correspondingly, First Peoples staff are only half as likely to earn more than \$135,000 per annum.¹³⁰

These data are supported by other research. In a 2023 study of First Nations women in the VPS, participants reported that the workplace largely failed to actively support their employment, development, retention and promotion.¹³¹

Yoorrook heard, including from Commissioner of the Victorian Public Sector Commission Bridget Monagle, that the VPS continues to be a site of systemic and structural barriers to First Peoples staff.¹³² For example, Victorian Public Sector Commission research from 2023 demonstrates that First Peoples experience bullying, discrimination, sexual harassment and aggression or violence at higher rates than non-Indigenous employees in the VPS.¹³³

Yoorrook heard from staff working in Aboriginal-identified roles within government organisations that racism against First Peoples and lack of cultural safety is pervasive within government agencies, departments and institutions.¹³⁴ First Peoples workers experience this racism directly and are also exposed to racism against First Peoples in the community. An anonymous submission to Yoorrook from someone in an Aboriginal-identified role within the government detailed their experiences of racism,¹³⁵ saying:

I currently work in an Aboriginal identified role in a government organisation. The concerns in my submission are not only in relation to the systematic discrimination that is faced by not just myself in relation to my role, but for the Aboriginal and Torres Strait Islander community that we are meant to service. And highlighting that it doesn't matter what the government continuously do. We are constantly just experiencing more and more discrimination and racism. I feel that every day, as an Aboriginal person.¹³⁶

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Opportunities for workforce participation

All workplaces, including the VPS, should focus on inclusive hiring, proper support and remuneration to enhance First Peoples' participation. Ngaweeyan Maar-oo told Yoorrook that workplaces should focus on models of hiring First Nations people, valuing their knowledge, experiences and relationships and providing holistic and relational workforce support.¹³⁷ The Aboriginal Justice Caucus told Yoorrook that proper wages and adequate support can help reduce the 'revolving door' of First Peoples staff in workplaces, particularly with the management of the colonial load and vicarious trauma.¹³⁸

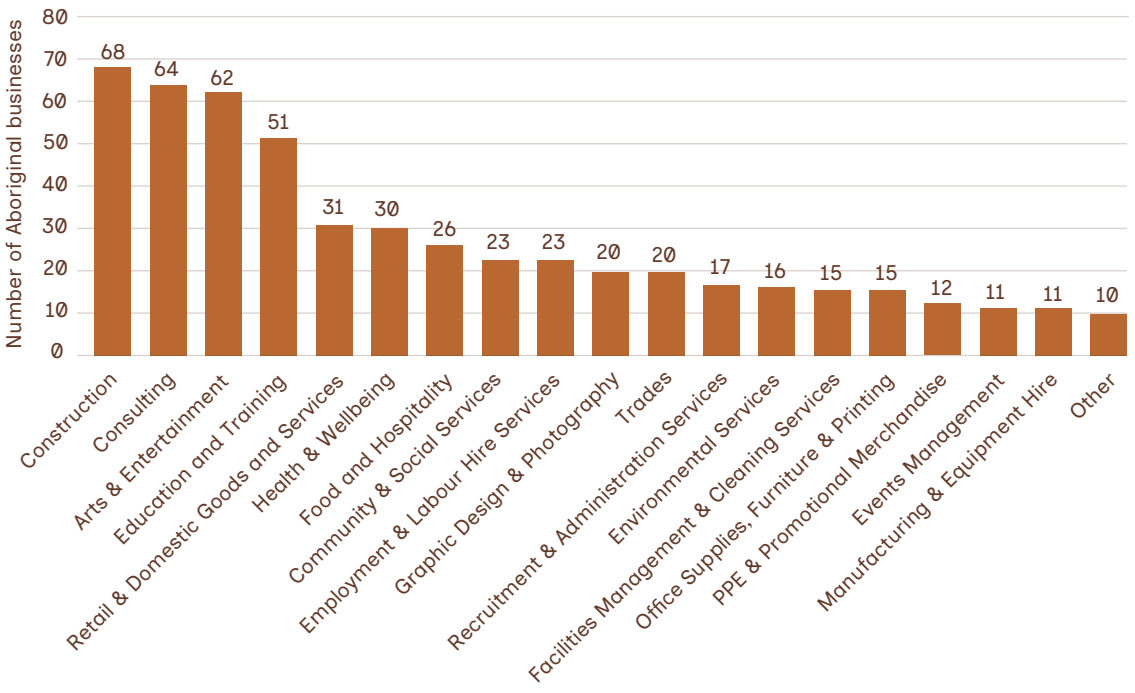
Yoorrook also heard calls for continued investment in supportive workforce programs,¹³⁹ including mentoring programs,¹⁴⁰ cultural competency training¹⁴¹ and Reconciliation Action Plans.¹⁴² Workplace education plays a key role in unpacking prejudice and preconceived notions of First Peoples, particularly by illuminating the role systems play in perpetuating these stereotypes.¹⁴³

Insufficient support for First Peoples businesses

The Commonwealth defines an Indigenous business as a business that is at least 50 per cent Aboriginal and/or Torres Strait Islander-owned.¹⁴⁴ Indigenous businesses may be verified by the Kinaway Chamber of Commerce (Kinaway) or Supply Nation, each of which host a business directory.¹⁴⁵ 'Certified' Indigenous businesses are 51% or more First Peoples-owned, managed and controlled.¹⁴⁶

Karen Milward (Yorta Yorta), Chairperson of Kinaway told Yoorrook that Kinaway has about 400 members across 47 industries.¹⁴⁷ As of January 2025, there were 315 Indigenous businesses publicly listed on the Kinaway Business Directory.¹⁴⁸ Key industries of Indigenous businesses listed on Kinaway included 'Construction', 'Consulting', 'Arts and Entertainment' and 'Education and Training' (see Figure 36.1).¹⁴⁹

Figure 36.1: Industries of Aboriginal businesses listed on Kinaway (as of 31 July 2021)¹⁵⁰



Strengths of First Peoples businesses

Yoorrook heard extensive evidence about the 'positive and integral' role Traditional Owner groups and First Peoples organisations, businesses and enterprises play in delivering economic prosperity.¹⁵¹ In 2024 FVTOC and Deloitte undertook an analysis of the Victorian Aboriginal economy.¹⁵² Based on this analysis, the total revenue generated by Victorian Aboriginal enterprises was estimated to be \$1.05 billion in 2022-23.¹⁵³ The total 'gross value added'¹⁵⁴ to the wider Victorian economy by Victorian Aboriginal enterprises was estimated to equate to \$520.6 million in 2022-23.¹⁵⁵

Director of the Dilin Duwa Centre for Indigenous Business Leaderships at the University of Melbourne, Associate Professor Michelle Evans also highlighted that Indigenous businesses are key employers of First Nations people:

Aboriginal and Torres Strait Islander businesses [are] incredible employers of our people ... So that means that the workplaces are culturally safe, that there is a lot of on-the-job training and skills development that is happening in these businesses. ... [U]nderstanding the wellbeing and strengthening role of Aboriginal employment and how that is really grown throughout businesses, that is a key contribution to the economy of Australia, no doubt in every single day of the year.¹⁵⁶

ASSOCIATE PROFESSOR MICHELLE EVANS

In addition to employing First Nations people, First Peoples businesses tend to support a wide network of other businesses through sub-contracts. For example, Karen Milward described the circular economy of Aboriginal business contracts: 'we actually employ other Aboriginal businesses or we contract from them, or we purchase their goods and services'.¹⁵⁷

The other opportunity is the circular economy where Aboriginal business contract to Aboriginal businesses who contract to Aboriginal businesses, so it goes around and around and around and we are supporting each other.¹⁵⁸

KAREN MILWARD

The design and construction of the Munarra Centre for Regional Excellence, an initiative of First Peoples agency the Kaiela Institute, is an example of the circular economy. A submission to Yoorrook explained that the Victorian Government administered the funding for the design and construction of the centre, which was awarded to TVN On-Country (a majority First Peoples-owned enterprise and certified Kinaway member).¹⁵⁹ TVN-On Country, in turn, employed First Nations people on the project and subcontracted twelve Victorian Aboriginal businesses.¹⁶⁰

Challenges First Peoples businesses face

Despite their strengths, First Peoples businesses face state-imposed barriers to success.¹⁶¹ Yoorrook heard that First Peoples entities are disadvantaged in any resourcing, grant or procurement processes due to onerous application processes¹⁶² and a lack of existing assets and capital.¹⁶³ The State acknowledged the barrier of access to capital.¹⁶⁴

Nerita Waight told Yoorrook that First Peoples businesses and service providers are often undervalued and underpaid:

When government looks to fund an Aboriginal initiative, they are often quite excited because they can do it at a cut rate as compared to what they would provide to a mainstream provider doing the exact same service, which is why you see Aboriginal workforces, you know, underpaid by 25 to 30 per cent at any one time.¹⁶⁵

NERITA WAIGHT

Yoorrook also heard of issues First Peoples organisations and businesses face in sharing resourcing with mainstream businesses and entities. As discussed in Chapter 13: Joint management, there is often a power imbalance in such arrangements because the non-Indigenous entity often retains the power and resources. Yoorrook heard that such arrangements can be tokenistic engagements with First Peoples that enable mainstream businesses access to additional resources.¹⁶⁶ Karen Milward explained:

The other big thing is black cladding and it has been a big issue. We have been fighting for probably the last two years in particular, because it has really reared its head and particularly in the construction industry. So government actually enforces in its contracts for capital works in particular that you must employ — have 2.5 per cent Aboriginal employment or you have part ownership in your actual company. So to win that contract people sort of do, you know, shifty deals.¹⁶⁷

KAREN MILWARD

Aboriginal Retail Australia Indigenous Corporation (ARAIC) told Yoorrook about systemic issues for retail businesses, including competition with non-Indigenous businesses who typically have greater access to capital.¹⁶⁸ ARAIC also reflected on the practice of ‘black-

washing’ where non-Indigenous businesses market First Peoples cultural products or themes without any connection to First Peoples, or without resulting in any benefit to First Peoples.¹⁶⁹

[Aboriginal] Retailers who create and sell products that are based on artistic, creative or cultural endeavours and those that utilise bush foods and bush botanicals compete with non-Aboriginal businesses who create and sell similar style products to the consumer. In many cases, these products are more readily available because they are produced in higher quantities, they are lower priced ... and marketed more expertly ... and reach a larger customer base in comparison to many Aboriginal businesses, who can struggle with scaling up and reaching the customer.¹⁷⁰

ABORIGINAL RETAIL AUSTRALIA INDIGENOUS CORPORATION

Many non-Aboriginal businesses ‘virtue-signal’ to consumers, portraying themselves as supporting Aboriginal communities and as virtuous, ethical allies. However, there is little verification mechanisms for their activities and no recognised credentials and their operations either unknowingly or knowingly exploit Aboriginal people and culture. In fact Aboriginal businesses are more regulated in this regard in terms of being ‘verified’ as a bona fide Aboriginal business, than non-Aboriginal businesses selling the same or similar products.¹⁷¹

ABORIGINAL RETAIL AUSTRALIA INDIGENOUS CORPORATION

ARAIC called for greater industry-focused support from the retail industry, government, and organisations to ensure ‘a level-playing field’ and to monitor non-Indigenous business compliance with codes of conduct.¹⁷²

Yuma Yirramboi Strategy

In June 2022, the State launched *Yuma Yirramboi Strategy (Invest in Tomorrow)*, supported by \$25 million for implementation. Yuma Yirramboi aims to achieve employment and economic parity for First Peoples in Victoria within a generation.¹⁷³ Yuma Yirramboi aligns with goals 8 to 10 of the Victorian Aboriginal Affairs Framework, which are:

- goal 8: Aboriginal workers achieve wealth equality
- goal 9: Strong Aboriginal workforce participation, in all sectors and at all levels
- goal 10: Aboriginal income potential is realised.¹⁷⁴

Activities in Yuma Yirramboi are directed by the Yuma Yirramboi Council and Koori Caucus, which drive the provision of grants and funding and inform government initiatives related to First Peoples’ economic prosperity.¹⁷⁵

Despite these ambitions, Yoorrook heard that Yuma Yirramboi is inadequately resourced. Kinaway provides advice, support and opportunities for First Peoples businesses across Victoria, they told Yoorrook:

The minimal allocation in the recently released Victorian budget (7 May 2024) underscores the challenge of providing adequate services to support Aboriginal businesses ... The budget does not reflect a willingness to ‘Invest in Tomorrow’ and certainly does not reflect the commitment to ‘bold’ plans with ‘high expectations’ [as stated on the Department of Jobs, Skills, Industry and Regions website].¹⁷⁶

KINAWAY CHAMBER OF COMMERCE

Yoorrook heard evidence, including from the First Peoples’ Assembly of Victoria, that Yuma Yirramboi ‘lacks an implementation plan or any concrete steps to support First Peoples in working towards economic independence before a Treaty is negotiated’.¹⁷⁷

The Federation of Victorian Traditional Owner Corporations told Yoorrook that monitoring and evaluation are also crucial to the success of Yuma Yirramboi:

[T]he development of a monitoring, evaluation and reporting framework for the Strategy is critical to its effective implementation. It is important that this includes an independent analysis of the investments and actions contained in the Strategy as well as the cumulative impact of these initiatives.¹⁷⁸

FEDERATION OF VICTORIAN TRADITIONAL OWNER CORPORATIONS

Yoorrook also heard that, Yuma Yirramboi requires an increase in appropriate funding and resources for implementation by Kinaway and other First Peoples organisations and businesses.¹⁷⁹ Yoorrook was told of the importance of accountability for Yuma Yirramboi — it ‘should not be another unfulfilled promise’.¹⁸⁰ Kinaway said:

The framing and building of economic opportunities for Aboriginal Victorians must flow from the understanding that there is a significant debt on the balance sheet of our nation where reconciliation and unity depend on this debt being settled.¹⁸¹

KINAWAY CHAMBER OF COMMERCE

Procurement

In Australia, procurement policies (the process of awarding contracts to businesses by government agencies) have a range of benefits and impacts including providing employment and capacity-building opportunities for established Aboriginal businesses through experience and networking.¹⁸² The Victorian Government’s Social Procurement Framework (SPF) established in 2018 outlines that government decision making with respect to purchases of goods and services must be driven by social and sustainable outcomes for the Victorian community.¹⁸³ Two outcomes of the SPF relate to First Peoples specifically: purchasing from Victorian First Peoples businesses (with a procurement target of 1 per cent for First Peoples businesses to be achieved by 2019–20); and employment of First Peoples in Victoria by suppliers to the Victorian Government (no target set in the SPF).¹⁸⁴

Yoorrook heard that the State has not met its original 1 per cent Aboriginal procurement target set in *Tharamba Bugheen: Victorian Aboriginal Business Strategy 2017–21*.¹⁸⁵ External data show that State purchase agreements with small to medium First Peoples enterprises rose from 0.4 per cent (\$16.7 million) in 2018–19 to 0.7 per cent (\$21.6 million) in 2021–22.¹⁸⁶

Further, Yoorrook heard that there are no reporting mechanisms to achieve this 1 per cent procurement target, and activities are subject to ‘ineffective monitoring and enforcement provisions’.¹⁸⁷ Lionel Dukakis (Gunditjmara), Managing Director of First Nations Traffic Management and First Nations Labour Hire, said:

Governments and heads of government departments who are creating Social Procurement Framework strategies and targets need to ensure contractors are complying with government mandates with appointed contractors held accountable and monitored by government for the term of the contract. If governments are serious about engaging Authentic Indigenous Businesses, they need to make sure that there is weighting towards Social Procurement targets that are measurable.¹⁸⁸

LIONEL DUKAKIS

Yoorrook also heard that the State has not revised its SPF targets since its release and that the State publicly reports on few of its stated targets. For example, the Self-Determination Fund outlined how the SPF set a target for First Peoples businesses to receive 1 per cent of contracts by 2019–20, but this target was not achieved and has not been updated, and ‘[t]here is no reporting mechanism specified’.¹⁸⁹ Further, monitoring the number of contracts does not give an accurate picture of total dollars spent. Yoorrook recommends that the State changes procurement monitoring and targets from number of contracts to total dollars spent in order to accurately reflect investment. The Self-Determination Fund also described how the State does not monitor employment targets at the departmental level.¹⁹⁰

Yoorrook received an anonymous submission from an individual working in a large government department who said that other procurement policies often take precedence over actions under its social procurement strategy (particularly engagement of Aboriginal businesses).¹⁹¹ This individual suggested a ‘VPS-wide target for engaging Aboriginal businesses through established contracts (not just engagement through the procurement process), along with a framework to monitor and ensure accountability’ and also made suggestions for changes to state purchase contracts.¹⁹²

The SPF is not specific to First Peoples but applies to a range of priority groups. Yoorrook heard calls for the State to revise its SPF to include a dedicated Indigenous Preferential Procurement Program (IPPP),¹⁹³ which would support preferential access to government contracts for First Peoples businesses. Other state and territory IPPP models (including in New South Wales, Queensland and Western Australia) are based on the Commonwealth IPPP, which has been in place since 2015. Compared to the SPF, these state and territory IPPP models have in-built monitoring mechanisms and higher targets.¹⁹⁴

Elements of the Commonwealth IPPP include:

- an exemption from the usual tender requirements for Indigenous businesses of less than 200 employees
- a requirement that 2.5 per cent of the total number of all procurement contracts are awarded to Indigenous-owned firms
- a requirement that the total value of all procurement contracts is at least 1 per cent, increasing to 3 per cent by 2027–28
- a requirement for Commonwealth departments to publicly report annually against achievement of the targets.¹⁹⁵

Yoorrook heard that ‘the outcomes for Indigenous businesses achieved under the Victorian SPF appear to lag behind the outcomes achieved through IPPPs in other jurisdictions’ with respect to total value and the proportion of contracts awarded.¹⁹⁶ For example, the value of contracts awarded to First Peoples businesses under the Victorian SPF in 2019–20 was \$46.1 million, while New South Wales reported a total value of \$173 million for the same period.¹⁹⁷ Queensland reported contracts valued at \$440 million for the 2021–22 financial year.¹⁹⁸ In addition, Victoria’s 1 per cent procurement target for First Peoples contracts is below the 3 per cent target in jurisdictions such as New South Wales and Western Australia.¹⁹⁹

Submissions to Yoorrook indicated that IPPPs can support economic prosperity by reducing barriers and facilitating enablers. As explained by the Self-Determination Fund, IPPPs help overcome ‘the systemic race-based barriers to economic prosperity faced by First Nations businesses and people in Victoria’.²⁰⁰ IPPPs also facilitate the establishment and growth of First Peoples businesses and support improvements in First Peoples employment.²⁰¹

[T]he hope is that [an IPPP] will encourage more business startups and help sustain fledgling businesses by giving them opportunities to make connections, gather market information and develop a track record that will help build trust and reduce the cost of capital; the result being First Nations businesses can more easily scale-up their production and be more competitive and more successful over time.²⁰²

SELF-DETERMINATION FUND

There is also scope to enhance the operations of the SPF through a dedicated IPPP in future iterations of Domain 3 of the Victorian Aboriginal Affairs Framework (2018–23).²⁰³ Further, improved outcomes for First Peoples businesses and accountabilities under the SPF is an aim under initiative 3.2 of Yuma Yirramboi.²⁰⁴ Yoorrook was told that a defined IPPP for Victoria, including revised contract, employment and monitoring targets, would provide much needed state support to the First Peoples business sector in Victoria.²⁰⁵ The Commonwealth model identified above should guide this reform.

Opportunities to support First Peoples businesses

The contribution of First Peoples businesses extends beyond revenue generation to include ‘opportunities for Indigenous employment and self-determination, intergenerational wealth generation, sharing of Indigenous knowledge, provision of culturally sensitive services to communities and trust-building within the community’.²⁰⁶ Submissions to Yoorrook confirmed that First Peoples businesses are also key employers of First Nations people.²⁰⁷

Examples provided to Yoorrook demonstrate the positive economic, cultural and community benefits that can be achieved when First Peoples develop their businesses in a self-determined way. DUMAWUL, owned and operated by Dja Dja Wurrung Clans Aboriginal Corporation, is an enterprise focusing on cultural tourism, cultural education and creative arts.²⁰⁸ DUMAWUL supports businesses to develop sustainable incomes that are aligned to their specific goals and needs in cultural tourism, cultural competency training for businesses and the visual and performing arts.

DJANDAK, a competitive commercial enterprise also owned and operated by Dja Dja Wurrung Clans Aboriginal Corporation, focuses on economic development and employment within the Dja Dja Wurrung and wider First Peoples community. DJANDAK works to embed Dja Dja Wurrung values and traditional knowledge into the built environment and works on landscape and natural resources management.²⁰⁹

As the Kinaway submission stated, First Peoples businesses require networking and development support and the State must back First Peoples’ engagement in business through government, procurement and corporate strategies.²¹⁰ The State acknowledged to Yoorrook that First Peoples businesses benefit from mentoring, financial support, loans and strong procurement frameworks,²¹¹ which are essential for fostering long-term success.

First Peoples representation on boards

Many First Peoples are represented on organisation boards for Aboriginal Community Controlled Organisations or other Aboriginal organisations, but First Peoples representation on non-Indigenous company boards and government boards remains low.

- **representation on government boards:** Data from the Victorian Government indicates that First Peoples representation on Victorian Government boards is very low (2.2 per cent of Victorian Government boards had First Peoples representation in 2023). However, representation has increased since 2017.²¹²
- **representation on corporate boards:** National research reveals systemic barriers to First Peoples representation on corporate boards.²¹³ A national report on the diversity of Australian Stock Exchange (ASX) 300²¹⁴ boards reported that there are only seven roles filled by Indigenous board directors, held by four people.²¹⁵

In evidence to Yoorrook, Adam Davids highlighted the importance of First Nations leadership and representation on boards:

First Nations representation in the highest echelons of corporate and community leadership is critically lacking, epitomising Australia’s social and economic divide. This issue spans virtually all industries and demands a strategic response from the corporate, academic, government, philanthropic, and NGO sectors.²¹⁶

ADAM DAVIDS

Leadership Victoria also called for organisations and government to ‘invest in and promote First Nations leadership, including at Board level’.²¹⁷ Secretary Tim Ada said the Department of Jobs, Skills, Industry and Regions said ‘[s]upporting greater First Peoples representation on portfolio entity boards is a priority’.²¹⁸

Adam Davids suggested that the State take steps to ensure increased representation of First Peoples on both company and government boards. Adam Davids suggested that this could include improved accountability and transparency measures such as ‘annual reporting from corporations and government bodies on First Nations representation and pay equity’.²¹⁹

Engagement in capital markets

Independent sustainable funding and investment for First Peoples businesses and other initiatives is essential to achieve economic prosperity. Sources of sustainable ongoing funding through the Self-Determination Fund, hypothecation of taxation and other measures are recommended elsewhere in this report. Engagement in capital markets (financial markets where entities can raise and exchange money or other assets) for the purpose of wealth creation is central to this aim. Various models were suggested by Yoorrook witnesses for negotiation as part of treaty.

Challenges in raising capital

[O]ne of the barriers to Aboriginal economic business growth is access to capital to grow. The 10 years of massive startup we have had that's — In one sense that is the fun bit where you grow exponentially, those who get through that, you grow. When you get to year 10 you are in that we need to stabilise, sustain and all that, you need capital to do that.²²⁰

IAN HAMM

Yoorrook heard that First Peoples businesses face challenges in raising the capital needed to grow and invest,²²¹ including a lack of access to intergenerational assets. Kinaway Chairperson Karen Milward said that lack of assets leads to sustainability challenges and inability to raise equity to support further growth:

I think one of the main challenges for Aboriginal and Torres Strait Islander people in business has been that we have had no assets or money behind us like other families do in the non-Aboriginal community ... So that is one of the big challenges and, therefore, the challenge that goes with that is if you do have your business, you can't grow your business or sustain your business because you can't have — because you have no equity. So, therefore, you can't grow and go further.²²²

KAREN MILWARD

Emerging First Peoples businesses and start-ups face a lack of trust and long-held biases when trying to raise capital. Associate Professor Michelle Evans told Yoorrook:

[T]here is a lack of trust in our markets, and it requires a certain response from our Indigenous entrepreneurs, our Aboriginal entrepreneurs who have to do a lot more work to become successful because of this kind of bigger bias in the economy.²²³

ASSOCIATE PROFESSOR MICHELLE EVANS

The State has adopted a model of capital support that compounds these issues. Both Kinaway and FVTOC said that the State has not tailored intended support models to the unique challenges First Peoples businesses face:

The current model of distributing funds through governmental departments dilutes the effectiveness of the intended support and hampers the autonomy of Aboriginal and Torres Strait Islander businesses.²²⁴

KINAWAY CHAMBER OF COMMERCE

[G]rant funding and procured services that target 'minimum spend', do not take into consideration the time it takes for First Peoples' organisations and businesses to build capacity to be as competitive as established businesses.²²⁵

FEDERATION OF VICTORIAN TRADITIONAL OWNERS CORPORATIONS

A different model is needed. Yoorrook heard that access to capital and long-term investment are essential to the growth of First Peoples businesses and the sector more broadly.²²⁶

Building and sustaining wealth for future generations will require the ability to access capital and assets. Government must look at different models to support First Peoples' organisations and communities to access capital.²²⁷

FEDERATION OF VICTORIAN TRADITIONAL OWNER CORPORATIONS

Yoorrook heard that First Peoples businesses thrive when adequate capital is provided:

We had one business where we had a corporate partner actually invest up front. So they gave all the money to buy all the equipment, resources, tools and so on and to pay their people that they were employing for 12 months. And the condition on that was you just pay it back like a loan, but they did it directly through the company. And this business now has — it is grown four times and it has been able to employ triple the amount of people it had and that is within four years. That was all during lockdown and everything. Quite amazing.²²⁸

KAREN MILWARD

Capital investment

In the context of economic self-determination, Yoorrook received important evidence from the First Peoples' Assembly of Victoria, FVTOC and individual experts about the potential of a First Peoples financial entity and ongoing capital investment by First Peoples and in First Peoples businesses.²²⁹

Ian Hamm (Yorta Yorta), Chair of the Board of Directors of First Nations Foundation, suggested First Peoples businesses could form collective entities, and then the government and banking sector could invest capital into a development bank.²³⁰ Ian Hamm suggested Victoria could be a leader in this space by negotiating such possibilities through treaty:

The Australian banking sector has huge amounts of money and one of the key problems ... is how do Aboriginal businesses get access to that ... what could they do? They follow the example of the superannuation sector and act as a single sector rather than a bunch of individual businesses ... My own personal view is that could lead to the establishment of a development bank such as we see in Third World countries, where the United Nations invests in development banks. The Australian banking sector, together with the Australian Government and the states and territories, could look at the establishment of a development bank. Victoria can lead that conversation, can start that conversation, can drive it, but it can do that with the moral and, indeed, legally binding authority of that being part of its role under what a Treaty process might deliver and do it ongoing.²³¹

IAN HAMM

Ian Hamm has previously written on the possibility of banks and financial institutions re-thinking how they contribute to First Peoples' collective economic prosperity:

Too often, the target is on alleviation of disadvantage instead of building opportunities for Aboriginal people. [We need to be asking] how can we increase their capacity to raise their income and build their capital not just as individuals but also as a community as a whole.²³²

IAN HAMM

Associate Professor Michelle Evans explained that formalised infrastructure (such as an investment fund or entity) could allow for more sustainable, long-term investment in First Peoples communities and businesses:

The ability to finance long-term infrastructure and maintenance for communities and businesses to run and ... to use as a source of economic independence, which may lead to addressing issues around energy or food sovereignty issues that are very important and critical to us all, would be of great benefit in the long run.²³³

ASSOCIATE PROFESSOR MICHELLE EVANS

Karen Milward also said there was an opportunity to establish ‘an economic prosperity fund or investment fund’ through treaty. Such a fund would invest ‘in Aboriginal people to be business owners and entrepreneurs, to support young people to realise that potential as well, so whether it is true start-ups and then ... helping with getting long-term contracts’.²³⁴

Yoorrook heard about the Goulburn Murray Regional Prosperity Plan (GMRPP),²³⁵ which was conceived as ‘a positive investment-based model’:

We must shift from a top-down government funding model that responds to the current or next crisis, to a new investment-based approach that is designed to avoid being driven by crisis responsiveness, and which engenders optimism and aspiration. Our new and innovative approach — captured in the Goulburn Murray Regional Productivity and Prosperity Plan ... was launched in partnership with the region and the state Government in 2021. The Plan aims to shift the prevailing paradigm from a deficit-based, crisis intervention approach to a positive investment-based model that recognises and values the economic, social and cultural contribution of Yorta Yorta and First Nations people to our region.²³⁶

KAIELA INSTITUTE

The GMRPP is a model of collective social investment that aims to enhance the social and economic prosperity of the entire region.²³⁷ As Uncle Paul Briggs (Yorta Yorta) executive Chair of the Kaiela Institute explained, the GMRPP is a paradigm shift from the status quo of short-term, crisis-based investment:

[W]e have worked with the leadership of the Goulburn Murray and with Indigenous communities with Yorta Yorta people to develop a plan that would see us integrated ... into the regional economy and driving our levels of self-independence at a family-based level and having those wellbeing indicators, that is commensurate with enjoying life. The Kaiela Institute has put this on the table for both State and Commonwealth. It was launched in 2021 by Minister Pulford in Shepparton and ... it is still looking for that investment from government and from industry. Because it challenges us to work outside the silos, and to have a holistic approach to driving the wellbeing and the future of Yorta Yorta people, where people are aspirational about their investment in regional priorities, and investment in regional industries and buying into the notion that the investment in regional priorities is an investment into the future for Yorta Yorta people.²³⁸

UNCLE PAUL BRIGGS

The GMRPP demonstrates how moving from deficit-based approaches to positive investment models can value and enhance First Peoples’ economic, social and cultural contributions.

The role of Victorian Traditional Owners Trusts, which hold settlement funds under *Traditional Owner Settlement Act 2010* (Vic) agreements, should also be considered in assessing the landscape of existing funds intended for investment in First Peoples

communities. The Victorian Traditional Owners Funds Limited is a not-for-profit public company limited by guarantee whose sole member is the Secretary for the Department of Premier and Cabinet with responsibilities exercised by the Deputy Secretary First Peoples–State Relations.²³⁹

The establishment of a capital investment fund is supported by research and engagement work, including the Australian National University project *Murru waaruu (On Track)*.²⁴⁰ The outcomes report for *Murru waaruu (On Track)* suggested areas of reform for economic prosperity, including reform to rights to land, waters, sea Country and cultural and intellectual property, and improving access to financial assets.²⁴¹ For the latter, several proposals were put forward,²⁴² including a

special investment vehicle that uses the Commonwealth’s balance sheet to de-risk and lower the hurdle rate for private investors, conventional state and Commonwealth First Nations financing organisations, and other Commonwealth funded special investment vehicles (e.g. Northern Australia Infrastructure Facility, Clean Energy Finance Corporation). This would be used for investments in First Nations ventures to support economic self-determination.²⁴³

The First Nations Finance Authority in Canada is an international capital investment example. Legislated under the *First Nations Fiscal Management Act 2006* (Canada), it gives access to long-term affordable financing and investment services to First Peoples.²⁴⁴ First Peoples use this financing to promote economic prosperity by investing in infrastructure and projects, ‘including water treatment, roads, housing, schools, health, security and emergency services, renewable energy and aquaculture’.²⁴⁵ Since its inception, the First Nations Finance Authority has launched short and long-term loans programs, surpassing \$2 billion in loans to its members in 2024. It received multiple rating upgrades and became self-sufficient, no longer relying on external funding.²⁴⁶

A dedicated capital fund in Victoria, held and managed independently by First Peoples, could allow First Peoples to engage in the capital market as investors and support investment in First Peoples businesses, giving First Peoples greater control over their own funds and encouraging growth pathways for First Peoples businesses.²⁴⁷ The Self-Determination Fund is one possible ‘ready-made vehicle’ for the establishment of this and other funding opportunities.²⁴⁸

Self-determination and supporting a First Peoples’ economy

Self-determination is to remove dependency, something that us as a community basically did pre 1788. We had our self-determination. We had our meeting places, we had our trading points. We had food on the table for every meal. There was no poverty. There was no need ... So what we need to do is break those chains that are being put in place through colonisation and create jobs for mob and create opportunities more for mob with mob.²⁴⁹

MATTHEW LEEDER

Yoorrook heard that the Victorian Government must commit to supporting and resourcing First Peoples’ economic independence and self-determination.²⁵⁰ Self-determined economic development and opportunities to engage in diverse economies and investment are essential to addressing historical deprivation and current disparities. As outlined by Matthew Leeder (Dja Dja Wurrung, Palawa) in the quote above, there is a need to break the chains of state-imposed dependency and return to self-determination.²⁵¹

Self-determination in an economic context encompasses First Peoples’ decision-making and authority over all aspects of economic life.²⁵² It includes First Peoples’ rights to pursue their own economic development as well as fully participate in the economic activities of the State.

The First Peoples’ Assembly of Victoria presented two international case studies to demonstrate how self-determination can support economic prosperity.²⁵³ The first case study relates to how treaty has supported the Māori economy in Aotearoa (New Zealand).²⁵⁴ The other example details how in the United States of America, ‘federal policies of tribal self-determination’ are leading to ‘increasing numbers of tribes ... becoming the economic engines of their regions’.²⁵⁵ Reported benefits include increases in average income levels and a reduction in the rate of ‘children living in poverty on reservations ... from 47.3% in 1989 to 23.5% today’.²⁵⁶

Aboriginal self-determination, in its true sense as detailed in UNDRIP, cannot be achieved without economic development and a level of economic independence supported by a strong ‘Aboriginal economy’.²⁵⁷

FEDERATION OF VICTORIAN TRADITIONAL OWNER CORPORATIONS

For First Peoples, economic prosperity is broader than individual and commercial wealth and embraces culture, community and Country.²⁵⁸ FVTOC explained:

For many First Peoples, wealth is not just about material accumulation but is also perceived in nonmonetary terms — embracing notions of social, natural and cultural capital — such as collective well-being and care of relationships between family, community and Country. First Nations economies are based on distribution, reciprocity and exchange that support the livelihood and sustenance of all citizens and the health of Country. First Peoples also place great emphasis on cultural abundance such as buildings, sites, artworks and artefacts (tangible) as well as beliefs and traditions (intangible).²⁵⁹

FEDERATION OF VICTORIAN TRADITIONAL OWNER CORPORATIONS

Re-establishing a ‘distinct Aboriginal economy’ is crucial to achieving economic self-determination.²⁶⁰ Yoorrook heard that the concept of a First Peoples’ economy may include different elements such as:

- employment
- First Peoples businesses and cultural enterprises
- rights to land and resources
- land management.²⁶¹

Uncle Paul Briggs explained the importance of strengthening First Peoples’ economies:

I don’t think there is any one answer to how we do this, but I think cultural expression and cultural affirmation is a way to do this, the value of our cultural expression in our economy, so we are not asked to leave elements of our cultural integrity when we enter the Western space.²⁶²

UNCLE PAUL BRIGGS

Yoorrook heard that the State must invest in rebuilding the First Peoples’ economy,²⁶³ including through restoring the rights to land and other resources, and valuing First Peoples’ cultural knowledges and intellectual capital.²⁶⁴ Yoorrook heard that respect and recognition of First Peoples’ cultural heritage can result in economic benefits for all Victorians, including through the creation of industries, archaeology and tourism.²⁶⁵ The Victorian Government identified a ‘significant opportunity ... to encourage more international visitors to participate in Aboriginal activities in Victoria’ when in 2019, approximately ‘438,000 international visitors ... displayed a strong interest in engaging in Aboriginal activities’.²⁶⁶

First Peoples’ carriage of cultural knowledge can create economic benefits. Yoorrook heard that art and cultural production,²⁶⁷ cultural tourism,²⁶⁸ cultural centres,²⁶⁹ sharing cultural practices (including possum cloak making, weaving and tool creation),²⁷⁰ traditional medicine²⁷¹ and food production and bushtucker²⁷² are examples of the application of beneficial cultural knowledges to contribute to economic prosperity.²⁷³

For example, the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation has led the redevelopment of Galeena Beek on the former Coranderrk site near Healesville to create the Nangenala Cultural Centre.²⁷⁴ The Nangenala Cultural Centre, set to open in 2025, is a ‘critical strategic venture’ envisioned as both ‘a centre for Wurundjeri Woi-wurrung people, and a popular attraction’. It will initially include exhibits and installations, storytelling and gathering spaces.²⁷⁵ The vision for the Nangenala Cultural Centre shows how First Peoples cultural enterprises can align cultural values with economic development.

The way forward

While the State has made some efforts to address economic inequity for First Peoples in Victoria, current policies have made limited progress to address the intergenerational, systemic and intersecting forms of injustice that First Peoples experience.²⁷⁶ This underscores the need for more effective and sustainable solutions.

Only self-determination will provide the whole-of-system approach needed to increase economic prosperity for First Peoples.²⁷⁷ Policies promoting First Peoples’ economic self-determination can also address gaps in current public policy frameworks aimed at reducing disadvantage and deliver important benefits to the government and taxpayers.

Necessary steps include but are not limited to:

- investing in First Nations employment
- improving intergenerational wealth
- addressing racism, cultural safety and cultural load in workplaces
- improving procurement models
- bolstering other supports for First Peoples businesses and cultural enterprises.

Establishing a permanent dedicated fund for First Peoples’ capital raising and investment would significantly advance economic self-determination and prosperity. First Peoples and the State should negotiate this matter through treaty.

Recommendations

RECOMMENDATION 91

The Victorian Government must:

- a. Revise the implementation timeline and proposed goals of the *Yuma Yirramboi Strategy*, including developing a publicly accessible monitoring and accountability plan for the strategy.
- b. Incentivise major corporations in Victoria’s private sector to embed more First Peoples businesses in supply chains.
- c. Change procurement monitoring and targets from number of contracts to total dollars spent to accurately reflect investment.
- d. Develop, resource and implement an Indigenous Preferred Procurement Program.

RECOMMENDATION 92

The Victorian Government must assist recruitment, development, and retention of First Peoples in the workplace by:

- a. Amending the *Occupational Health and Safety Act 2004* (Vic) to include an obligation on employers and employees to take steps to ensure cultural safety and capability in Victorian workplaces.
- b. Creating a pipeline of First Peoples talent for identified industries with skills shortages, including bolstering access to education and vocational training for First Peoples to prepare them for high-value employment sectors.
- c. Monitoring and ensuring proper pay and conditions against defined targets for First Peoples in the public sector.
- d. Monitoring and ensuring proper remuneration for the cultural load borne by First Peoples in the workplace.
- e. Ensure the private sector develops recruitment, development, mentoring and retention strategies for First Peoples and support the private sector in developing such strategies.

RECOMMENDATION 93

The Victorian Government must take steps to ensure increased First Peoples representation on both company and government boards through improved accountability and transparency measures, including requirements to publicly disclose board diversity and report annually on First Peoples representation.

RECOMMENDATION 94

The Victorian Government must ensure that the Self-Determination Fund is adequately resourced on a guaranteed, ongoing basis to meet its current and future purposes.

RECOMMENDATION 95

The Victorian Government must negotiate with First Peoples to establish a capital fund, through the Self-Determination Fund or other means, to enable investment by First Peoples and First Peoples organisations in capital markets and other initiatives to promote economic prosperity.

Endnotes

1. Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 7.
2. Witness Statement of Secretary Tim Ada, 13 June 2024, 5 [34].
3. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 5 [VII]; Lowanna Moore and Jennifer Mason, Submission 543 ([Video Submission](#)), 2–4.
4. Yoorrook notes that at the time he gave evidence in June 2024, Tim Pallas was Treasurer of Victoria. As of December 2024, the Hon Jaclyn Symes is the Treasurer. See Premier of Victoria, Hon Jacinta Allan MP, ‘[A Strong And Focused Team To Build Homes And Help Families](#)’ (Webpage, 19 December 2024).
5. Transcript of Treasurer Tim Pallas MP, 26 June 2024, 60 [32]–[33]; Victorian State Government, Submission to Issues Paper 1 (Criminal Justice and Child Protection), 7, citing Aboriginal Protection Act 1869 (Vic) s 2; Australian Human Rights Commission, [Bringing them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families](#) (Report, April 1997), 51.
6. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 8.
7. First Peoples’ Assembly of Victoria, Submission 490 (Education, Health and Housing), 36–37.
8. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 2.
9. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 8.
10. *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976); United Nations High Commissioner for Refugees (UNHCR), United National Human Rights Treaty Bodies, ‘[Ratification Status for CESCR: International Covenant on Economic, Social and Cultural Rights](#)’, *UN Treaty Body Database* (Webpage).
11. *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 6(2).
12. *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 7(a)(i).
13. *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 7(b).
14. *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 7(c).
15. Victoria, Yoorrook Justice Commission, Letters Patent, 1(1).
16. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007).
17. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 20(1).
18. First Peoples’ Assembly of Victoria, Submission 593 (Economic Prosperity), 5.
19. *United Nations Permanent Forum on Indigenous Issues*, [Indigenous Peoples: Development with Culture and Identity: Articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples](#), UN Doc E/C.19/2010/15 (2010).

20. *United Nations Permanent Forum on Indigenous Issues*, [Indigenous Peoples: Development with Culture and Identity: Articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples](#), UN Doc E/C.19/2010/15 (2010).
21. *United Nations Committee on Economic, Social and Cultural Rights*, [Concluding Observations on the fifth periodic report of Australia, Committee on Economic, Social and Cultural Rights: Australia](#), UN Doc E/C-12/AUS/CO/5 (11 July 2017) para 15.
22. Kaiela Institute, Submission 467 (Land, Sky, Waters), 1.
23. See e.g. Chapter 6: Country, Chapter 12: Cultural heritage, Chapter 13: Joint management, Chapter 15: Earth, sea and living things, and Chapter 16: Climate change, renewables and emergencies (cultural fire box).
24. For example, see Dale Kerwin, *Aboriginal Dreaming Paths and Trading Routes: The Colonisation of the Australian Economic Landscape* (Liverpool University Press, 2012); Marcia Langton, Odette Mazel and Lisa Palmer, ‘The ‘Spirit’ of the Thing: The Boundaries of Aboriginal Economic Relations at Australian Common Law’ *Australian Journal of Anthropology* (2006) 17(3) 307, 307–21; Witness Exhibit of Dr Bill Pascoe, ‘[Colonial Violence in Victoria](#)’, 16; Dr Bill Pascoe, Submission 1517 ([Colonial Violence in Victoria](#)).
25. For example, see Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 1 [6]–[8]; Transcript of Damein Bell, 25 March 2024, 9 [36]–[43], 13 [13]–[24]; Transcript of Ngarra Murray, Co-Chair of First Peoples’ Assembly of Victoria, 17 April 2024, 4 [23]–[37]; Transcript of Aunty Maude Alberts, 25 March 2024, 27 [39]–28 [15]; Transcript of Professor Richard Broome, 26 March 2024, 16 [14]–[26]; Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 10 [86]; Reconciliation Australia, Submission 518 (Economic Prosperity), 1. See also Sharlene Leroy-Dyer, ‘A Brief History of Aboriginal and Torres Strait Islander Involvement in the Australian Labour Market’ (2021) 24(1–2) *Journal of Australian Indigenous Issues* 35, 36–7.
26. Mick Harding, Submission 891 ([Video Submission](#)), 21.
27. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 14.
28. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 8.
29. See Transcript of Professor Marcia Langton, 27 March 2024, 22 [35]–23 [2], citing Comparison of Extract from Colonial Frontier Massacre Map, [South-West Victoria](#) and ‘[Map Showing the Pastoral Holdings of the Port Phillip District: 1835–51](#)’. See also Transcript of Professor Henry Reynolds, 27 March 2024, 12 [19]–[21]; Richard Broome, *Aboriginal Victorians: A History Since 1800* (Allen & Unwin, 2nd ed, 2024), 54.
30. Associate Professor Nikki Moodie, Submission 526, 2.
31. Samuel Furphy, ‘Edward Micklethwaite Curr’s Recollections of Squatting: Biography, History and Native Title’ in Penelope Edmonds and Samuel Furphy (eds), *Rethinking Colonial Histories: New and Alternative Approaches* (History Department, University of Melbourne, 2006), 36, citing *New Zealand Spectator*, 16 January 1856.
32. Witness Statement of Minister Lily D’Ambrosio MP, 8 March 2024, 9 [41].
33. Yoorrook notes that at the time he gave evidence in June 2024, Tim Ada was Secretary of Department of Jobs, Skills, Industry and Regions. As of 28 February 2025, Matt Carrick is the Secretary of Department of Jobs, Skills, Industry and Regions. See Premier of Victoria, Hon Jacinta Allan MP, ‘[A Strong And Focused Team To Build Homes And Help Families](#)’ (Webpage, 19 December 2024).

34. Transcript of Secretary Tim Ada, 26 June 2024, 85 [41]–[45].
35. Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 16 [124], citing Royal Commission on the Aborigines, [Report of the Commissioners Appointed to Inquire into the Present Condition of the Aborigines of This Colony and to Advise as to the Best Means of Caring for and Dealing With Them in the Future](#) (Melbourne: Government Printer, 1877), vii–xv; Victorian State Government, Response to Issues Paper on Systemic Injustice in the Criminal Justice System, 7.
36. Yoorrook Justice Commission, *Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems* (Report, 31 August 2023), 51.
37. Victorian State Government, Submission to Issues Paper 1 (Criminal Justice and Child Protection), 7–8, citing Aboriginal Protection Act 1869 (Vic) s 2. See also Australian Human Rights Commission, [Bringing them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families](#) (Report, April 1997), 51.
38. Transcript of roundtable with Dja Dja Wurrung Clans Aboriginal Corporation, 25 November 2023, 28, served on the State of Victoria on 1 April 2024.
39. Victorian Aboriginal Child and Community Agency, Submission 77 (Child Protection), 50; First Peoples’ Assembly of Victoria, Submission 378 (Land, Sky, Waters), 25; Yoorrook Justice Commission, *Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems* (Report, 31 August 2023), 53.
40. Witness Statement of Aunty Fay Carter, 29 April 2022, 11–12 [52]–[53].
41. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 8.
42. Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 9; Professor Andrew Gunstone, Submission 573 (Economic Prosperity); Andrew Gunstone and Sadie Heckenberg, ‘*The Government Owes a Lot of Money to Our People: A History of Stolen Wages in Victoria*’ (Australian Scholarly Publishing, 2009), 72–77. See also Rosalind Kidd, [Hard Labour, Stolen Wages – National Report on Stolen Wages](#) (Report, 2007), 9, 117–118.
43. See Professor Andrew Gunstone, Submission 573 (Economic Prosperity); Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 9.
44. Rosalind Kidd, [Hard Labour, Stolen Wages – National Report on Stolen Wages](#) (Report, 2007), 8.
45. Professor Andrew Gunstone, Submission 573 (Economic Prosperity); Andrew Gunstone, ‘[Indigenous Stolen Wages and Campaigns for Reparations in Victoria](#)’ (2014) 8(12) *Indigenous Law Bulletin* 3, 3; Andrew Gunstone and Sadie Heckenberg, ‘*The Government Owes a Lot of Money to Our People: A History of Stolen Wages in Victoria*’ (Australian Scholarly Publishing, 2009), xv, 22; Rosalind Kidd, [Hard Labour, Stolen Wages: National Report on Stolen Wages](#) (Report, 2007), 122.
46. Transcript of Aunty Alma Thorpe, 4 May 2022, 187 [41]–[45]; Witness Statement of Aunty Dr Alma Thorpe, 3 May 2022, 18 [107]; Witness Statement of Marcus Stewart, inaugural Co-Chair of the First Peoples’ Assembly of Victoria, 29 April 2022, 26–27 [73] (citations omitted); Transcript of Nerita Waight, 13 June 2024, 5 [13]–[19]; Marie Fels, ‘[I Succeeded Once’: The Aboriginal Protectorate on the Mornington Peninsula, 1839–1840](#)’ (ANU E Press, 2011), 9–10, 135, 325–392.

47. Witness Statement of Minister Natalie Hutchins MP, 18 March 2024, 8 [29], citing [Board for the Protection of Aborigines, Twenty-Sixth Report: Domestic service and conditions of work contracts](#) (Melbourne: Government Printer, 1890), 4, 22; [Board for the Protection of Aborigines, Nineteenth Annual Report](#) (1884), 14. State of Victoria, [Report of the Board appointed to enquire into, and report upon, the present condition and management of the Coranderrk Aboriginal Station, together with the minutes of evidence](#) (Melbourne: State of Victoria, 1882). See also Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 21 [153].
48. Witness Statement of Marcus Stewart, inaugural Co-Chair of the First Peoples’ Assembly of Victoria, 29 April 2022, 26–27 [73] (citations omitted). See also Witness Statement of Aunty Dr Alma Thorpe, 3 May 2022, 18 [107]; Marie Fels, ‘[I Succeeded Once’: The Aboriginal Protectorate on the Mornington Peninsula, 1839–1840](#)’ (ANU E Press, 2011), 9–10, 135, 325–392.
49. Witness Statement of Marcus Stewart, inaugural Co-Chair of the First Peoples’ Assembly of Victoria, 29 April 2022, 26–27 [73] (citations omitted).
50. See also Chapter 7: How colonisers stole Country.
51. Rosalind Kidd, [Hard Labour, Stolen Wages – National Report on Stolen Wages](#) (Report, 2007), 177; Andrew Gunstone and Sadie Heckenberg, ‘*The Government Owes a Lot of Money to Our People: A History of Stolen Wages in Victoria*’ (Australian Scholarly Publishing, 2009), 71–72, 78–79; Professor Andrew Gunstone, Submission 573 (Economic Prosperity) ‘[The Government Owes a Lot of Money to Our People](#)’.
52. Andrew Gunstone and Sadie Heckenberg, ‘*The Government Owes a Lot of Money to Our People: A History of Stolen Wages in Victoria*’ (Australian Scholarly Publishing, 2009), 71, citing Rosalind Kidd, [Hard Labour, Stolen Wages – National Report on Stolen Wages](#) (Report, 2007), 177; Richard Broome, *Aboriginal Victorians: A History Since 1800* (Allen & Unwin, 2nd ed, 2024), 155–156. See also Professor Andrew Gunstone, Submission 573 (Economic Prosperity) ‘[The Government Owes a Lot of Money to Our People](#)’.
53. Witness Statement of Ngarra Murray, Co-Chair of First Peoples’ Assembly of Victoria, 11 April 2024, 19 [56].
54. Rosalind Kidd, [Hard Labour, Stolen Wages: National Report on Stolen Wages](#) (Report, 2007), 122; See Professor Andrew Gunstone, Submission 573 (Economic Prosperity); History Matters, *Indigenous Stolen Wages Preliminary Investigation – Stage Two: Determining Implementation* (Report, 2009), 4–5.
55. Professor Andrew Gunstone, Submission 573 (Economic Prosperity); Andrew Gunstone, ‘[Indigenous stolen wages and campaigns for reparations in Victoria](#)’ (2014) 8(12) *Indigenous Law Bulletin* 3, 3; Herbert Smith Freehills, *Comparative Analysis of Indigenous Trust Fund Repayment Schemes in Australia – Report for Wampan Wages* (Report, 14 January 2013).
56. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 10.
57. Transcript of Aunty Fay Carter, 2 May 2022, 166 [4]–[6]; Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 16; Human Rights and Equal Opportunity Commission, [Bringing them home, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their families](#) (Report, 1997), 22.
58. Transcript of Hayley McQuire and Dr Mati Keynes, 5 June 2024, 48 [15]–[29]; Transcript of Donna, Tina, Joanna and Sonny Wright, 1 March 2023, 14 [6]–[10]; Transcript of Aunty Dr Alma Thorpe, 4 May 2022, 187 [25].

59. Witness Outline of Donna, Tina, Joanna and Sonny Wright, 1 March 2023, 6 [43]–[44], 7 [53]; Transcript of Donna, Tina, Joanna and Sonny Wright, 1 March 2023, 21 [25]–[27]; History Matters, *Indigenous Stolen Wages Preliminary Investigation, Stage One: Establishing the Legal Framework* (Report, 2009), 4–5. See also Professor Andrew Gunstone, Submission 573 (Economic Prosperity).

60. Transcript of Nerita Waight, 13 June 2024, 5 [13]–[19].

61. Transcript of Aunty Dr Alma Thorpe, 4 May 2022, 187 [27].

62. Uncle Talgium Edwards, Submission 321 (‘Talgium of the Taungurung Volume 1’), 44.

63. Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 21 [153]. See also Witness Statement of Minister Gabrielle Williams MP, 3 May 2022, 7 [56]; Transcript of Minister Gabrielle Williams MP, 6 May 2022, 327 [38]–[45].

64. See Professor Andrew Gunstone, Submission 573 (Economic Prosperity); Minister for Aboriginal Affairs, *Minister for Aboriginal Affairs Statement on Stolen Wages Report* (2009), 1; Public Record Office Victoria, *Request for Quotation (RFQ) Indigenous Stolen Wages: Preliminary Investigation* (2007) 5–6; Andrew Gunstone and Sadie Heckenberg, ‘*The Government Owes a Lot of Money to Our People*’: A History of *Stolen Wages in Victoria* (Australian Scholarly Publishing, 2009), xvii; Andrew Gunstone, ‘[Indigenous Stolen Wages and Campaigns for Reparations in Victoria](#)’ (2014) 8(12) *Indigenous Law Bulletin* 3, 3–7.

65. Commonwealth of Australia, [Unfinished business: Indigenous Stolen Wages](#) (Report of the Senate Standing Committee on Legal and Constitutional Affairs, 2006), 24–25, 49.

66. History Matters, *Indigenous Stolen Wages Preliminary Investigation, Stage One: Establishing the Legal Framework* (Report to Aboriginal Affairs Victoria and Public Record Office Victoria, 2009); History Matters, *Indigenous Stolen Wages Preliminary Investigation, Stage Two: Determining Implementation* (Report to Aboriginal Affairs Victoria and Public Record Office Victoria, 2009). See also Professor Andrew Gunstone, Submission 573 (Economic Prosperity).

67. History Matters, *Indigenous Stolen Wages Preliminary Investigation, Stage One: Establishing the Legal Framework* (Report, 2009) 3; History Matters, *Indigenous Stolen Wages Preliminary Investigation, Stage Two: Determining Implementation* (Report, 2009), 3–5, 49. See also Professor Andrew Gunstone, Submission 573 (Economic Prosperity).

68. Public Interest Law Clearing House, *Indigenous Labour Denied – Stolen Wages in Victoria. A Response to the Victorian Government ‘Indigenous Stolen Wages Preliminary Investigation’: Stage One and Two Reports* (2010), 2. See also Professor Andrew Gunstone, Submission 573 (Economic Prosperity).

69. See Professor Andrew Gunstone, Submission 573 (Economic Prosperity); Andrew Gunstone, ‘A History of Exclusion: Indigenous People and Social Security’ (2010) 13(2) *Journal of Australian Indigenous Issues* 34–44; Andrew Gunstone, ‘Indigenous Peoples and Stolen Wages in Victoria, 1869–1957’ in Natasha Fijn, Ian Keen, Christopher Lloyd and Michael Pickering (eds), *Indigenous Participation in Australian Economies II* (ANU Press, Canberra, 2012), 181–195; Andrew Gunstone and Sadie Heckenberg, ‘*The Government Owes a Lot of Money to Our People*’: A History of *Indigenous Stolen Wages in Victoria* (Australian Scholarly Publishing, Melbourne, 2009).

70. See e.g., Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 21 [153]–[154]; Witness Statement of Minister Natalie Hutchins MP, 18 March 2024, 7–8 [29], [31]; Witness Statement of Secretary Tim Ada, 13 June 2024, 5 [34]; Transcript of Minister Gabrielle Williams MP, 6 May 2022, 327 [38]–[45].

71. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 8; Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 10; Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 17; Andrew Gunstone and Sadie Heckenberg, ‘*The Government Owes a Lot of Money to Our People*’: A History of *Stolen Wages in Victoria* (Australian Scholarly Publishing, 2009), xv. See also Professor Andrew Gunstone, Submission 573 (Economic Prosperity).

72. Human Rights and Equal Opportunity Commission, [Bringing them home, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their families](#) (Report, 1997); Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 10; Victorian Aboriginal Child and Community Agency, Submission 472 (Health), 14.

73. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 17.

74. Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 10.

75. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 661 (Economic Prosperity), 1.

76. Witness Statement of Secretary Tim Ada, 13 June 2024, 4–5 [29]–[36].

77. Productivity Commission, [Fairly equal? Economic mobility in Australia: Research Paper](#) (Report, 2024), 55.

78. Dja Dja Wurrung Clans Aboriginal Corporation, Dhelkunya Dja Policy team, Submission 594 (Economic Prosperity), 6.

79. Witness Statement of Ngarra Murray, Co-Chair of First Peoples’ Assembly of Victoria, 11 April 2024, 20 [58], 20 [61].

80. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 27.

81. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Education, Health, Housing), 30.

82. Witness Statement of Treasurer Tim Pallas MP, 24 June 2024, 10 [48]–[49].

83. Aboriginal Housing and Homelessness Forum, Submission 536, 11.

84. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Education, Health, Housing) 54–55; Ngaweeyan Maar-oo, Submission 662 (Education, Health, Housing), 32; Adam Davids, Submission 523, 2, citing ABS 2021.

85. Median weekly income in Victoria 2021 for all Victorians: personal — \$803, household — \$1759: Australia Bureau of Statistics, ‘[Victoria: 2021 Census All persons QuickStats](#)’ (Webpage). Median weekly income in Victoria 2021 for Aboriginal and/or Torres Strait Islander people aged 15 years and over: personal — \$619, household — \$1565: Australia Bureau of Statistics, ‘[Victoria: 2021 Census Aboriginal and/or Torres Strait Islander people QuickStats](#)’ (Webpage).

86. In 2021, 78.4 per cent of non-Indigenous peoples aged 25 to 64 years in Victoria were employed, compared to 62.0 per cent per cent of Aboriginal or Torres Strait Islander people: Productivity Commission, Closing the Gap: Information Repository, ‘[Socio-economic outcome area 8](#)’, Figure/Table CtG8.1 (Data dashboard).

87. In 2021, 52 per cent of First Peoples in Victoria (aged 15 years and over) were employed full time, compared to 56.2 per cent of all people in Victoria: Australian Bureau of Statistics, ‘[Victoria: 2021 Census Aboriginal and/or Torres Strait Islander people QuickStats](#)’, *Employment status* (Webpage); Australian Bureau of Statistics, [Victoria: 2021 Census All Persons Quick Stats](#), *Employments status* (Webpage, 2021).

88. For instance, in 2021 the most common occupations held by First Nations people in Victoria were ‘Professionals’ (16.8 per cent), ‘Community and Personal Service Workers’ (16.2 per cent) and ‘Technicians and Trades Workers’ (14.1 per cent): Australian Bureau of Statistics, ‘[Victoria: 2021 Census Aboriginal and/or Torres Strait Islander people QuickStats](#)’, *Employment status* (Webpage). In comparison, the most common occupations across Victoria are ‘Professionals’ (25 per cent), ‘Managers’ (14 per cent), and ‘Technicians and Trades Workers’ (12.6 per cent): Australian Bureau of Statistics, ‘[Victoria: 2021 Census All Persons Quick Stats](#)’, *Occupation* (Webpage).

89. Australian Bureau of Statistics, ‘[Victoria: 2021 Census Aboriginal and/or Torres Strait Islander people QuickStats](#)’, *Employment status* (Webpage); Australian Bureau of Statistics, ‘[Victoria: 2021 Census All Persons Quick Stats](#)’, *Employments status* (Webpage, 2021).

90. Witness Statement of Secretary Tim Ada, 13 June 2024, 4 [31].

91. Self-Determination Fund, Submission 595, 3; First Peoples’ Assembly of Victoria, ‘[Self-Determination Fund](#)’ (Webpage).

92. Self-Determination Fund, Submission 595, 10.

93. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Education, Health, Housing), 30.

94. Adam Davids, Submission 523, 2, citing First Nations Foundation 2024.

95. Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 22–24; Consumer Action Law Centre, Submission 1433.

96. Common measures of financial stress include housing stress, security of necessities, and the ability to adapt to fluctuations in income and cost of living, such as the ability to raise funds in an emergency: Australian Institute of Health and Welfare, ‘[Income and finance of First Nations people](#)’, *Financial Stress* (Webpage, 7 September 2023).

97. Witness Outline of Dr Eddie Cubillo, 3 February 2023, 8 [46].

98. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 17, citing First Nations Portfolio, Australian National University, *Marramarra murrú (Creating Pathways)* (First Nations Economic Development Symposium Background Paper, 2002), 31.

99. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 29–30.

100. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 25–26, citing Commonwealth of Australia, Senate Standing Committee on Community Affairs, *Adequacy of Newstart and related payments and alternative mechanisms to determine the level of income support payments in Australia* (Report, 2020), [6.149].

101. Yoorrook was told that despite First Peoples having lower life expectancy than non-Indigenous peoples, they are not able to access age pensions or superannuation at lower ages. Yoorrook heard calls to lower the age requirement for age pensions. See, for example, Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 661 (Economic Prosperity), 11; Uncle Dennis Fisher, Submission 560, 6; Djirra, Submission 411 (Education, Health, Housing), 18; Transcript of roundtable with Gurnaikurnai Land and Water Aboriginal Corporation, 30 November 2023 (Part 3), 45. See also Closing the Gap Information Repository, ‘[Social-economic outcome area 1](#)’ (Webpage).

Yoorrook also heard about issues relating to higher education support packages (e.g. see Aboriginal Justice Caucus, Submission 557 (Education, Health, Housing), 73–75) and barriers to accessing disability support initiatives (e.g. see Victorian Aboriginal Child and Community Agency, Submission 539 (Economic), 26; Djirra, Submission 411 (Education, Health, Housing), 18.).

102. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 25–26, citing 2020 Adequacy of Newstart inquiry; Law and Advocacy Centre for Women, Submission 29, 10–11; Transcript of roundtable with Gurnaikurnai Land and Water Aboriginal Corporation 30 November 2023 (Part 3), 45.

103. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic Prosperity), 24.

104. Law and Advocacy Centre for Women, Submission 29, 10–11.

105. See Yoorrook Justice Commission, *Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems* (Report, 31 August 2023), 183–185, 199, 201.

Yoorrook for Justice recommended action to remedy this (see Recommendation 20b).

106. During 2023, Jobs Victoria supported 123 female and 168 male First Nations jobseekers into work placements, compared to 331 women and 451 men in 2022. This reflects the lowest annual numbers of Aboriginal jobseekers supported since 2017: Victorian Government, *Victorian Government Aboriginal Affairs Report 2023* (Report, 2024), 91.

107. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Education, Health, Housing), 30.

108. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Education, Health, Housing), 45; Victorian Government, [Victorian Government Aboriginal Affairs Report 2023](#) (Report, 2024), 93.

109. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Education, Health, Housing), 45, citing Lowitja Career Pathways Report – Working for Our People (2020).

110. Anonymous 96, Submission 96, 2; Dale Wandin, Submission 506, 4; Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Education, Health, Housing), 43; Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 26–27.

111. Alison Markwick et al, ‘Experiences of racism among Aboriginal and Torres Strait Islander adults living in the Australian state of Victoria: a cross-sectional population-based study’ (2019) 19 *BMC Public Health* 1, 2.

112. A national survey conducted by Western Sydney University found that 50.4 per cent of First Peoples experienced racial discrimination in the workplace, compared to 32.4 per cent of non-Indigenous people. Table 13 in Kathleen Blair et al, [Challenging Racism Project: 2015-16 National Survey Report](#) (Report, February 2017), 11. See also Debbie Bargallie, Bronwyn Carlson and Madi Day, [Make Us Count: Understanding Aboriginal women's experiences in Victorian public sector workplaces](#) (Report, 2023), 21.

113. One in five of these participants worked in organisations with both a racism complaint procedure and anti-discrimination compliance training that included reference to Indigenous discrimination and harassment. One in three of these participants received the workplace support required following their experience: Diversity Council Australia and Jumbunna Institute, ‘[Gari Yala \(Speak the Truth\): Centring the work experiences of Aboriginal and/or Torres Strait Islander Australians](#)’ (Webpage, November 16 2020).

114. See for example, Victorian Public Sector Commission, [Acknowledging the Lived Experience of Aboriginal Employees: Data and Insights to Help Improve the Experience for Aboriginal Employees in the Public Sector](#) (Report, 2023), 25. See also Mladen Adamovic and Andreas Leibbrandt, [Is there a glass ceiling for ethnic minorities to enter leadership positions? Evidence from a large-scale field experiment with over 12,000 job applications](#) (Monash University, Discussion Paper, 2024).

115. Transcript of Rueben Berg, Co-Chair of First Peoples’ Assembly of Victoria, 28 May 2024, 35 [30]–[40].

116. Transcript of Rueben Berg, Co-Chair of First Peoples’ Assembly of Victoria, 28 May 2024, 35 [12]–[21].

117. Victorian Aboriginal Legal Service, Submission 569 (Economic Prosperity), 18; Reconciliation Australia, Submission 518 (Economic Prosperity), 2–3; Anonymous 476, Submission 476, 3.

118. Anonymous 96, Submission 96, 2; Ed Story, Submission 200, 2. See also Victorian Alcohol and Drug Association, Submission 458 (Literature review of the Alcohol and Drug System), 11; Victorian Aboriginal Health Service, Submission 671 (VAHS Fitzroy Group 1), 3.

119. See also Suzanne Plater et al, ‘[Hitting the white ceiling: Structural racism and Aboriginal and Torres Strait Islander university graduates](#)’ (2019) 56(3) *Journal of Sociology*, 487–504.

120. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 661 (Economic Prosperity), 3.

121. Jumbunna Institute and Australian Education Union, [Making our words and actions meet: Understanding the experiences of Aboriginal and Torres Strait Islander educators in the workforce](#) (Report, 2023), 2.

122. Victorian Aboriginal Health Service, Submission 673 (VAHS Preston Group), 16.

While ACCOs are the largest employer of First Peoples across Victoria, they often receive limited sustainable funding and are not always able to pay workers the same salaries or provide the entitlements they might receive in other sectors. See Chapter 33: Aboriginal community controlled healthcare. See also First Peoples’ Health and Wellbeing, Submission 623, 5; Ngaweeyan Maar-oo, Submission 662 (Education, Health, Housing), 30.

123. See also Chapter 21: Workforce.

124. See also Anonymous 985, Submission 985; Ed Story, Submission 200; Bek, Submission 1295, 1; Ngaweeyan Maar-oo, Submission 662 (Education, Health, Housing), 32.

125. Ngaweeyan Maar-oo, Submission 662 (Education, Health, Housing), 32.

126. Victorian Public Sector Commission, *Barring Djinang: First Peoples Workforce Development Framework* (Framework, 2017).

127. In 2023, the number of First Peoples employees in the Victorian Public Service was 705: Victorian Government, *Victorian Government Aboriginal Affairs Report 2023* (Report, 2024), 95.

128. Victorian Public Sector Commission, [Acknowledging the Lived Experience of Aboriginal Employees: Data and Insights to Help Improve the Experience for Aboriginal Employees in the Public Sector](#) (Report, 2023), 25.

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134. Anonymous 405, Submission 405; Anonymous 476, Submission 476, 1 Transcript of roundtable with Wadawurrung Traditional Owners Aboriginal Corporation, 14 December 2023, 21; Transcript of Aunty Charmaine Clarke, 8 December 2022, 213 [31]–[39].

135. Anonymous 476, Submission 476, 1.

Another anonymous submission from another person in an Aboriginal-identified role within the VPS said they are paid less than their non-First Nations colleagues for the same work who have less qualifications: Anonymous 405, Submission 405.

136. Anonymous 476, Submission 476, 1.

137. Ngaweeyan Maar-oo, Submission 662 (Education, Health, Housing), 32.

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139. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 661 (Economic Prosperity), 3.

140. Reconciliation Australia, Submission 518 (Economic Prosperity), 6.

141. Kinaway Chamber of Commerce, Submission 658 (Economic Prosperity), 13.

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150. Victorian Government, [Yuma Yirramboi: Victorian Aboriginal Employment and Economic Strategy](#) (Strategy, 2022), 17.

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157. Transcript of Karen Milward, 24 June 2024, 92 [43]–[45].

158. Transcript of Karen Milward, 24 June 2024, 81 [6]–[9].

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160. TVN On-Country, Submission 1255 (Case Study, Munarra Centre), 8–11.

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162. Transcript of Karen Milward, 24 June 2024, 73 [6]–[17].

163. Self-Determination Fund, Submission 595, 7; Transcript of Karen Milward, 24 June 2024, 79 [28]–[46].

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172. Aboriginal Retail Australia Indigenous Corporation, Submission 1443, 2–3.

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178. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 24.

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185. See Victorian Government, Economic Development, Jobs, Transport and Resources, *Tharamba Bugheen: Victorian Aboriginal Business Strategy 2017–21* (Strategy, 2017); Department of Jobs, Skills, Industries and Regions, *Yuma Yirramboi (Invest in Tomorrow): Victorian Aboriginal Employment and Economic Strategy* (Strategy, 2022), 19.

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219. Adam Davids, Submission 523, 4.

220. Transcript of Ian Hamm, 24 June 2024, 99 [44]–100 [4].

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222. Transcript of Karen Milward, 24 June 2024, 79 [28]–[31], 79 [42]–[46].

223. Transcript of Associate Professor Michelle Evans, 24 June 2024, 87 [38]–[40].

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227. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 32.

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250. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 24–5; Dja Dja Wurrung Clans Aboriginal Corporation, Dhelkunya Dja Policy team, Submission 594 (Economic Prosperity), 6–7; Waluwin Foundation, Submission 486, 3; Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 661 (Economic Prosperity), 3.

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263. Dja Dja Wurrung Clans Aboriginal Corporation, Dhelkunya Dja Policy team, Submission 594 (Economic Prosperity), 6–7; Waluwin Foundation, Submission 486, 3; Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 661 (Economic Prosperity), 3; Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 24–5.

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Chapter 37: Political life

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I learned young that as an Indigenous person in this country, I was born into a political existence whether I liked it or not.¹

MINDA MURRAY

The current political system was created by and for the white settler state and is marked by a history of both political exclusion and refusal of Aboriginal and Torres Strait Islander recognition. Currently, the system does not adequately value nor recognise First Peoples voices and up until recently, First Peoples have been excluded entirely from political, economic and indeed broader societal participation.²

VICTORIAN ABORIGINAL COMMUNITY CONTROLLED HEALTH ORGANISATION

Introduction

Colonial systems have long excluded First Peoples in Victoria from participating in the processes and institutions of government. This exclusion, past and present, extends to all areas of the political system in Victoria. Since colonisation, the State has created laws and policies that directly impact First Peoples' lives. Without input from First Peoples, the State has also determined and largely continues to determine how the wealth and resources drawn from First Peoples' lands are collected.³

The State's refusal to include First Peoples in the political process has been longstanding. It is only in the last two decades that Victorian law and policy even began to account for 'Aboriginal peoples' rights and interests, law/lore and relationships to their country'.⁴ As shown in the evidence to Yoorrook, any inclusion of First Peoples in the State political life is limited, circumscribed and reliant on the continuation of political good will. Numerous witnesses to Yoorrook submitted that the State continues to make government policy and laws for First Peoples, rather than with or by First Peoples. Government policy decision making continues to largely disregard the voices of First Peoples Elders, organisations and communities.

Despite this exclusion, First Peoples have a long history of resistance and of directly engaging with political systems to realise rights and effect change. First Peoples trailblazers built the foundation for contemporary fights for justice, empowerment and self-determination. First Peoples continue to influence public opinion, policy and legislation through protests, campaigns and other means of political expression.⁵

There has been significant progress towards a greater political inclusion of First Peoples.⁶ For example, the Victorian Government is leading the nation in its formal commitment to Statewide Treaty and Traditional Owner treaties.⁷ These commitments were made manifest by the establishment and declaration in 2019 of the First Peoples' Assembly of Victoria — a democratically elected body that represents First Peoples in Statewide Treaty processes,⁸ and the Treaty Authority — an independent oversight body to guide the process.⁹ As stated by the Victorian Government in its *Advancing the Victorian Treaty Process Annual Report* for 2023–24, the treaty process is about 'progressing self-determination'.¹⁰ By creating First Peoples' representative bodies, the State has acknowledged the need for political pluralism and representation to achieve this goal.

Despite recent changes, this chapter makes it clear that mainstream political institutions continue to fail First Peoples. As numerous witnesses told Yoorrook, First Peoples' political participation, including through activism and advocacy, formal representation and policy and governance processes, will remain structurally and systemically limited until the State progresses political self-determination. Treaty and representation by the First Peoples' Assembly of Victoria are significant contributors to this progression, but further formal, permanent representation and self-governing mechanisms are needed to ensure First Peoples are making decisions on matters that impact them.

Right to political self-determination

First Peoples have political rights under international instruments referred to in Yoorrook’s Letters Patent,¹¹ including the *United Nations Declaration on the Rights of Indigenous Peoples* (‘*UNDRIP*’),¹² the *International Covenant on Economic, Social and Cultural Rights* (*ICESCR*)¹³ and the *International Covenant on Civil and Political Rights* (*ICCPR*)¹⁴ (see Chapter 3: Self-determination and Chapter 4: Rights).

UNDRIP provides that First Peoples have collective rights to political participation, representation and self-determination.¹⁵ Articles 3 and 4 of *UNDRIP* set out First Peoples’ right to political self-determination. Article 4 makes clear that political self-determination includes First Peoples’ rights to autonomy or self-government in relation to their own affairs, as well as the means of financing these functions:

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.¹⁶

First Peoples also have the rights to strengthen their own political systems and institutions¹⁷ while participating fully in the political life of the State,¹⁸ to participate in decision making in matters concerning their rights,¹⁹ and to give free, prior and informed consent to legislative and administrative measures concerning them.²⁰

The State’s approach is largely inconsistent with these rights.²¹ Human rights lawyer Professor Megan Davis (Cobble Cobble, Barunggam) has explained:

our rights-reluctant culture is sustained by the very strong commitment to ‘parliamentary sovereignty’ in our political and legal system.²²

PROFESSOR MEGAN DAVIS

The absence of a legal framework for enforcing the protection of First Peoples’ political rights perpetuates the limitations to First Peoples’ power and representation. Djirra is an Aboriginal Community Controlled Organisation (ACCO) that delivers family violence support services. In calling for the incorporation of *UNDRIP* into Australian law, Djirra told Yoorrook:

There has been a substantial failure of state, territory and federal governments to end the significant disadvantage inflicted on Aboriginal and Torres Strait Islander people by a country that has not meaningfully addressed its legacy of colonialism, racism, and substantial human rights abuses, which continue to this day as evidenced by the failed [2023 Voice] referendum.²³

DJIRRA

Historical context

Impacts of colonisation on political self-determination

As outlined in Chapter 6: Country, before colonisation, First Peoples had flourishing and complex societies.²⁴ They practised their own methods of political governance according to lore/law and cultural authority, which were passed down across generations. Minda Murray (Yorta Yorta) of the Australian National University told Yoorrook that First Peoples had Nations, governance systems and law ‘since time immemorial’.²⁵ Yet, by 1855, as the Victorian Aboriginal Community Controlled Health Organisation (VACCHO) explained, ‘[m]illenia of Aboriginal lore and custodianship’ were ‘replaced with a Constitution which stated that the laws of England were now to be applied as the laws of Victoria’.²⁶

At Federation in 1901, the law conferred First Peoples the title of ‘British subject’ but continued to deny their civil rights.²⁷ In the decades that followed, governments perpetuated this ongoing exclusion from political participation. The Federation of Victorian Traditional Owner Corporations explained that this exclusion was sustained ‘through laws and policies of segregation, such as the forced relocation of First Peoples onto reserves and missions separate from the settler population, and assimilation, such as the forcible removal of children from their families and communities’.²⁸

In 1967 the Commonwealth Constitution was altered by referendum to formally recognise First Peoples as part of the Australian population.²⁹ However, the 1967 referendum did not shift the distribution of power or resources to First Peoples.³⁰ Moreover, the doctrine of terra nullius prevailed until 1992,³¹ denying First Peoples’ sovereignty and self-determination and justifying the lack of formal political recognition of First Peoples.³²

Under a so-called democratic system, the exclusion of First Peoples from political life for more than a century established and perpetuated the denial of First Peoples as citizens. First Peoples have been prevented from practicing self-governance and were subjected to a colonial legal apparatus that explicitly enforced exclusion based on race.

The State excluded First Peoples from political life

Early Victorian governments and the judiciary shaped the relationship between First Peoples and white society, putting in place laws that increasingly excluded First Peoples from the political sphere. The following box: Key events: systemic exclusion from 1851 to 1967 provides a chronological overview of legislative exclusion from political participation.

KEY EVENTS: SYSTEMIC EXCLUSION FROM 1851 TO 1967

In 1851, the Port Phillip District separated from New South Wales (NSW), and became the Colony of Victoria. The Constitution of Victoria³³ was drafted without the involvement of any First Peoples.³⁴

From the 1850s, on paper, Aboriginal men had voting rights equal to non-Aboriginal men, but in practice, voting remained exclusionary because owning property was a condition of the right to vote.³⁵ Without land, First Peoples were also ineligible to vote in Council elections.³⁶ In addition, the *Electoral Act 1865* (Vic) denied those living on missions and receiving charity the right to vote.³⁷

In 1869, Victoria became the first colony to legislate the right of government to regulate the lives of First Peoples through the introduction of the *Aboriginal Protection Act 1869* (Vic).³⁸

The *Aborigines Protection Act 1886* (Vic) (the ‘Half-Caste Act’) reinforced racist narratives by outlining that First Peoples should receive different degrees of government intervention based on their ‘degree’ of Aboriginality.³⁹

At the Commonwealth level, the *Commonwealth Franchise Act 1902* (Cth)⁴⁰ excluded First Peoples from voting. Under the subsection titled ‘Disqualification of coloured races’, section 4 stated:

No aboriginal native of Australia Asia Africa or the Islands of the Pacific except New Zealand shall be entitled to have his name placed on an Electoral Roll unless so entitled under section forty-one of the Constitution.⁴¹

In 1949, the right to vote in federal elections was extended to First Peoples in Victoria who had served in the armed forces via an amendment to the *Commonwealth Electoral Act 1918* (Cth).⁴² That same year, Sir Doug Nicholls wrote a letter calling for one Aboriginal Member of the federal House of Representatives to be elected by voters on a single Aboriginal roll, which prompted Prime Minister Ben Chifley’s consideration. The Federal Government deemed that this was not possible under the Commonwealth Constitution.⁴³

First Peoples in Victoria remained subject to laws denying their right to vote explicitly and in practice until the *Commonwealth Electoral Act Amendment 1962* (Cth).⁴⁴ This Act gave Indigenous women the right to vote for the first time, despite non-Indigenous women having had the right to vote since 1908.⁴⁵

Following significant activism by First Peoples,⁴⁶ the Commonwealth Constitution was altered in 1967 via a referendum. Australians voted to remove two clauses of the Constitution that discriminated against Aboriginal people:

- a clause of section 51(xxvi), which prevented the Commonwealth from making laws for ‘the aboriginal people in any State’
- all of section 127, which stated that ‘[i]n reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives should not be counted’.

As a result, First Peoples were counted in the Census and the Commonwealth then had further authority make laws for them.⁴⁷

Exclusion from political life is based on racism and state control

The general pattern of state policy and social practice in Australia, varying from other British dominions, was premised on denial of the humanity of colonised peoples and, legally, denial of their capacity to function as cognisable societies and polities. These premises gave rise to the racialised foundations of the state (‘white Australia’) and the specific application of the terra nullius doctrine.⁴⁸

ENVIRONMENTAL JUSTICE AUSTRALIA

Yoorrook heard that the exclusion of First Peoples from the development of current political systems in Victoria and Australia more broadly ‘has occurred on the historical justification that Aboriginal peoples were neither equal citizens nor recognised as sovereign peoples’.⁴⁹ The Minister for Treaty and First Peoples the Hon Natalie Hutchins MP reflected on the racism inherent in policy and law-making during the development of the Victorian Government:

In 1858, a Victorian Parliamentary Committee ‘to inquire into the best means of improving the present condition of the Aborigines’ reported that ‘Victoria is now entirely occupied by a superior race there is scarcely a spot, excepting in the remote mountain ranges or dense scrubs on which the Aborigine can rest his weary feet.’ Reading words like this today brings home how entrenched institutional and systemic racism was in the State’s actions towards First Peoples, including its policy and law-making. The State fostered and condoned beliefs that First Peoples were inferior to Europeans, failing to recognise the role the State played in dispossessing First Peoples of their Country and excluding First Peoples from colonial economic and political systems.⁵⁰

MINISTER NATALIE HUTCHINS MP

Political exclusion continues

Communities continue to feel the ripple effects of harmful legalisation and policy aimed at eradicating culture and lore:

Government legislation that has divided us, created wars between our family groups and Country men and nations. That harm continues today, and the continuous breaches on our inherent rights, customary rights. cultural and human rights.⁵¹

FIRST PEOPLES’ ASSEMBLY OF VICTORIA

Ngaweeyan Maar-oo, the shared decision-making partner with the Victorian Government on Closing the Gap implementation in Victoria, told Yoorrook that the historical exclusion of First Peoples from political participation and decision making has ‘driven and entrenched systemic and intergenerational inequality that has resulted in the gap in life outcomes’ for First Peoples.⁵² Ngaweeyan Maar-oo Co-Chair and CEO of the Victorian Aboriginal Health Service (VAHS) Michael Graham (Dja Dja Wurrung, Wiradjuri) reflected on how systems continue to perpetuate injustice:

It’s a system problem. ... I do a lot of reflecting on this and I think, well, why is the system like this, why isn’t it changing? And I have to go all the way back to when the assimilation policy was put in. That’s when the big systems were put in. And we haven’t changed those. We have said we have got rid of that policy, but the systems are still left behind and those systems don’t cater for our people.⁵³

MICHAEL GRAHAM

VACCHO also highlighted that First Peoples’ participation in political life continues to be limited by governments in practice:

Aboriginal and Torres Strait Islander people have only been invited to participate in [political systems] after they have been established and even then, that participation has been with minimal access to power and representation.⁵⁴

VICTORIAN ABORIGINAL COMMUNITY CONTROLLED HEALTH ORGANISATION

Addressing political exclusion

Yoorrook recognises that the State of Victoria has taken significant steps in the past decade to increase First Peoples’ involvement in decision making.⁵⁵ With the introduction of the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) (*‘Treaty Act’*),⁵⁶ the State formalised in law its commitment to treaty.⁵⁷ This was the first treaty legislation enacted in Australia.⁵⁸ The *Treaty Act* sets out how the State must work with an Aboriginal Representative Body (which would become the First Peoples’ Assembly of Victoria) to establish by agreement a Treaty Authority, Treaty Negotiation Framework and a Self-Determination Fund (see box: Overview of the First Peoples’ Assembly of Victoria).⁵⁹ The First Peoples’ Assembly of Victoria is a democratically elected body that represents First Peoples in Victoria’s Statewide Treaty process. It was established and declared the Aboriginal Representative Body under the *Treaty Act* in 2019.⁶⁰

The *Treaty Authority and Other Treaty Elements Act 2022* (Vic) (*‘Treaty Authority Act’*)⁶¹ and the Treaty Negotiation Framework⁶² provide further guidance on the operation of the treaty process. Statewide Treaty negotiations commenced on 21 November 2024.⁶³

The First Peoples’ Assembly of Victoria plays a critical role in advancing political self-determination for First Peoples in Victoria through the negotiation of treaties. However, Yoorrook heard that the legislative architecture has limitations. It is a company limited by guarantee⁶⁴ and not a statutory body.⁶⁵ It is therefore subject to Commonwealth laws relating to companies.⁶⁶ It is not permanent in nature and is reliant on:

- the ongoing operation of the *Treaty Act*
- the Assembly’s ongoing status as the Aboriginal Representative Body by Minister’s declaration under s 11 of the *Treaty Act*, on recommendation of the Victorian Treaty Advancement Commissioner
- the ongoing operation of a ministerial declaration designating it as the Aboriginal Representative Body for the purposes of the *Treaty Act*.⁶⁷

Despite these limitations, the First Peoples’ Assembly of Victoria demonstrates the effectiveness and necessity of First Peoples’ advocacy to government and First Peoples’ representation in the institutions of government. The State must continue to support and build on these processes and other structural reforms to address political injustices and to realise First Peoples’ right to political self-determination.

OVERVIEW OF THE FIRST PEOPLES’ ASSEMBLY OF VICTORIA

The First Peoples’ Assembly of Victoria ‘is the independent democratically elected representative body for Aboriginal and Torres Strait Islander peoples in the Victorian Treaty process’.⁶⁸ It currently comprises 33 members:

- 22 general seats elected by votes from five voting regions
- 12 reserved seats for each Traditional Owner group recognised under Commonwealth or Victorian legislation, who are ‘all proud Traditional Owners of Country in Victoria’.⁶⁹

Traditional Owner groups recognised under Commonwealth or Victorian legislation have a reserved seat. As of April 2025, 11 of the 12 reserved seats are filled. An additional pathway to apply for a reserved seat has also been established for Traditional Owner groups who do not have formal recognition under legislation.⁷⁰

The First Peoples’ Assembly of Victoria was entered into the Treaty Negotiations Database, in accordance with the process set out in the Treaty Negotiation Framework, as the authority responsible for negotiating a Statewide Treaty.⁷¹ The role of the First Peoples’ Assembly of Victoria is to be ‘the voice for Aboriginal and Torres Strait Islander peoples to advance Treaty in Victoria’.⁷²

The First Peoples’ Assembly of Victoria has achieved a number of key outcomes that will support treaty negotiations.⁷³ These include:

- advocating for the establishment of the Yoorrook Justice Commission to enable a truth-telling process
- establishing, by agreement with the State, the Treaty Authority to oversee treaty negotiations
- developing the Treaty Negotiation Framework that outlines the rules for treaty negotiations
- creating the Self-Determination Fund to support Traditional Owners to prepare for local level treaty negotiations.⁷⁴

The election process for general members is set out in the First Peoples’ Assembly of Victoria’s Election Rules.⁷⁵ Reserved members are appointed under a separate procedure.⁷⁶ To be eligible to vote, a person must be aged over 16 and must either be a Victorian Traditional Owner, or an Aboriginal or Torres Strait Islander person living in Victoria.⁷⁷ Voters must be registered on the electoral roll for the First Peoples’ Assembly of Victoria. Special arrangements may be made for people who are experiencing homelessness, in prison, in out-of-home care or in other situations.⁷⁸ During the 2023 election period, the First Peoples’ Assembly of Victoria made 23 visits to prisons to engage with potential electors.⁷⁹

Candidates for election must be Victorian Traditional Owners and meet other eligibility requirements.⁸⁰ Candidates must formally nominate themselves to run for election. Members represent communities across five regions of Victoria: Metropolitan, South East, South West, North East and North West.⁸¹ Each region elects a set number of representatives. Voting may be done in person, by post or electronically.

Elections are held every three to four years. Two elections have been held since the establishment of the First Peoples’ Assembly of Victoria: in 2019 and in 2023. The 2023 election had 74 candidates and over 7000 people enrolled to vote, tripling the number of enrolments in the 2019 election.⁸²

OVERVIEW OF THE TREATY AUTHORITY

The Treaty Authority is an independent body ‘led by five respected Aboriginal people’ who are known as Treaty Authority Members. The Members were selected by an independent panel guided by Elders and appointed by the First Peoples’ Assembly of Victoria and the State of Victoria’.⁸³

The role of the Treaty Authority is to oversee and facilitate treaty negotiations between First Peoples and the Victorian Government, in line with the Treaty Negotiation Framework.⁸⁴

In addition to this role, the Treaty Authority will also be able assist with resolving disputes between First Peoples, in connection with the Treaty process.⁸⁵ This will transform the current approach where ‘the State and courts largely determine Traditional Owners’ connection to Country’.⁸⁶ The existing approach ‘has resulted in protracted disputes that have often further entrenched division within Community’.⁸⁷

OVERVIEW OF THE SELF-DETERMINATION FUND

The Self-Determination Fund is an ‘independent financial resource’⁸⁸ that is ‘overseen by and reports to the democratically-elected Members of the First Peoples’ Assembly of Victoria’.⁸⁹ The Self-Determination Fund was established by agreement between the First Peoples’ Assembly of Victoria and the State.⁹⁰

The Self-Determination Fund ‘will support First Peoples to negotiate Treaties on a level playing field with the State and build capacity, wealth and prosperity for future generations’.⁹¹ This will change the way funding is provided to Traditional Owner groups. It will enable Traditional Owners to ‘determine what they need so that they feel equipped to sit down with the State and negotiate on equal footing’, rather than governments determining what funding Traditional Owners can access.⁹²

What Yoorrook heard

First Peoples’ political activism

Due to the systemic injustices against First Peoples, and ways that First Peoples’ have been denied political rights, First Peoples are born into a political existence.⁹³ As Minda Murray highlighted in the opening quote to this chapter: ‘I was born into a political existence whether I liked it or not.’⁹⁴ Some First Peoples expressed to Yoorrook that purely by existing in the settler colonial state, their existence is a form of resistance to colonisation.⁹⁵

First Peoples’ ongoing political resistance can be seen through the actions of individuals, organisations, communities and nations. Yoorrook heard extensive evidence of First Peoples’ defence and protection of Country and culture since invasion.⁹⁶ The history of First Peoples’ resistance to injustice extends back to the earliest acts of social and political exclusion.

As Katrina Harrison (Palawa) told Yoorrook:

We are more than our stories of injustice; we are also our stories of resilience and resistance. I am determined to continue to show my children what healing and freedom look like.⁹⁷

KATRINA HARRISON

CEO of the Victorian Aboriginal Child and Community Agency (VACCA) Aunty Muriel Bamblett (Yorta Yorta, Dja Dja Wurrung, Taungurung, Boon Wurrung) told Yoorrook, ‘Aboriginal Victorians have always been activists’ and continue to walk ‘in the footsteps of those who have come before [them]’.⁹⁸

Dr Aunty Vicki Couzens (Keerray Wooroong Gunditjmara) also explained:

My first act of refusal/resistance was when I refused to stand up during the national anthem in my high school assembly. I was the only one out of 800 students who didn’t stand. The teachers told me to stand up, but I told them that I didn’t think Australia was a fair society, so I wasn’t standing up.⁹⁹

DR AUNTY VICKI COUZENS

Yoorrook heard many stories of First Peoples activists and campaigners who have shaped Victoria; for example, ngurungaeta of the Wurundjeri-willam clan William Barak (see box: Case Study: William Barak and the fight for Coranderrk),¹⁰⁰ founder of the Australian Aborigines League William Cooper (Yorta Yorta),¹⁰¹ land rights campaigners (see for example, box: Key events: First Peoples’ political resistance and activism, 1863 to 2021),¹⁰² and those who fought for the return of ancestral remains (see discussion of Uncle Jim Berg in box: Key events: First Peoples’ political resistance and activism, 1863 to 2021).¹⁰³ Yoorrook heard about the long history of First Peoples’ activism, including walk offs,¹⁰⁴ political marches,¹⁰⁵ litigation¹⁰⁶ and petition writing.¹⁰⁷

Yoorrook heard that First Peoples continue resist and advocacy for improved conditions in new and innovative ways.¹⁰⁸ As outlined by Ngaweeyan Maar-oo, explained:

Engaging in advocacy and ‘non-sanctioned’ participation, which involves activism and other forms of political engagement outside formal institutions to influence public opinion, policy, and legislation through protests, campaigns, and other means of political expression.

NGAWEEYAN MAAR-OO

First Peoples have, and continue to, demonstrate their resilience and advocacy through creative and cultural expression (including through re-invigorating cultural practices, dance, poetry, theatre, music and song, art, and creative media).¹⁰⁹ Keicha Day (Gunditjmara, Yorta Yorta) described how cultural practices could be a form of resistance and advocacy:

I admire people that can sit and patiently paint and weave and make a difference through something that’s so beautiful and powerful and that saves breaths like that. You don’t have to rant about it ... your artwork and your creation and stuff. It speaks for itself.¹¹⁰

KEICHA DAY

In what follows Yoorrook provides examples of key figures and events demonstrating First Peoples political activism and resistance. These descriptions are illustrative, rather than exhaustive.

CASE STUDY: WILLIAM BARAK AND THE FIGHT FOR CORANDERRK

Throughout the 1870s and 1880s the Aboriginal people of Coranderrk actively resisted efforts to control their lives and close the station through years-long protests, including deputations to politicians, journalists and other supporters. This sustained resistance is often cited as one of the first Indigenous campaigns for land rights and self-determination.¹¹¹

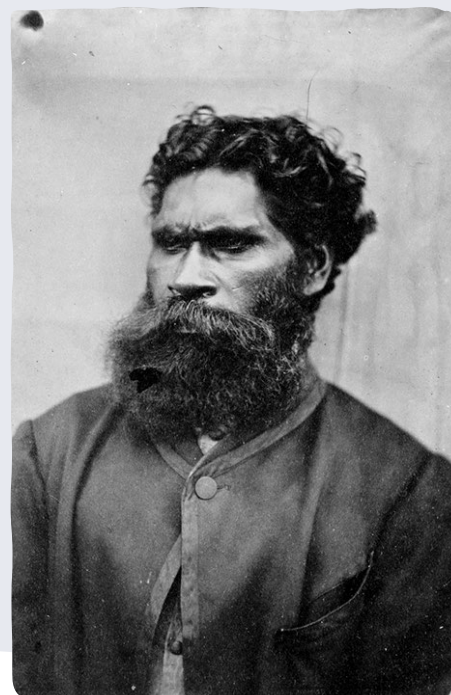
WURUNDJERI WOI-WURRUNG CULTURAL HERITAGE ABORIGINAL CORPORATION

William Barak — or Beruk — was a revered leader whose diplomacy and abilities to unite First Peoples and educate settlers shaped the history of the land now known as Victoria. Closely associated with the area of Coranderrk, Barak campaigned for its creation, defended it against attempts at closure and fought tirelessly to ensure it remained a thriving, self-sufficient community.¹¹²

In 1863, along with ngurungaeta Simon Wonga, William Barak led a deputation of about 40 people from several Kulin clans to Naarm (Melbourne) to present an address to Governor Sir Henry Barkly about their need for a permanent homeland.¹¹³ It was the first of many delegations by Kulin leaders from Coranderrk and led to the government gazetted 2300 acres of land as a reserve for Coranderrk Aboriginal Station.¹¹⁴

Coranderrk was initially very successful, but the protection board exerted increasing control over the people living there and conditions deteriorated. In 1874, William Barak became ngurungaeta and ‘almost immediately had his leadership put to the test’.¹¹⁵ In 1876, ngurungaeta William Barak, Thomas Bamfield, Robert Wandin and others,¹¹⁶ including Walter Newman¹¹⁷ and Walpanumin (also known as John Logan),¹¹⁸ protested deteriorating living conditions at Coranderrk Aboriginal Reserve. They led delegations along the 67-kilometre walk from Coranderrk to Naarm (Melbourne) to hand deliver written petitions and seek discussions with politicians and officials.¹¹⁹ After the trek there, which took up to two days, ‘they were told to return home. These petitions were never really properly acted on’.¹²⁰

William Barak and other important Eastern Kulin leaders continued protesting the conditions under which First Peoples were forced to live.¹²¹ They held a campaign of political activism, including letter-writing and petitions to representatives of the government and the media.¹²² In March 1881, William Barak again led a deputation walking from Coranderrk to Parliament House to see Premier Graham Berry.¹²³ This advocacy influenced Berry to call for the 1881 Parliamentary Select Committee of Inquiry into Coranderrk. This was the first inquiry to include the voice of First Peoples and ultimately led to the State making Coranderrk a permanent reserve.¹²⁴



Pictured right: William Barak (age 33)¹²⁵

KEY EVENTS: FIRST PEOPLES' POLITICAL RESISTANCE AND ACTIVISM, 1863 TO 2021

1867–69: Framlingham relocation protests

Framlingham residents resisted government attempts to close Framlingham Mission and move them to the new Lake Condah (Tae Rak) Mission. Residents viewed the land as their own and challenged the Aboriginal Protection Board's right to reduce the size of the mission or remove people.¹²⁶ Framlingham was reopened in 1869.¹²⁷ First Peoples' resistance and campaigning led to the government permitting residents to continue to live at the Framlingham site.¹²⁸

1917: Protests against reserve ‘concentration plan’

Residents at Coranderrk and Tae Rak (Lake Condah) protested against the Central Board for the Protection of Aborigines' ‘concentration plan’, which attempted to move all First Peoples in Victoria to Bung Yarnda (Lake Tyers) as the other missions and reserves began to close.¹²⁹

1933–37: Petition for First Peoples' representation in Commonwealth Parliament

Yorta Yorta activist William Cooper started a petition calling on the Commonwealth Government to improve living conditions for First Peoples and to enact legislation that would guarantee First Peoples representation in parliament, hoping that Prime Minister Joseph Lyons would forward the petition to King George VI.¹³⁰ The petition was not successful.¹³¹ William Cooper also petitioned the Governor-General Lord Gowrie in the 1930s.¹³²

1938: Day of Mourning

William Cooper and other First Peoples protested the celebration of 150 years since the founding of the first colony and declared 26 January a Day of Mourning.¹³³ They moved a resolution asking for ‘a new policy which will raise our people TO FULL CITIZEN STATUS and EQUALITY WITHIN THE COMMUNITY’.¹³⁴ This day became an annual protest until 1955 when it was moved to the first Sunday in July.¹³⁵

1939: Cummeragunja Walk Off

Around 200 residents walked out of Cummeragunja Station just north of the Murray River near Barmah. The residents protested the way they were treated — forced to endure deteriorating conditions, illnesses, inadequate and unhealthy rations, forced removal of children and child labour.¹³⁶ This was the first mass strike of First Peoples¹³⁷ and ‘inspired action across the country for years to come and ignited a movement that fought for the rights of the Aboriginal community’.¹³⁸

1956–1965: Protests against closure of Lake Tyers (Bung Yarnda) mission

Between 1956 and 1965, residents of the Lake Tyers mission (located in an area known Bung Yarnda), supported by organisations such as the Aboriginal Advancement League,¹³⁹ protested the proposed closure of the Lake Tyers mission and ‘petitioned for the mission to become an independent, Aboriginal run farming cooperative’.¹⁴⁰ In 1965, the State declared the Lake Tyers mission area a permanent reserve.

1967: Referendum

A ‘growing swell of support for change led by a range of people and organisations’,¹⁴¹ saw the Commonwealth Constitution altered in 1967 by referendum to formally recognise First Peoples as citizens.¹⁴² As a result, First Peoples were formally included in the Census and other documentation practices.¹⁴³ In the wake of the referendum, the federal government established the Council for Aboriginal Affairs and the Office for Aboriginal Affairs, signalling a shift towards increased federal involvement in First Peoples lives and specifying ‘Aboriginal Affairs’ within government policy for the first time.¹⁴⁴

1968: May Day parade protest march

Over 100 demonstrators in Naarm (Melbourne) were part of a 24-hour vigil ‘to demand Government recognition of Aboriginal land rights’.¹⁴⁵ This continues as an annual event.

1970: Framlingham and Bung Yarnda Land Rights Advocacy

Community members from Framlingham and Lake Tyers (Bung Yarnda) mission areas, with support from members of the Aborigines Advancement League, successfully protested their removal from the mission land.¹⁴⁶ These actions ultimately led to the *Aboriginal Lands Act 1970* (Vic) (see Chapter 9: How we got here — overview of recognition systems).¹⁴⁷ The *Aboriginal Lands Act 1970* (Vic) granted freehold title to the First Peoples residents of these communities.¹⁴⁸

1980–1988: Onus v Alcoa land rights case

Aunty Sandra Onus and Aunty Christina Frankland led a legal battle against Alcoa over a proposed aluminium smelter near Portland (see Chapter 9: How we got here — overview of recognition systems).¹⁴⁹ In 1988, the Premier of Victoria implemented policies that handed back 53 hectares of land including the Lake Condah Mission site (an area traditionally known as (Tae Rak) to the Gunditjmara people in return for the legal action against Alcoa to be dropped.¹⁵⁰

1984: Berg v University of Melbourne litigation

Uncle Jim Berg (Gunditjmara) led the commencement of proceedings against the University of Melbourne, seeking the repatriation of ancestral remains held by the university.¹⁵¹ As a result, the State amended the *Archaeological and Aboriginal Relics Preservation Act 1972* (Vic) to prohibit the possession or display of Aboriginal Ancestral remains without the consent of the relevant departmental secretary. Later, the *Aboriginal Heritage Act 2006* (Vic) made First Peoples with ‘a traditional or familial link’ the owners of Aboriginal Ancestral remains (if they were not already the owners). By 2016, the Victorian Aboriginal Cultural Heritage Council established under the *Aboriginal Heritage Act 2006* (Vic) was responsible for holding Aboriginal Ancestral remains and transferring Ancestors to relevant Registered Aboriginal Parties (or to the Museums Board of Victoria) for safekeeping.¹⁵²

2005–2006: The Black GST

Uncle Robbie Thorpe who is also known as Djuran Bunjilinee (Krauatungalung Gunaikurnai), Aunty Marjorie Thorpe (Gunaikurnai, Tjapwurrung) and Uncle Gary Foley (Gumbaynggirr) established the Black GST (ending Genocide, acknowledging Sovereignty and securing Treaty) group. The Black GST contended that these fundamental legal issues must be resolved to finally achieve the holistic wellbeing of First Peoples.¹⁵³ The group held protests, including against the Commonwealth Games in 2006. Leveraging the international media attention around the 2006 Melbourne Commonwealth Games, the group established Camp Sovereignty, which drew attention to a range of Indigenous political struggles.¹⁵⁴ Aboriginal author Tony Birch has described Camp Sovereignty as an ongoing ‘contest over place and memory, an act of resistance on a picturesque parcel of colonial land’.¹⁵⁵

2007: Roach v Electoral Commissioner¹⁵⁶

Aunty Vickie Roach (Yuin) brought a High Court challenge¹⁵⁷ against the *Electoral and Referendum (Electoral Integrity and other Measures) Act 2006* (Cth)¹⁵⁸ that disqualified persons who were serving sentences of imprisonment, regardless of duration, from voting in federal elections.¹⁵⁹ Aunty Vickie argued that because Aboriginal people continue to be over-represented in the justice system, saying: ‘[o]ne of the effects of this legislation was that it silenced Aboriginal people’.¹⁶⁰ Aunty Vicki explained that: ‘[t]he High Court struck out the amended legislation and ruled that people serving short sentences have a constitutional right to vote in federal elections’,¹⁶¹ reinstating the rights of more than 10,000 prisoners.¹⁶²

2018–2021: Djab Wurrung Embassy

In June 2018, protesters established the Djab Wurrung Heritage Protection Embassy and a blockade to oppose the destruction of culturally significant birthing trees as part of an upgrade to the Western Highway.¹⁶³ Due to the protests and legal battles initiated by the group, work on the Western Highway was halted in 2020.¹⁶⁴

Letter writing: using ‘paper culture’ to negotiate with colonial governments¹⁶⁵

Beginning in the late 19th and early 20th centuries, First Peoples in Victoria frequently wrote letters to colonial and State authorities and created petitions, establishing a tradition of political activism.¹⁶⁶ As the State increased its powers over First Peoples and their lands, the letters First Peoples wrote are testament to not only the government’s control over their daily lives,¹⁶⁷ but the persistence of First Peoples in asserting their right to cultural preservation and self-determination.

From the 1860s and into the 20th century, First Peoples were forcibly moved onto missions and reserves (see Chapter 7: How colonisers stole Country and Chapter 35: Housing and First Peoples in Victoria). Conditions on the missions and reserves were poor. Living under prohibitive, oppressive, strictly controlled and monitored conditions imposed by the Aboriginal Protection Board,¹⁶⁸ First Peoples had limited agency, power and control over their own lives. CEO of VACCHO, Aunty Dr Jill Gallagher (Gunditjmara) explained:

If you wanted to leave the Mission you needed a permission to do so, by way of a Permit system. Our people were totally controlled by Government. Every inch of their life was controlled. The Board of Protection ruled everything, including whether we lived and if we could own a home or not, and if we could see our children or not.¹⁶⁹

AUNTY DR JILL GALLAGHER

Aunty Glenys Watts (Gunaikurnai) told Yoorrook that letters from First Peoples during the mission era paint ‘the picture about how they were treated and exactly what was going on, especially when you read it in their own words ... they are writing to government asking permission for everything’.¹⁷⁰ Aunty Glenys Watts explained:

[T]he government virtually controlled all aspects of their lives ... so the requests were about supplies, they were cut off from the government, they were living in a tent and Granny Lucy ended up with tuberculosis, a disease which affected the lungs, and had to ask government for handouts via letters.¹⁷¹

AUNTY GLENYS WATTS

Aunty Evon Barker nee McDonald (Gunditjmara) told Yoorrook how residents at the Lake Condah (Tae Rak) mission wrote letters to request better conditions.¹⁷² Despite the resident’s campaigns, the manager dismissed them, saying:

[T]here was no way of putting a stop to the letter writing by natives, in my opinion, these letters should be dropped in the wastepaper basket when received and thus put an end to all unnecessary correspondence. As natives do not ... know their own mind five minutes later.¹⁷³

MANAGER OF LAKE CONDAH MISSION, QUOTED BY AUNTY EVON BARKER

Through letters, First Peoples were able to communicate with government officials, media outlets and other key stakeholders, allowing them to articulate their experiences, demand justice and advocate for their rights. For example, Dr Aunty Vicki Couzens told Yoorrook about her family’s history of political activism. She described how her great grandmother wrote to the Aborigines Protection Board to protest the closure of Framlingham.¹⁷⁴

Aunty Vicki also told Yoorrook about a letter her grandfather wrote that was printed in the Warrnambool Standard on 3 April 1940. The letter detailed conditions at the Framlingham mission and advocated for suitable housing and funding to develop the farming land.¹⁷⁵

My family has always been politically active. My great grandmother, Harriet, wrote to the Aborigines Protection Board in protest when they tried to cut down the size of the Framlingham mission and remove people ... My grandfather’s brother, Uncle John Couzens, and Nan’s brother, Uncle Tommy Clarke, travelled around to the communities within the Maar speaking nations, with William Cooper in the early 1930s ... I was given a letter that my cousin Libby Clarke found in her historical research. It was a letter to the editor in the Warrnambool Standard on 3 April 1940 written by my Pop about conditions at the Framlingham mission.

DR AUNTY VICKI COUZENS

Letters provided not only a means of mobilisation in the face of systemic oppression and marginalisation, but also communication and documentation. For example, in evidence to Yoorrook, Premier of Victoria the Hon Jacinta Allan MP presented first-hand accounts in letters written by First Peoples as evidence of the State’s ‘exploitative and unjust labour practices’.¹⁷⁶ These letters detailed coerced employment and enslavement and the State’s denial of First Peoples’ wages and freedom of movement.¹⁷⁷

Letter writing has continued to play a crucial role in advancing First Peoples’ rights and self-determination in Victoria and nationally. For example, Co-Chair of the First Peoples’ Assembly of Victoria, Ngarra Murray (Wamba Wamba, Yorta Yorta, Dhudhuroa, Jupagulk, Baraparapa, Wiradjuri, Dja Dja Wurrung) presented a letter to Yoorrook that her grandfather, Stewart Murray, wrote as a Chairperson of the Victorian Aboriginal Land Council in 1988 to the Premier of Victoria at the time, John Cain.¹⁷⁸ The letter was ‘asking and advocating for a treaty between the Wamba Wamba clans of Victoria and the Victorian Government to address land injustice and touched on international treaties’.¹⁷⁹ Letter writing has been a powerful tool for First Peoples’ resistance and activism in Victoria, enabling First Peoples to document their experiences, challenge systemic oppression, advocate for their rights and demand accountability.

Today First Peoples continue to mobilise letter writing and other forms of political advocacy. As Uncle Dr Wayne Atkinson (Yorta Yorta and Dja Dja Wurrung) writes ‘[c]ollective organisation, mobilisation and protest by the spear of the pen and the power of the voice remain the tools of political engagement’.¹⁸⁰ Given First Peoples’ continued marginalisation in formal, mainstream political systems,¹⁸¹ First Peoples continue to engage in novel forms of resistance and activism.¹⁸²

First Peoples organisations

Aboriginal community-controlled organisations (ACCOs) are inherently political, founded in the broader context of land rights and social movements of the 1970s and the Black Power movement that emerged after the 1965 Australian Freedom Rides. During this time, Aboriginal and Torres Strait Islander people began to establish their own organisations, such as land councils, legal services and health services. ACCOs emerged as independent, community-driven organisations, often created with little to no government support and sometimes outright opposition.¹⁸³

NGAWEEYAN MAAR-OO

Community-based organisations have played a central role in political advocacy.¹⁸⁴ As Dr Mati Keynes told Yoorrook, ‘Aboriginal and Torres Strait Islander people have been campaigning since colonisation for control of their own communities and choices’.¹⁸⁵ A foundational example of this fight for control was the establishment of the Aboriginal Advancement League.

CASE STUDY: THE ABORIGINAL ADVANCEMENT LEAGUE

In 1933, Yorta Yorta and Cummerangunja people were instrumental in establishing the Aborigines Progressive Association in New South Wales and the Australian Aborigines’ League in Victoria.¹⁸⁶ In 1957, the Victorian Aborigines Advancement League (VAAL), since renamed the Aboriginal Advancement League (AAL), was established.¹⁸⁷ It was in part spurred by the plight of First Peoples at the Maralinga nuclear testing site in South Australia.¹⁸⁸

The AAL was established to coordinate various community-controlled organisations and fight for inherent rights, political representation and policy reform for First Peoples throughout Victoria.¹⁸⁹ Aunty Dr Lois Peeler (Yorta Yorta, Wurundjeri) described:

The AAL platform cast a light on the unjust treatment of Aboriginal people and campaigned for the repeal of discriminatory legislation, enfranchisement, land rights and representation in Parliament.¹⁹⁰

AUNTY DR LOIS PEELER

The five basic founding principles of the AAL were:

- equal citizenship rights for First Peoples
- equal pay for equal work
- free and compulsory education
- a standard of living adequate for health and wellbeing, including food, clothing and medical care equal to non-First Peoples
- retention of all remaining reserves, with native communal or individual ownership.¹⁹¹

Early activism by AAL included drafting and circulating a petition for a referendum to change the Australian constitution and to empower the Federal Government to legislate on Aboriginal affairs and ensure citizenship for First Peoples¹⁹² — a goal broadly achieved in 1967.

The AAL’s initial objectives were to achieve citizenship rights for Aborigines throughout the Commonwealth. We accomplished this in 1967, so I was nearly 12 years old before I was counted as a human being in my own country. My Mum was over 40 years old.¹⁹³

AUNTY DR JILL GALLAGHER

The work of the AAL evolved in the decades following the 1967 referendum.

In 1970, First Peoples at the Lake Tyers mission site (Bung Yarnda), with support from members of the AAL, successfully protested their removal from the mission land.¹⁹⁴ This advocacy ultimately led to the *Aboriginal Lands Act 1970* (Vic) (see also box: Key events: First Peoples’ political resistance and activism, 1863 to 2021).¹⁹⁵

In 1970 ... they were going to close Lake Tyers Reserve down. So those Elders came to Melbourne and protested along with Sir Douglas Nicholls and members of the Advancement League and other people protested outside Parliament House to stop that from happening.¹⁹⁶

AUNTY MARJORIE THORPE

The late respected Elder Aunty Fay Carter (Yorta Yorta, Dja Dja Wurrung) described to Yoorrook how she worked for the AAL in the late 1970s and early 1980s as a field officer:

[A]s field officers, we had to travel around the whole of Victoria to give welfare support and respond to requests for welfare in all sorts of areas. Families looking for food, families looking for transport to get to a funeral or get to a loved one’s sick bed or all that sort of welfare support we gave.¹⁹⁷

AUNTY FAY CARTER

The AAL empowered the creation of a diverse range of First Peoples organisations in Victoria, playing the critical role of coordinating various community-controlled organisations.¹⁹⁸

The AAL continues today as both an activist and a welfare body. In addition to activism on singular causes, the AAL provides social and welfare support to First Peoples across the state. The AAL and associated services have played, and continue to play, a key role in political and social life in Naarm (Melbourne).¹⁹⁹

Pictured right: AAL Mural ‘We Walk in the Footprints of Giants’²⁰⁰



First Peoples organisations have played crucial roles in supporting First Peoples’ political aspirations. The creation and proliferation of cooperatives, for example, represents a central method of collectivism and political engagement. As VACCHO CEO Aunty Dr Jill Gallagher explained to Yoorrook, cooperatives reconnected First Peoples in Victoria after the brutalities of colonisation:

The Co-ops became our connection to each other — they helped mobs find their way back to Country. The Co-ops made us visible in the landscape. They were more than just health services though, they provided places for us to come together.²⁰¹

AUNTY DR JILL GALLAGHER

During the late 1950s and early 1960s, some of the first First Peoples-led organisations were formed, seeking to uphold First Peoples’ rights.²⁰² The 1960s to 1980s were a political and socially active time for First Peoples in Victoria, when the Aboriginal community-controlled sector and many First Peoples-led organisations were established.²⁰³ The Victorian Aboriginal Child and Community Agency (VACCA) told Yoorrook that Aboriginal Community Controlled Organisations (ACCOs) in Victoria ‘were all born from Aboriginal political activism’.²⁰⁴ Similarly Aunty Dr Alma Thorpe (Gunditjmara) explained that during the 1970s many ACCOs were established, spurred on by political aspirations and influences.²⁰⁵

One of the inspirations for the health services was the Black Power movement in the 1970s and having a voice. We never had a voice until the 1970s, when we set up a hundred and something health services across Australia.²⁰⁶

AUNTY DR ALMA THORPE

Many contemporary ACCOs trace their origin to early advocacy. Rumbalara Aboriginal Cooperative (Rumbalara) is an ACCO in Shepparton that was established in the 1980s.²⁰⁷ CEO of Rumbalara, Felicia Dean (Yorta Yorta, Taungurung) explained:

Rumbalara is a community-controlled organisation that provides whole of life services that support, honour and respect Aboriginal people. It was started by the Elders who led the walk-off from Cummeragunja in February 1939.²⁰⁸

FELICIA DEAN

Today, ACCOs and First Peoples organisations continue to advocate for self-determination and other individual and collective rights.²⁰⁹ For example, Ngaweeyan Maar-oo outlined:

Aboriginal Community Controlled Organisations (ACCOs) are grounded in political activism and advocacy and see the ongoing and intergenerational impacts of historical and current government policies every day when providing critical services to Community. Despite a shift from assimilation policy in the 1970s, the systems, structures and institutions set up to implement it remain and continue to systemically discriminate against Aboriginal people.²¹⁰

NGAWEEYAN MAAR-OO

Through Aboriginal community-controlled organisations, Aboriginal and Torres Strait Islander communities continue to exercise political power, challenging exclusionary practices and advocating for equitable outcomes within a framework that respects and incorporates Aboriginal and Torres Strait Islander cultural values. ACCOs are also central to achieving the socio-economic outcomes that maximise the ability of Aboriginal and Torres Strait Islander people to participate politically.²¹¹

NGAWEEYAN MAAR-OO

Minister Hutchins acknowledged the instrumental role that ACCOs play in shaping the First Peoples–State Relations portfolio:

The expert policy and reform advice ACCOs provide to the Victorian Government, informed by their on-the-ground, community-based practice and engagement, remains central to delivering better outcomes for First Peoples, families and communities. ACCOs’ advocacy and leadership has also shaped the Government’s commitment to and implementation of self-determination.²¹²

MINISTER NATALIE HUTCHINS MP

The successes and achievements of First Peoples organisations belie how underfunded and under-resourced they have been throughout history. That ACCOs have had to engage in extensive political activism while delivering core services demonstrates the need for more formalised and coordinated political body to represent the needs of First Peoples, their communities and their organisations.

Systemic limits on political engagement

Aboriginal and Torres Strait Islander peoples were never considered during the development of the current political systems, nor did we consent to them. Aboriginal and Torres Strait Islander peoples were only invited to participate in these systems centuries after they were established, and even then, with minimal access to power and representation.²¹³

VICTORIAN ABORIGINAL COMMUNITY CONTROLLED HEALTH ORGANISATION

First Peoples have been largely excluded from formal political processes in Victoria, as voters and as representatives of government at all levels. Many First Peoples are denied the ability to engage with the political system beyond exercising their right to vote. Yoorrook heard extensive evidence of the marginalisation of First Peoples’ voices through the design of the electoral system and a lack of faith in political processes. The State has made some efforts recently, but the lack of formal representation of First Peoples in government compounds this sense of voicelessness.

Limits on political engagement

First Peoples have limited ability to influence representation and policy through voting in elections, given the geographical basis of electoral voting and the fact that First Peoples comprise one per cent of the Victorian population.²¹⁴ This is significant, as Professor Megan Davis has explained, political participation for most ‘is more or less limited to a procedural right (the right to vote) and less scrutiny is paid to the quality of decision-making between elections’.²¹⁵

VACCHO told Yoorrook that First Peoples have very limited ability to hold those elected to account:

The low number of Aboriginal and Torres Strait Islander people in electorates mean that Aboriginal and Torres Strait Islanders do not have the power to hold representatives to account, and it also makes it easy for representatives to ignore the particular interests and views that Aboriginal and Torres Strait Islander people may have.²¹⁶

VICTORIAN ABORIGINAL COMMUNITY CONTROLLED HEALTH ORGANISATION

As part of their submission to Yoorrook on political life, VACCHO provided a joint report with the Lowitja Institute detailing a feasibility study for a Victorian Aboriginal Authority with the aim to increase the accountability of government initiatives that impact on First Peoples.²¹⁷ The report identified that ‘a gap in existing machinery of government structures and electoral systems for Aboriginal people to hold the Victorian Government to account for its commitments to Aboriginal people’.²¹⁸

First Peoples face social and economic injustices that act as additional barriers to representation in parliament. Yoorrook heard that there is a ‘level of buying political access and influence’²¹⁹ required to enter into politics, which is a barrier for First Peoples who have been denied the opportunity to establish economic wealth²²⁰ and social capital in this environment.²²¹ For example, VACCHO pointed out: ‘The party political system as it currently exists upon a level of political donations as a key facet of its functioning’.²²² First Peoples and communities lack the financial resources to establish politically influential groups in the way that some corporate and trade union sectors can.²²³ Furthermore, leaders in First Peoples communities ‘are often performing multiple roles within their Community making it difficult to devote time to influence politics, especially when it is a system that has historically been unwelcome to them’.²²⁴

Premier Allan acknowledged the continued lack of power afforded to First Peoples through the electoral process and party systems, accepting that ‘First Peoples in Victoria ... have little or no power at the voting box and they have little other influence and are generally subjected to the whim of government and have been so since the beginning of the colony’.²²⁵

Disillusionment with the political system

First Peoples have an understandable disillusionment with the electoral process. Aunty Vickie Roach explained that since her 2006 campaign to ensure voting rights for those in prison (see 2007: Roach v Electoral Commissioner in box: Key events: First Peoples’ political resistance and activism, 1863 to 2021), she has become disillusioned with voting as First Peoples continue to be excluded from having influence over mainstream political systems:

My feelings towards the voting system have changed drastically since I brought the legislative challenge in the High Court. Voting seemed important at the time I brought the case, but that was before I came to understand the way the political world works. I don’t believe there is any choice or truth in the political process anymore, it isn’t transparent and doesn’t have voters’ best interests at heart.²²⁶

AUNTY VICKIE ROACH

Further adding to disempowerment and disillusionment, issues that impact First Peoples are often politicised in a way that harms First Peoples.

Ngaweeyan Maar-oo told Yoorrook:

Aboriginal and Torres Strait Islander people [are] ... further marginalised as a result of the politicisation of Aboriginal and Torres Strait Islander issues. This in part stems from a colonial deficit narrative, where Aboriginal and Torres Strait Islander people are not positioned as contributors or achievers, but rather subjects of systemic interventions.²²⁷

NGAWEEYAN MAAR-OO

The State acknowledged to Yoorrook that ‘governments, different agencies and different organisations have come to these issues from a deficit perspective, not an empowering perspective’.²²⁸

Some First Peoples reflected that they have less faith in political justice processes following the outcome of the 2023 Referendum on an Indigenous Voice to Parliament (2023 Voice Referendum).²²⁹ VACCHO said that the loss of hope among First Peoples from the 2023 Voice Referendum result had ‘profound and damaging effects’:

The disappointment and disillusionment resulting from the perceived failure of the referendum to deliver meaningful outcomes contributed to a sense of betrayal and disconnection. The psychological toll of dashed hopes can manifest in increased feelings of marginalisation, frustration, and a deepening mistrust of government processes. The impact extends beyond the immediate political context, affecting mental health, community cohesion, and overall well-being.²³⁰

VICTORIAN ABORIGINAL COMMUNITY CONTROLLED HEALTH ORGANISATION

Ngaweeyan Maar-oo told Yoorrook that engaging young First Nations people in voting is ‘essential for active participation in the democratic process’.²³¹ However, young First Peoples told Yoorrook that while they have aspirations to be leaders in the community and to be a part of boards and corporations in the future, parliament is not viewed as a culturally safe place.²³² They shared that the result of the 2023 Voice Referendum has caused anxiety about being part of political spaces in the future.²³³

Formal representation

Representation in parliament offers First Peoples an opportunity to address historical patterns of domination and ensures that ‘their perspectives are included in broader political discourse and decision-making processes’.²³⁴ However, First Peoples have minimal representation in the membership of major political parties, in State Parliament and at the local government level.

Due to exclusion of First Peoples by the State and other factors described in this chapter First Peoples are absent from elected roles throughout the entire governance system of Victoria. First Peoples are absent from main decision-making roles and bodies throughout public governance. First Peoples are largely absent from leadership roles in the Victorian Public Service, absent from the leadership of councils and absent from the boards that govern Victoria’s public institutions. This is the case even in areas where there is a clear benefit to including the expertise and experience of First Peoples. For instance, there is no First Nations person on the board of the Environment Protection Authority (EPA), and there is no First Peoples’ representative on the board of the Country Fire Authority (CFA), the Victorian Curriculum and Assessment Authority, the Victorian Law Reform Commission or the vast majority of Victoria’s public health services and hospital boards.

Throughout Victoria’s major public institutions, First Peoples are absent from leadership roles and the tables where decisions are made.

FIRST PEOPLES ARE NOT REPRESENTED IN POLITICAL PARTIES

Yoorrook asked the major political parties in Victoria to provide information on their level of engagement with First Peoples.

In correspondence to Yoorrook, the Victorian division of the Liberal Party of Australia (Victorian Liberal party) advised that they do not collect information about whether people joining the party are Indigenous.²³⁵ Publicly available information indicates that the Victorian Liberal party has no formal processes in place to support First Peoples’ representation.²³⁶

The Victorian National Party did not respond to Yoorrook’s request for information.

The Victorian Branch of the Australian Labor Party (Victorian Labor) told Yoorrook that First Peoples’ membership in Victorian Labor ‘remains low’, having 111 members as at May 2024.²³⁷ The Labor Party shared with Yoorrook data of First Peoples’ membership since 2018, which showed fluctuation over this time. In 2018, First Peoples represented 1.04 per cent of new members. This dropped to 0.42 per cent in 2019. Since then, First Peoples membership has been trending upwards to 1.72 per cent in 2023.²³⁸

Victorian Labor has no specific entry pathways or formal supports to encourage First Peoples.²³⁹ Neither does it have an affirmative action provision in the Branch Rules to promote the position of First Peoples in the party,²⁴⁰ except for priority election to the Aboriginal and Torres Strait Islander Affairs Policy Committee. Victorian Labor also told Yoorrook that once First Peoples become members, they are provided access to the Victorian Indigenous Labor Network — a working group that ‘has not been active in recent years’.²⁴¹ Yoorrook was also told that of the 25 employees of Victorian Labor, none are First Peoples.²⁴²

The Australian Greens Victoria (Victorian Greens) told Yoorrook that First Peoples membership in the Victorian Greens has grown since 2019. First Peoples represented 0.4 per cent of new members in 2019.²⁴³ This proportion increased to 3.5 per cent in 2022 but declined to 2 per cent in 2023.²⁴⁴ The Victorian Greens also advised that they have reduced the annual membership fee for First Peoples to \$1 since September 2019. They stated that once First Nations people become members, they can access Blak Greens Victoria — a working group with the aim of further increasing First Peoples membership, supporting participation of First Peoples members and advising the party on First Peoples affairs and policies.²⁴⁵

First Peoples in parliament and local government

First Peoples face structural barriers to both pre-selection and election, including lack of access to socioeconomic resources required for campaigning.²⁴⁶ Victoria did not elect a First Nations parliamentarian until 1979 when Cyril Kennedy won a seat in the Waverley electorate.²⁴⁷ The brother of Cyril Kennedy, Andrew (Daivd) Kennedy, was elected to the House of Representatives as the federal member for the seat of Bendigo in 1969,²⁴⁸ and represented the Australian Labor Party in the Victorian Parliament between 1982 and 1992.²⁴⁹ At this time, the Aboriginality of the Kennedy brothers was not publicly known.²⁵⁰

There have been four First Peoples parliamentarians elected in Victoria to date (including the Kennedy brothers for whom their Aboriginality was not publicly known at the time they were elected).²⁵¹ As of 2024, the State only has one First Nations parliamentarian.

It is not just at the state level in parliament and political parties that First Peoples are absent. Nearly all of Victoria’s local governments do not have any First Peoples elected as councillors. In the 2020 elections, only six First Peoples were elected as local government councillors, which is less than one per cent of Victoria’s 647 councillors.²⁵²

Yoorrook heard calls to increase First Peoples’ political representation.²⁵³ Marcus Stewart (Taungurung), inaugural Co-Chair of the First Peoples’ Assembly of Victoria, told Yoorrook that the government should consider reserved parliamentary seats and quotas for ministerial appointments.²⁵⁴ Roundtable participants also called for the Minister for Treaty and First Peoples to be an identified First Peoples position.²⁵⁵

RESERVED SEATS IN PARLIAMENT: COMPARATIVE EXAMPLES FROM OVERSEAS

The way that First Peoples reserved seats are filled varies across international jurisdictions, each providing differing benefits.

In Bolivia, direct seats are filled via competitive elections in special districts.²⁵⁶ First Peoples organisations can nominate candidates according to customary norms and procedures. In designing the architecture of reserved seats, most First Peoples organisations sought a power-sharing model with direct representation of all First Peoples in the legislature without party intermediation.²⁵⁷ This approach reduces the monopolisation of political parties, allowing space for more direct representation of First Peoples’ issues and concerns.²⁵⁸

In Aotearoa (New Zealand), the Māori electorates, or reserved seats, system was established in 1867 to ensure Māori representation in the country’s parliamentary process.²⁵⁹ Under this system, Māori citizens can choose to vote in either the general or Māori electoral roll, with the Māori roll allocating representatives specifically for Māori communities. The Māori population determines the number of Māori electorates, and these members of parliament represent their respective regions. Today there are seven Māori seats.²⁶⁰

Academic writings have detailed the improvements to the political lives of Māori flowing from this reserved seat system. Improvements include ‘the recognition of Māori structures, mainstreaming federal agencies to ensure a Māori dimension to the public service, acceptance of the Treaty of Waitangi as a solemn contract between the founding partners of the country, and inclusion of Māori at all levels of governance’.²⁶¹

More broadly, reserved seats for First Peoples are said to incentivise First Peoples voter engagement with the electoral process and increase First Peoples perception of political efficacy and trust in government regardless of the model used.²⁶²

Gaining a seat in parliament is only part of the struggle for First Peoples in influencing change. Yoorrook heard that First Peoples elected to government often are unable to influence Indigenous Affairs more broadly and are ‘not given the benefit of what they know by the wider government’.²⁶³ It is important that First Peoples who occupy these positions actually have power and decision-making ability.

The way forward

To address the injustice experienced by First Peoples, it is fundamentally important that the State establishes a permanent body of First Peoples with the power to make decisions on issues that directly impact their lives. As Uncle Johnny (Gunditjmara, Boandik) and Claudette Lovett (Gunditjmara) told Yoorrook:

We need our own government. A Black government. That’s the only way we can benefit because a Black organisation would understand the whole entire issues that plague our people ... You can’t expect people who have never lived or never walked in the shoes of Aboriginal people to understand and get it right.²⁶⁴

UNCLE JOHNNY AND CLAUDETTE LOVETT

The highest degree of protection for the continued existence of the permanent body of First Peoples would be to enshrine it in legislation. At present, the role of the First Peoples’ Assembly of Victoria is established by a Ministerial declaration providing the ability to act as the Aboriginal Representative Body under the *Treaty Act* as well as its entry onto the Negotiation Database by the Treaty Authority as the representative body to negotiate Statewide Treaty.²⁶⁵ Such a ministerial declaration can be withdrawn, albeit currently on grounds specified in the legislation.²⁶⁶

Further, the First Peoples’ Assembly of Victoria is currently constituted as a company limited by guarantee and is therefore subject to the rules and regulations that govern corporations. The First Peoples’ Assembly of Victoria has published a constitution and other guidance materials that explain processes for obtaining membership, elections, and decision making. The First Peoples’ Assembly of Victoria’s current functions and activities are understandably focused on Statewide Treaty processes (consistent with the *Treaty Act*).

Longer term, Yoorrook considers it essential that a permanent First Peoples representative body is established with broader powers and functions. A representative body for First Peoples should have a stronger legal basis.

The legislation establishing the First Peoples body should specify in which areas of jurisdiction it has power to make decisions. The body must be independent of government and free from government intervention in its areas of jurisdiction. The current treaty negotiations between the First Peoples’ Assembly of Victoria and the State are an immediate opportunity for the parties to discuss the establishment of a body of First Peoples.

Separate from the foundation of a First Peoples system, First Peoples must be empowered to engage directly with State systems. Establishing reserved seats in the Victorian Parliament would support First Peoples’ dedicated representation in the existing political framework, ensuring First Peoples’ perspectives are always present in decision-making processes at state level. Yoorrook also recommends that the role of Minister for Treaty and First Peoples should be designated for a First Nations person. In addition, the State should encourage political parties to improve political participation rates of First Peoples, including through formal supports for new members, engagement with First Peoples issues, active networks and employment of First Peoples.

Recommendation

RECOMMENDATION 96

The Victorian Government must negotiate with First Peoples the establishment of a permanent First Peoples’ representative body with powers at all levels of political and policy decision making.

Endnotes

1. Transcript of Minda Murray, 26 April 2024, 4 [8]–[9].
2. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 6.
3. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Health, Education, Housing), 80; Witness Statement of Minister Lily D'Ambrosio MP, 8 March 2024, 3 [14]; Witness Statement of Ngarra Murray, Co-Chair of the First Peoples' Assembly of Victoria, 11 April 2024, 19 [55].
4. Environmental Justice Australia, Submission 346 (Initial Submission), 6.
5. Ngaweeyan Maar-oo, Submission 907 (Political Life), 8–10.
6. Progress includes enacting legislation to progress Treaty, including *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) and the *Treaty Authority and Other Treaty Elements Act 2022* (Vic).
7. Victorian Government, [Advancing the Victorian Treaty Process Annual Report 2023-24](#) (Report 2024), 10.
8. First Peoples' Assembly of Victoria, '[Journey to Treaty](#)' (Webpage, 2024).
9. Treaty Authority, '[How the Authority performs its role](#)' (Webpage, 2024).
10. Victorian Government, [Advancing the Victorian Treaty Process Annual Report 2023-24](#) (Report 2024), 6.
11. Victoria, [Yoorrook Justice Commission, Letters Patent](#).
12. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007)
13. *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976)
14. *International Covenant on Civil and Political Rights*, adopted 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976).
15. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 4, 5, 18, 19, 20, 34, and 38.
16. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 4.
17. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 5, 20(1).
18. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 5.
19. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 18.
20. *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 19.
21. In response to Yoorrook's suggestion that the State has failed to uphold First Peoples' rights under UNDRIP, in correspondence dated 7 March 2025, the Department of Premier and Cabinet informed Yoorrook: 'It is inaccurate to refer to UNDRIP as the standard by which Government measures its actions; we note there are other instruments, such as the VAAF, which serve that purpose. UNDRIP is an international statement of Indigenous rights, but it is not an accountability framework adopted by the Victorian Government into law'.

22. Megan Davis, 'Australia's Reconciliation Process in its International Context: Recognition and the Health and Wellbeing of Australia's Aboriginal & Torres Strait Islander Peoples' (2014) 18 (2) *AILR* 57-58.
23. Djirra, Submission 348 (Land, Sky, Waters), 7.
24. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 14.
25. Transcript of Minda Murray, 26 April 2024, 1 [40]–[41].
26. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 6, referring to the *Victoria Constitution Act 1855* (UK), which became the *Constitution Act 1975* (Vic).
27. Dr Ed Wensing, Submission 590, 6, paraphrasing Ross Cranston, '[The Aborigines and the Law-An Overview](#)' (1972) 8 *University Queensland Law Journal* 60.
28. Federation of Victorian Traditional Owner Corporations, Submission 566 (Economic Prosperity), 14.
29. City of Melbourne, Submission 952, 2; Rob Watts, '[Making Numbers Count on the Racial Frontier: An Historical Sociology of the Birth of the Census, Victoria \(Australia\), 1835-1840](#)' (2002) *Histoire sociale/Social History*, 438.
30. Lee Borradale, Submission 592, 1; Transcript of roundtable with Tati Tati Kaiejin Aboriginal Corporation, 6 December 2023, 19.
31. *Mabo v Queensland* (1992) 175 CLR 1.
32. See Chapter 2: Sovereignty.
33. [Victoria Constitution Act 1855 \(UK\)](#)
34. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 6.
35. Parliament of Victoria, '[History of Elections](#)' (Webpage, 2024).
36. City of Melbourne stated: 'In 1842, the requirements for voting for the Council were: occupying a house or business to a value of £25 and not receiving charitable assistance or have a child enrolled in a charitable institution within three years of the election. This meant Wurundjeri people, Bunurong Boon Wurrung people and other Aboriginal people were not eligible to vote'. City of Melbourne, Submission 952, 7, citing *An Act to incorporate the Inhabitants of the Town of Melbourne*(1842); eMelbourne: the city past & present, '[Melbourne City Council](#)' (Webpage).
37. *Electoral Act 1865* (Vic) s 20.
38. *Aboriginal Protection Act 1869* (Vic).
39. *Aborigines Protection Act 1886* (Vic) s 6.
40. [Commonwealth Franchise Act 1902](#) (Cth).
41. [Commonwealth Franchise Act 1902](#) (Cth) s 4.
42. *Commonwealth Electoral Act 1918* (Cth). See also National Museum Australia, '[Indigenous Australians' right to vote](#)' (Webpage, 2024).
43. Parliament of New South Wales, [Chapter 2: Aboriginal Representation: A Brief Overview](#) (Report, 2022), 12.
44. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3 [26].
45. Parliament of Victoria, '[History of Elections](#)' (Webpage, 2024).
46. Australian Human Rights Commission, '[The history of Aboriginal and Torres Strait Islander peoples advocating for the right to be heard](#)' (Webpage, 2024).
47. Rob Watts, 'Making Numbers Count on the Racial Frontier: An Historical Sociology of the Birth of the Census, Victoria (Australia), 1835-1840' (2002) *Histoire sociale/Social History*, 438; City of Melbourne, Submission 952, 1.

48. Environmental Justice Australia, Submission 346, 5.
49. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 8.
50. Witness Statement of Minister Natalie Hutchins MP, 18 March 2024, 7, referencing Parliament of Victoria, [Report of the Select Committee of the Legislative Council on the Aborigines: together with the proceedings of the Committee, Minutes of evidence and appendices](#), 1858-59, iv.
51. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 9.
52. Ngaweeyan Maar-oo, Submission 907 (Political Life), 7.
53. Transcript of Michael Graham, 27 May 2024, 13 [43]–14 [10].
54. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 7.
55. In 2016, the Victorian Government also amended the *Aboriginal Heritage Act 2006* (Vic) to transfer control and decision making over the reporting, treatment and repatriation of Ancestral remains to the Victorian Aboriginal Heritage Council.
56. [Advancing the Treaty Process with Aboriginal Victorians Act 2018](#) (Vic).
57. Victorian Government, '[Treaty for Victoria](#)' (Webpage, 2024).
58. Victorian Government, [Advancing the Victorian Treaty Process: Annual Report and Plan 2018-19](#) (Report), 13; See also Victorian Government, *Pathway to Treaty*' (Webpage, 2024)
59. Victorian Government, [Advancing the Victorian Treaty Process: Annual Report and Plan 2018-19](#) (Report), 13.
60. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic).
61. [Treaty Authority and Other Treaty Elements Act 2022](#) (Vic).
62. First Peoples' Assembly of Victoria and the Victorian Government, [Treaty Negotiation Framework](#) (Framework, 2022).
63. Victorian Government, '[Treaty for Victoria](#)' (Webpage, 2024)
64. *Constitution of the First Peoples' Assembly of Victoria* (2024), s 57.1.
65. Transcript of Rueben Berg, Co-Chair of First Peoples' Assembly of Victoria, 17 April 2024, 17 [13]–[15].
66. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 10(1). See also First Peoples' Assembly of Victoria and the Victorian Government, [Treaty Negotiation Framework](#) (Framework, 2022) cl 15, 16, 17, 18, 26.4.
67. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 11, 14-15.
68. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30.
69. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30.
70. Victorian Government, [Advancing the Victorian Treaty Process Annual Report 2023-24](#) (Report 2024), 12.
71. See First Peoples' Assembly of Victoria and the Victorian Government, [Treaty Negotiation Framework](#) (Framework, 2022) cl 18.
72. First Peoples' Assembly of Victoria and the Victorian Government, [Treaty Negotiation Framework](#) (Framework, 2022), 4.
73. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30; First Peoples' Assembly of Victoria, '[Journey to Treaty](#)' (Webpage, 2024).

74. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s10(1), 27, 30(1), 35, 38; First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30; First Peoples' Assembly of Victoria, '[Journey to Treaty](#)' (Webpage, 2024).
75. First Peoples' Assembly of Victoria, [Assembly Elections: Election Rules](#) (Version 4.0, 2023), rule 6.3.
76. First Peoples' Assembly of Victoria, [Assembly Elections: Election Rules](#) (Version 4.0, 2023), rule 7.1.
77. First Peoples' Assembly of Victoria, [Assembly Elections: Election Rules](#) (Version 4.0, 2023), rule 12.2.
78. First Peoples' Assembly of Victoria, [Assembly Elections: Election Rules](#) (Version 4.0, 2023), rule 17.
79. First Peoples' Assembly of Victoria, [Annual Report 2023](#) (Report, 2023), 26.
80. First Peoples' Assembly of Victoria, [Assembly Elections: Election Rules](#) (Version 4.0, 2023), rule 28.2.
81. First Peoples' Assembly of Victoria, *Assembly Elections: Election Rules* (Version 4.0, 2023), rule 6.2.
82. First Peoples' Assembly of Victoria, [Annual Report 2023](#) (Report, 2023), 15.
83. Treaty Authority, '[About us](#)' (Webpage); *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) pt 4; First Peoples' Assembly of Victoria and the Victorian Government, [Treaty Negotiation Framework](#) (Framework, 2022) cl 4.
- The Treaty Authority is established, by agreement between the State and First Peoples, under the Treaty Authority Agreement, and is given legal force in Victorian law under the *Treaty Authority and Other Treaty Elements Act 2022* (Vic).
84. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 28(1)(a); First Peoples' Assembly of Victoria and the Victorian Government, [Treaty Negotiation Framework](#) (Framework, 2022) cl 4; First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30; Treaty Authority, '[About us](#)' (Webpage).
85. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 28(1)(c), 37-40; First Peoples' Assembly of Victoria and the Victorian Government, [Treaty Negotiation Framework](#) (Framework, 2022) cl 35-36; First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30.
86. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30.
87. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 30.
88. Victorian Government, '[Establishment of the Treaty Negotiation Framework and Self-Determination Fund](#)' (Webpage, 2023).
89. Self-Determination Fund, '[Who we are](#)' (Webpage); *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) pt 6.
90. See *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 35.
91. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 31. See also *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s36(1).
92. First Peoples' Assembly of Victoria, Submission 378 (Land, Sky, Waters), 31-2.
93. Transcript of Uncle Robbie Thorpe, 27 March 2024, 55 [40]–[47]; Transcript of Aunty Geraldine Atkinson, 13 December 2022, 334 [4]–[9]; Transcript of Aunty Rieo Ellis, 7 December 2022, 184 [46]–185 [2].
94. Transcript of Minda Murray, 26 April 2024, 4 [8]–[9].

95. Keicha Day, Submission 379, 5; Charles Pakana (Keir Wells), Submission 1165, 3; Aunty Glenda Nicholls, Submission 961, 8; Transcript of Aunty Rieo Ellis, 7 December 2022, 184 [46]–185 [2]; Aunty Charmaine Clarke, 8 December 2022, 202 [8]–[34]; Uncle Brendan Kennedy, Submission 468 (Video Submission); Transcript of Minda Murray, 26 April 2024, 4 [8]–[9].

96. See Chapter 7: How colonisers stole Country and Chapter 1: The past is the present.

97. Katrina Harrison, Submission 67, 3.

98. Transcript of Aunty Muriel Bamblett, 6 December 2022, 95 [46]–[47].

99. Witness Outline of Dr Aunty Vicki Couzens, 28 March 2024, 6 [54].

100. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 344 (Land, Sky, Waters), 2; Transcript of Uncle Andrew Gardiner, 29 April 2024, 3 [36]–[42]; Transcript of Nerita Waight, 14 December 2022, 413 [6]–[11].

101. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3 [26]; Transcript of Nerita Waight, 14 December 2022, 413 [6]–[11]. See also State of Victoria, ‘[William Cooper](#)’ (Webpage, 29 September 2019).

102. Transcript of Uncle Graham Atkinson, 15 April 2024, 28 [44]–29 [1]. See also Yoorrook Justice Commission, ‘[One of the Most Significant Land Rights Cases in Victoria’s History: Onus v Alcoa](#)’ (Online video, 2024); Jessica K Weir, *The Gunditjmara Land Justice Story* (Australian Institute of Aboriginal and Torres Strait Islander Studies, 2009) 15.

103. Jim Berg and Shannon Faulkhead (eds), *The Power and the Passion: Our Ancestors Return Home* (Museums Victoria, 2022); Transcript of Professor Marcia Langton, 27 March 2024, 38 [6]–[20].

104. Witness Statement of Aunty Fay Carter, 29 April 2022, 4 [11]–[14], 10 [47], 11 [53], 16 [73]; Transcript of roundtable with Bangerang Aboriginal Corporation, 7 December 2023, 34, 40, served on the State of Victoria on 1 April 2024; Transcript of roundtable with Wollithiga Clan Aboriginal Corporation, 5 December 2023, 5–6; Kaiela Institute, Submission 668 (Economic Prosperity), 1, 28; Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 19 [142]; First Peoples’ Assembly of Victoria, Submission 378 (Land, Sky, Waters), 14.

105. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3 [V]; Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 344 (Land, Sky, Waters), 2; Transcript of Uncle Andrew Gardiner, 29 April 2024, 3 [36]–[42]. See also First Peoples State Relations, Aboriginal Honour Roll inductees, ‘[William Barak: An ambassador to his people](#)’ (Webpage); National Museum Australian, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

106. *Onus v Alcoa of Australia Ltd* (1981) 149 CLR 27; Transcript of Professor Marcia Langton, 27 March 2024, 38 [6]–[15]; Witness Outline of Aunty Vickie Roach, 12 December 2022, 7 [52].

107. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 11, citing National Museum of Australia, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

108. Keicha Day, Submission 379, 29; Mick Harding, Submission 891 ([Video Submission](#)), 5–8; Sissy Austin, ‘[The Fight for Djab Wurrung Continues](#)’, *IndigenousX* (Webpage, 7 September 2023).

109. Transcript of Uncle Johnny Lovett, 28 April 2022, 76 [48]–77 [21] (see video of Uncle Johnny’s song ‘Gunditjmara People’ [here](#), from 0:15:30–0:17:40); Witness Statement of Uncle Jack Charles, 23 April 2022, 17–18; Jack Charles, *Born Again Blakfella* (Penguin Books, 2020), chapter 9; Aunty Narweet Carolyn Briggs, Submission 402 ([Video Submission](#)), 26, 28; Witness Outline of Uncle Brendan Kennedy, 23 April 2024, 8–9, 18–25; Megan Evans, Submission 936.

110. Keicha Day, Submission 379, 29.

111. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 344 (Land, Sky, Waters), 2.

112. Victorian Government, ‘[William Barak: An ambassador to his people](#)’ (Webpage).

113. National Museum Australian, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

114. National Museum Australian, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

115. Victorian Government, ‘[William Barak: An ambassador to his people](#)’ (Webpage).

116. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 11, citing National Museum of Australia, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

117. Transcript of Ngarra Murray, Co-Chair of the First Peoples’ Assembly of Victoria, 17 April 2024, 7 [34]–[41].

118. Witness Statement of Ngarra Murray, Co-Chair of the First Peoples’ Assembly of Victoria, 11 April 2024, 5 [16].

119. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 11, citing National Museum Australian, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

120. Transcript of Uncle Andrew Gardiner, 29 April 2024, 3 [39]–[42].

121. City of Melbourne, ‘Mapping Aboriginal Melbourne; [The Coranderrk Inquiry – Old Treasury Building](#)’ (Webpage).

122. See also National Museum Australian, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

123. Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, Submission 344 (Land, Sky, Waters), 2; Transcript of Uncle Andrew Gardiner, 29 April 2024, 3 [36]–[42]; Witness Statement of Ngarra Murray, Co-Chair of the First Peoples’ Assembly of Victoria, 11 April 2024, 6 [16]. See also First Peoples State Relations, Aboriginal Honour Roll inductees, ‘[William Barak: An ambassador to his people](#)’ (Webpage); National Museum Australian, ‘[Defining Moments: Coranderrk](#)’ (Webpage).

124. Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 5–6 [40]–[45]; Mati Keynes et al, ‘[3 Key Moments in Indigenous Political History Victorian School Students Didn’t Learn about](#)’, *The Conversation* (Webpage, 12 October 2023).

125. State Library of Victoria, ‘[William Barak – age 33 – Yarra Yarra Tribe](#)’ (Catalogue Record).

126. Witness Outline of Dr Aunty Vicki Couzens, 28 March 2024, 5 [46], 15.

127. Deadly Story, ‘[Framlingham Mission](#)’ (Webpage).

128. Janet F Critchett, *A History of Framlingham and Lake Condah Aboriginal Stations, 1860–1918* (MA Thesis) (University of Melbourne, 1980), 136, 151–3, 156, 159, 163–4, 168, 171.

129. Deadly Story, ‘[Bung Yarnda \(Lake Tyers Mission\)](#)’ (Webpage).

130. Australian Institute of Aboriginal and Torres Strait Islander Studies, ‘[The 1938 Day of Mourning](#)’ (Webpage).

131. Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 6 [47].

132. William Cooper and the Australian Aborigines’ League, ‘[The Petition Again \(1937–1938\)](#)’ (Webpage).

133. Suzannah Henty, *In the Soil that Nurtures Us: A Certain Death to the Colonial Myth* (2021) Index 8.

134. Australian Institute of Aboriginal and Torres Strait Islander Studies, ‘[The 1938 Day of Mourning](#)’ (Webpage).

135. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3 [26]; Witness Statement of Ngarra Murray, Co-Chair of the First Peoples’ Assembly of Victoria, 11 April 2024, 3 [10], 8 [20]; Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 11; Beth Marsden, “Our people say that they want their children to be able to become doctors, nurses, teachers”: contesting education and schooling for Aboriginal children in south-eastern Australia in the 1930s’ (2023) 52(5) *History of Education*, 784.

136. Deadly Story, ‘[Cummeragunja residents protest against cruel treatment](#)’ (Webpage).

137. Deadly Story, ‘[Cummeragunja residents protest against cruel treatment](#)’ (Webpage).

138. Deadly Story, ‘[Cummeragunja residents protest against cruel treatment](#)’ (Webpage).

139. Deadly Story, ‘[Bung Yarnda \(Lake Tyers Mission\)](#)’ (Webpage).

140. Deadly Story, ‘[Bung Yarnda \(Lake Tyers Mission\)](#)’ (Webpage).

141. Australian Institute of Aboriginal and Torres Strait Islander Studies, ‘[The 1967 Referendum](#)’ (Webpage).

142. City of Melbourne, Submission 952, 2; Rob Watts, ‘[Making Numbers Count on the Racial Frontier: An Historical Sociology of the Birth of the Census, Victoria \(Australia\), 1835–1840’ \(2002\) Histoire sociale/Social History](#), 438.

143. Lee Borradale, Submission 592, 6; Witness Statement of Minister Harriet Shing MP, 3 June 2024, 6 [22].

144. Witness Statement of Minister Harriet Shing MP, 3 June 2024, 6 [22]; Parliament of Australia, ‘[Former Aboriginal and Torres Strait Islander Australian Government representative and advisory bodies: a quick guide](#)’ (Webpage, 2025).

145. City of Melbourne, Submission 952, 51, citing The Age, ‘Aboriginal lands vigil nation-wide’ (Webpage, 20 June 1968).

146. See also Witness Statement of Minister Natalie Hutchins MP, 18 March 2024, 14 [62], 15 [63], citing National Museum Australia, ‘[Campaign to Save Lake Tyers](#)’ (Webpage).

147. Transcript of Aunty Marjorie Thorpe, 15 April 2024, 10 [38]–[44].

148. First Peoples State Relations, ‘[Review of the Aboriginal Lands Act 1970](#)’ (Webpage).

149. Deadly Story, ‘[Gunditjmara Native Title Win](#)’ (Webpage).

150. *Onus v Alcoa of Australia Ltd* (1981) 149 CLR 27. See also Yoorrook Justice Commission, ‘[One of the Most Significant Land Rights Cases in Victoria’s History: Onus v Alcoa](#)’ (Online video, 2024); Jessica K Weir, *The Gunditjmara Land Justice Story* (Australian Institute of Aboriginal and Torres Strait Islander Studies, 2009) 15. Deadly Story, ‘[Gunditjmara Native Title Win](#)’ (Webpage).

151. See Chapter 9: How we got here — overview of recognition systems and Chapter 23: Tertiary overview and historical context See also Transcript of Professor Marcia Langton, 27 March 2024, 38 [6]–[15].

152. *Aboriginal Heritage Act 2006* (Vic) ss 14–22. See also Chapter 9: How we got here — overview of recognition systems and Chapter 23: Tertiary overview and historical context. See also Transcript of Professor Marcia Langton, 27 March 2024, 38 [15]–[20].

153. Michael Mansell, ‘The Black GST: A Proposition for all Indigenous People and Supporters’ (2006) 6(16) *Indigenous Law Bulletin*, 2.

154. Clare Land, ‘[Interrogating non-Indigenous support for Indigenous self-determination](#)’ (2007) 16 *Lilith: A Feminist History Journal*, 99–102.

155. Tony Birch, ‘[Rise from this grave](#)’ (2018) 230, *Overland*, 3–10.

156. *Roach v Electoral Commissioner* (2007) 233 CLR 162.

157. Witness Outline of Aunty Vickie Roach, 12 December 2022, 7 [52].

158. Witness Outline of Aunty Vickie Roach, 12 December 2022, 7 [50].

159. Witness Outline of Aunty Vickie Roach, 12 December 2022, 7 [50]–[52]; Vickie Roach, ‘[Judge Not — Lest Ye Be Judged](#)’ (2008) 33(1) *Alternative Law Journal* 1–3.

160. Witness Outline of Aunty Vickie Roach, 12 December 2022, 7 [51].

161. Witness Outline of Aunty Vickie Roach, 12 December 2022, 7 [53].

162. *Roach v Electoral Commissioner* (2007) 233 CLR 162; See also Witness Outline of Aunty Vickie Roach, 12 December 2022, 7 [53].

163. Daniel Miles, ‘[Supreme Court dismisses Djab Wurrung fight to protect ‘culturally significant’ trees](#)’, ABC News (Webpage, 23 November 2021); Calla Wahlquist and Nino Bucci, ‘[Chainsaws tearing through my heart”: 50 arrested as sacred tree cut down to make way for Victorian highway](#)’, *The Guardian* (Webpage, 27 October 2020); Sissy Austin, ‘[The fight for Djab Wurrung continues](#)’, *IndigenousX* (Webpage, 7 September 2023).

164. Sissy Eileen Austin, ‘[The destruction of a sacred tree on Djab Wurrung country has broken our hearts](#)’, *The Guardian* (Webpage, 27 October 2020); Calla Wahlquist, ‘[Djab Wurrung trees: destruction on hold as Victorian supreme court agrees to hear case](#)’, *The Guardian* (Webpage, 28 October 2020); Peta Malins et al, ‘[An open letter from 1,200 Australian academics on the Djab Wurrung trees](#)’, *The Conversation* (Webpage, 4 November 2020); Rochelle Kirkham, ‘[Djab Wurrung birthing tree near Western Highway upgrade site confirmed poisoned](#)’, ABC News (Webpage, 23 August 2023); Sissy Austin, ‘[The fight for Djab Wurrung continues](#)’, *IndigenousX* (Webpage, 7 September 2023).

165. Penny Van Toorn, *Writing Never Arrives Naked: Early Aboriginal Cultures of Writing in Australia* (Aboriginal Studies Press, 2006). See also Jessica Horton, “‘Willing to fight to a man’: The First World War and Aboriginal activism in the Western District of Victoria’ (2015) 39, *History Australia*, 203–222.

166. First Peoples’ Assembly of Victoria, Submission 378 (Land, Sky, Waters), 9. See also Elizabeth Nelson, Sandra Smith and Patricia Grimshaw (eds), *Letters from Aboriginal Women of Victoria, 1867–1926* (University of Melbourne, 2002); Jessica Horton, ‘Rewriting political history: Letters from Aboriginal people in Victoria, 1886–1919’ (2016) 9(2) *History Australia*, 157–181; National Archives of Australia and Public Record Office Victoria, *Footprints: The Journey of Lucy and Percy Pepper* (2008); Phillip Pepper, *You Are What You Make Yourself To Be: the story of a Victorian Aboriginal family* (Hyland House Publishing Pty Limited, 1980).

167. Transcript of Aunty Glenys Watts, 6 December 2022, 80 [15]–[16].

168. Witness Outline of Dr Aunty Vicki Couzens, 28 March 2024, 15.

169. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 2–3 [22]–[23].

170. Transcript of Aunty Glenys Watts, 6 December 2022, 79 [49]–80 [2].

171. Transcript of Aunty Glenys Watts, 6 December 2022, 80 [15]–[19].

172. Aunty Evon Barker, [Submission 403](#) (Video Submission, 4. See also Aunty Evon Barker, Submission 392).

173. Aunty Evon Barker, [Submission 403](#) (Video Submission), 4.

174. Witness Outline of Dr Aunty Vicki Couzens, 28 March 2024, 5 [46].

175. Witness Outline of Dr Aunty Vicki Couzens, 28 March 2024, 5 [48].

176. Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 21 [153].

177. Witness Statement of Premier Jacinta Allan MP, 18 March 2024, 21 [153], citing Elizabeth Nelson, Sandra Smith and Patricia Grimshaw (eds), *Letters from Aboriginal Women of Victoria, 1867–1926* (University of Melbourne, 2002). See also Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3 [24].

178. Transcript of Ngarra Murray, Co-Chair of the First Peoples’ Assembly of Victoria, 17 April 2024, 8 [4]–[5].

179. Transcript of Ngarra Murray, Co-Chair of the First Peoples’ Assembly of Victoria, 17 April 2024, 8 [5]–[8].

180. Wayne Atkinson, ‘The Schools of Human Experience’ in Rachel Perkins (dd), *First Australians: an illustrated history* (The Miegunyah Press, 2008), 329.

181. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 6; Uncle Dr Wayne Atkinson, Submission 406 (‘Truth Justice’), 15.

182. Keicha Day, Submission 379, 29; Mick Harding, Submission 891 ([Video Submission](#)), 5–8; Sissy Austin, ‘[The Fight for Djab Wurrung Continues](#)’, *IndigenousX* (Webpage, 7 September 2023).

183. Ngaweeyan Maar-oo, Submission 907 (Political Life), 13.

184. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3–4 [V]; Elias Jarvis, Submission 542 ([Video Submission](#)).

185. Mati Keynes, Submission 397, 6. See also Mati Keynes et al, ‘[3 Key Moments in Indigenous Political History Victorian School Students Didn’t Learn about](#)’, *The Conversation* (Webpage, 12 October 2023).

186. Kaiela Institute, Submission 668 (Economic Prosperity), 27.

187. Aboriginal Advancement League, ‘[About AAL](#)’ (Webpage [unavailable], 2020); Transcript of Aunty Dr Jill Gallagher, 28 March 2024, 53 [45]–54 [10].

188. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3 [27]; Transcript of Uncle Johnny Lovett, 29 April 2022, 82 [28]–83 [45].

189. Aboriginal Advancement League, ‘[About AAL](#)’ (Webpage [unavailable], 2020).

190. Transcript of Aunty Dr Lois Peeler, 4 June 2024, 64 [8]–[19].

191. Museums Victoria, ‘[Aborigines Advancement League in Museums Victoria Collections](#)’ (Webpage, 2011).

192. National Museum of Australia, ‘[Victorian Aboriginal Advancement League](#)’ (Webpage, Archived).

193. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 3 [28].

194. See Witness Statement of Minister Natalie Hutchins MP, 18 March 2024, 14 [62], 15 [63], citing National Museum Australia ‘[Campaign to Save Lake Tyers](#)’ (Webpage).

195. Transcript of Aunty Marjorie Thorpe, 15 April 2024, 10 [38]–[44].

196. Transcript of Aunty Marjorie Thorpe, 15 April 2024, 10 [38]–[43].

197. Transcript of Aunty Fay Carter, 2 May 2022, 170 [37]–[42].

198. Aunty Daphne Milward, Submission 282, 3–4.

199. Owen Butler, Submission 625, 9.

200. Aboriginal Advancement League ‘[We Walk in the Footprints of Giants](#)’ (Webpage [currently down for maintenance]).

201. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 4.

202. Michael Hemingway ‘[Annexure C – A History of the Victorian Aboriginal Health Service](#)’ from Michael Hemingway, *Community Control: Aboriginal Self-determination and Australian Settler Democracy – A History of the Victorian Aboriginal Health Service*, PhD thesis University of Melbourne, 2012), 10.

203. See also Penny Tripcony, ‘Towards Aboriginal Management of Aboriginal Rental Housing, Melbourne, 1960–89’ in Peter Read (ed), *Settlement: A History of Australian Indigenous Housing* (Aboriginal Studies Press, 2000), 144–156, 148.

204. Victorian Aboriginal Child and Community Agency, Submission 77 (Child Protection, Criminal Injustice), 18.

205. Witness Statement of Aunty Dr Alma Thorpe, 3 May 2022, 28 [180].

206. Witness Statement of Aunty Dr Alma Thorpe, 3 May 2022, 28 [180].

207. Kaiela Institute, Submission 668 (Economic Prosperity), 29; Site Visit Summary — Rumbalara Elders Facility Site Visit, 31 January 2024; Witness Outline Felicia Dean, 7 December 2022, 1[II].

208. Witness Outline Felicia Dean, 7 December 2022, 1[II].

209. Transcript of Alan Brown, 4 June 2025, 15 [33]–[34].

210. Ngaweeyan Maar-oo, Submission 907 (Political Life), 5.

211. Ngaweeyan Maar-oo, Submission 907 (Political Life), 13.

212. Witness Statement of Minister Natalie Hutchins MP, 18 March 2024, 18 [76].

213. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 5, 7.

214. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 7–8.

First Peoples make up around 1 per cent of the Victoria population: Australian Bureau of Statistics, ‘[Victoria: 2021 Census Aboriginal and/or Torres Strait Islander people QuickStats](#)’ (Webpage, 2022).

215. Megan Davis, ‘Indigenous constitutional recognition from the point of view of self-determination and its exercise through democratic participation’ (2015) 8(19) *Indigenous Law Bulletin*, 10–14

216. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 7–8.

217. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life);

Lowitja Institute and Victorian Aboriginal Community Controlled Health Organisation, *Victorian Aboriginal Authority: An Initial Feasibility Study for Discussion* (Report, May 2023).

218. Lowitja Institute and Victorian Aboriginal Community Controlled Health Organisation, [Victorian Aboriginal Authority: An Initial Feasibility Study for Discussion](#) (Report, May 2023), 10.

219. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 14.

220. See Chapter 36: Economic prosperity.

221. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 14.

222. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 14.

223. See Chapter 36: Economic prosperity.

224. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 14.

225. The Premier accepted the following statement put to her in hearings by Tony McAvoy (Counsel Assisting): ‘By that proposition, Premier, it is meant to say that ... First Peoples in Victoria ... exist in circumstances in Victoria where they are not the dominant culture. They have little or no power at the voting box and they have little other influence and are generally subjected to the whim of government and have been so since the beginning of the colony?’ Premier Jacinta Allan MP: ‘Yes’: in Transcript of Premier Jacinta Allan MP, 29 April 2024, 24 [1]–[9].

226. Witness Outline of Aunty Vickie Roach, 12 December 2022, 7–8 [55]–[56].

227. Ngaweeyan Maar-oo, Submission 907 (Political Life), 21.

228. Transcript of Premier Jacinta Allan MP, 29 April 2024, 34 [10]–[31].

229. Transcript of Aunty Dr Jill Gallagher, 27 May 2024, 56 [43]–57 [4].

230. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Health, Education, Housing), 14. See also Uncle Dr Wayne Atkinson, Submission 406 (‘Truth Justice’), 16.

231. Ngaweeyan Maar-oo, Submission 907 (Political Life), 20.

232. Summary of roundtable with Koorie Youth Council, 8 April 2024, 9, served on the State of Victoria on 14 June 2024.

233. Summary of roundtable with Koorie Youth Council, 8 April 2024, 2, served on the State of Victoria on 14 June 2024.

234. Ngaweeyan Maar-oo, Submission 907 (Political Life), 10.

235. Correspondence to Yoorrook from the Liberal Party of Australia (Victoria Division), dated 3 June 2024.

236. Publicly available information (e.g. the Victorian Liberal party website) describes the young Liberal Movement and Liberal Women’s Council, but no First Peoples-related policies or initiatives are identified. For example see Liberal Victoria, ‘[About us](#)’ (Webpage).

The [Victorian Liberal Party of Australia Victorian Branch Constitution](#), makes no mention of policies or provisions relating to First Peoples’ membership. See Liberal Party of Australia, Victorian Division, [Constitution: As amended by the 169 State Council, 28 August 2022](#) (2022).

237. Victorian Labor, Response to Request for Information, 3–4, produced by the Victorian Labor Party on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

238. First Peoples as a proportion of new joining members 2018: 1.04%, 2019: 0.42%, 2020: 459, 2021: 1.33%, 2022: 1.25%, 223: 1.72%, 2024 to May: 1.01%.

Victorian Labor, Response to Request for Information, 3, produced by the Victorian Labor Party on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

239. Victorian Labor, Response to Request for Information, 3, 6, produced by the Victorian Labor Party on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

240. This affirmative action provision only took effect in 2018: Victorian Labor, Response to Request for Information, Attachment – Victorian Labor Party Reconciliation Action Plan 2024, 13, produced by the Victorian Labor Party on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

241. Victorian Labor, Response to Request for Information, 9, produced by the Victorian Labor Party on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024; Victorian Labor, Response to Request for Information, Attachment – Victorian Labor Party Reconciliation Action Plan 2024, 9, produced by the Victorian Labor Party on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

242. Victorian Labour, Response to Request for Information, Attachment – Victorian Labor Party Reconciliation Action Plan 2024, 9, produced by the Victorian Labour Party on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

243. Australian Greens Victoria, Response to Request for Information, 1, produced by the Greens Victoria on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

244. Australian Greens Victoria, Response to Request for Information, 1, produced by the Greens Victoria on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

245. Australian Greens Victoria, Response to Request for Information, 2, 4, produced by the Greens Victoria on 28 June 2024 in response to the Commission’s Request for Information dated 27 May 2024.

246. Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 14.

247. Parliament of Australia, ‘[Indigenous Australian parliamentarians in federal and state/territory parliaments: a quick guide](#)’ (Webpage, 2021).

248. Parliamentary Library, [Parliamentary Handbook](#), ‘[KENNEDY, Andrew David](#)’ (Webpage, 2024)

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250. Parliament of Australia, ‘[Indigenous Australian parliamentarians in federal and state/territory parliaments: a quick guide](#)’ (Webpage, 2021); Parliamentary Library, [Parliamentary Handbook](#), ‘[KENNEDY, Andrew David](#)’ (Webpage, 2024).

251. Parliament of Australia, ‘[Indigenous Australian parliamentarians in federal and state/territory parliaments: a quick guide](#)’ (Webpage, 2021); Parliament of Australia, ‘[Aboriginal and Torres Strait Islander parliamentarians in Australia: a quick guide](#)’ (Webpage, 8 August 2022).

252. Municipal Association of Victoria, ‘[Diversity on the up in Victorian councils](#)’ (Webpage).

The Department of Government Services told Yoorrook that the Victorian Local Governance Association has established the Your Community, Country & Council program, with \$50,000 in funding, to improve First Peoples’ representation in councils: Department of Government Services, ‘*Local Government Recognition and Settlement Agreements with Traditional Owners*’, produced in response to the Commission’s Notice to Produce dated 8 November 2023, 7–8.

253. Transcript of Uncle Johnny Lovett, 29 April 2022, 78 [29]–[39]; Victorian Aboriginal Community Controlled Health Organisation, Submission 905 (Political Life), 17; Transcript of Ian Hamm, 8 December 2022, 266 [35]–[39].

254. Transcript of Marcus Stewart, inaugural Co-Chair of First Peoples’ Assembly of Victoria, 5 May 2022, 237 [4]–[7]. See also Thomas Adams, Submission 235, 1; Jumbunna Institute, Submission 900, 9.

255. Transcript of roundtable with Barengi Gadjin Land Council, 26 October 2023, 45.

256. Corinna Kroeber, ‘Exploring the Impact of Reserved Seat Design on the Quality of Minority Representation’ (2015) 16(2) *Ethnopolitics* 196.

257. Corinna Kroeber, 'Exploring the Impact of Reserved Seat Design on the Quality of Minority Representation' (2015) 16(2) *Ethnopolitics* 196.

258. Cletus Barié, '[Representation of indigenous peoples in times of progressive governments: lessons learned from Bolivia](#)' (2022) 17(2) *Latin American and Caribbean Ethnic Studies*, 167-192.

259. Te Ara: The Encyclopedia of New Zealand, '[Story: Tōrangapū – Māori and political parties](#)' (Webpage).

260. New Zealand Parliament, '[The origins of the Māori seats](#)' (Webpage).

261. Jennifer Heffler, '[Political Space, Guaranteed: Utilizing New Zealand's "Reserved Seats" System to Help Aboriginal Canadians Realize Their Guaranteed Democratic Rights](#)' (2006) 15(1) *Dalhousie Journal of Legal Studies* 115.

262. Glynn Evans and Lisa Hill, '[The Electoral and Political Implications of Reserved Seats for Indigenous Australians](#)' (2012) 47(3) *Australian Journal of Political Science* 491, 493.

263. Transcript of Uncle Johnny Lovett, 29 April 2022, 88 [31]–[32].

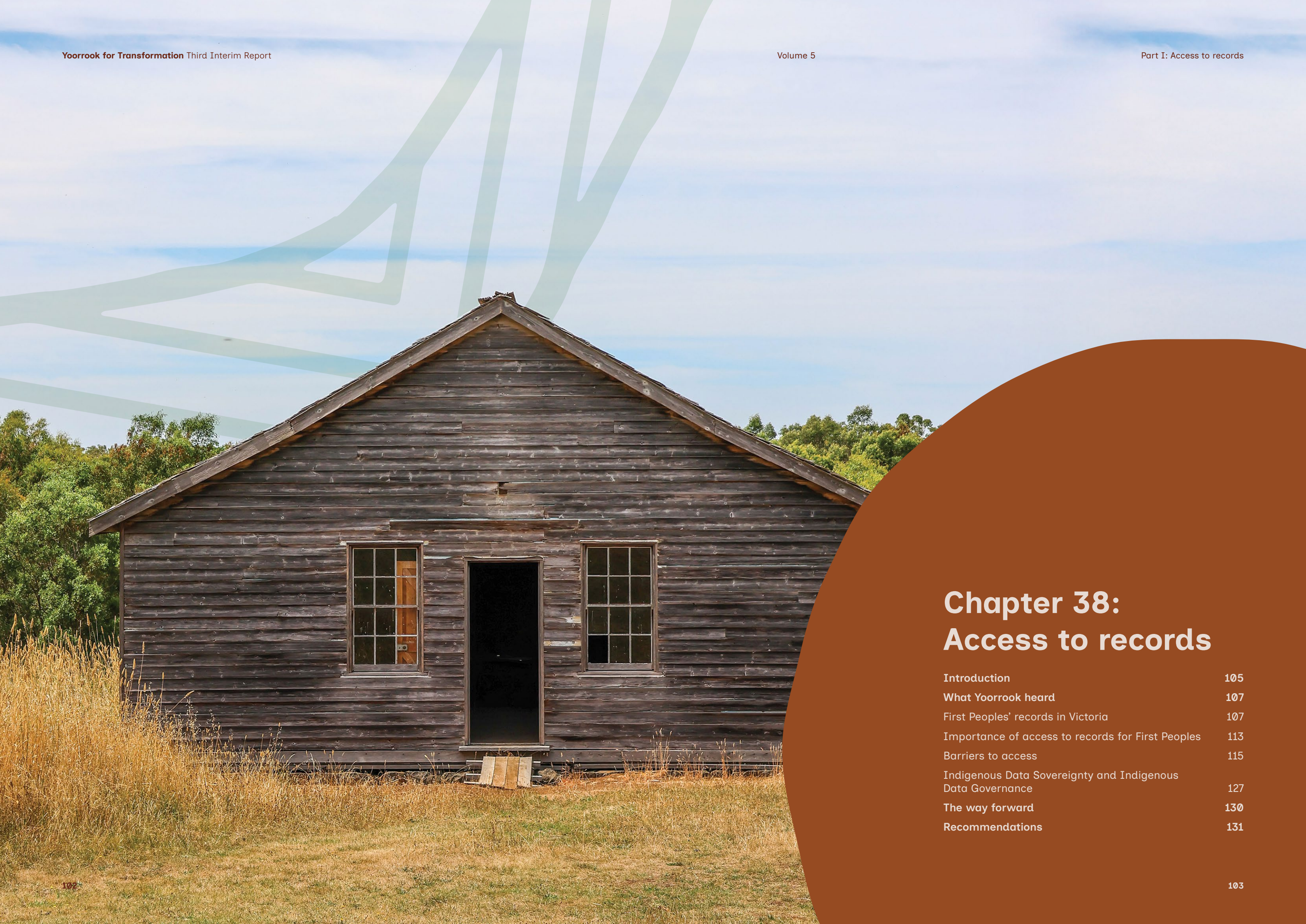
264. Claudette and Uncle Johnny Lovett, Submission 228, 4.

265. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 11.

266. The Minister may revoke the First Peoples' Assembly of Victoria's declaration as Aboriginal Representative Body if satisfied on reasonable grounds that the First Peoples' Assembly of Victoria has 'committed misconduct', and by reason of the misconduct it is unable to effectively perform its function under the *Treaty Act*; and the First Peoples' Assembly of Victoria has 'failed to take reasonable steps to remedy the misconduct and to take all necessary steps to prevent further misconduct that are reasonably available'. The process for determining whether misconduct has been committed would involve giving the First Peoples' Assembly of Victoria notice of the Minister's concerns and allowing time to discuss the allegations and any action to be taken, then provide reasons to the Minister why the declaration should not be revoked. See *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) ss 14(1)(c), 15(1).

Part I

Access to records



Chapter 38: Access to records

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Since Colonisation, successive Victorian governments and agencies have imposed their ways of counting populations, cultures and territories. These practices have denied First Peoples’ own approaches to collecting and recording data, and contributed to deficit framing that focus on First Peoples’ disadvantage, disparity and deprivation.¹

MINISTER GABRIELLE WILLIAMS MP

Introduction

The making and keeping of records relating to colonised peoples is an integral part of the process of colonisation. Since the 1830s, government and other institutional ‘records of surveillance’² have been used to document, regulate and justify power over First Peoples in Victoria.³ These records, now housed in various archives, perpetuate the legacy of colonial power.

The State’s continued claims of ownership of these records creates and magnifies systemic injustices that First Peoples in Victoria experience to the present day. This creates a lack of ‘trust and confidence’⁴ from First Peoples in engaging with these institutions.⁵ These records are fundamentally problematic sources of knowledge because of ‘inherent biases associated with record making and collecting paradigms that silence and subjugate Indigenous peoples’ voices’.⁶ However, access to the information they contain is bound up with First Peoples’ pursuit of justice.

Evidence shared with Yoorrook highlighted a litany of barriers to First Peoples’ access to State-held records about them and their families. Over the past three decades, multiple inquiries have identified significant issues for First Peoples in accessing records,⁷ and subsequent ‘distress, frustration and trauma’ and inability to seek redress resulting from these barriers.⁸ Fractured, complex and inefficient archiving systems persist.⁹ There is no simplified, consistent and efficient approach to accessing and managing records for First Peoples in Victoria. Barriers to access, own and control records continue to impede First Peoples’ data sovereignty rights and self-determination.

Yoorrook heard that access to records is central to uncovering and retelling the story of Victoria. For many First Peoples, the release of information may also be essential to their health and wellbeing.¹⁰ Access to records is important in practising and revitalising First Peoples’ traditions and cultural practices.¹¹ Access to personal and family records is particularly critical in the out-of-home care context and for families the State separated, who need to piece together their personal histories and reconnect with family, culture and Country.¹²

Yoorrook heard repeated evidence from First Peoples and the organisations that support them about these barriers. There were accounts of personal records being lost or destroyed or containing only limited, inaccurate and re-traumatising content. There were stories of costs and delays that limit access and cause injustice. These issues are not just historical anomalies; they are systemic and enduring.

This chapter outlines the process, challenges and barriers to accessing records. There is a need to decolonise state archives and record-keeping sites. Indigenous Data Sovereignty principles (explained below) show how this might be begun.

WHAT IS A RECORD?

A combination of State and Commonwealth laws regulate the creation, management and disposal of information in Victoria.¹³ *The Public Records Act 1973* (Vic) defines a ‘public record’ as:

- any record made or received by a public officer in the course of their duties
- any record made or received by a court or person acting judicially in Victoria.¹⁴

Under the *Evidence Act 2008* (Vic), a ‘record’ is defined as a ‘document’, which means:

- anything on which there is writing
- anything on which there are marks, figures, symbols, or perforations having a meaning for persons qualified to interpret them
- anything from which sounds, images, or writings can be reproduced
- a map, plan, drawing or photograph.¹⁵

Other relevant laws include the *Freedom of Information Act 1982* (Vic) for documents created by the Victorian State Government, the *Privacy and Data Protection Act 2014* (Vic) for personal information held by Victorian State Government agencies and service providers, and the *Commonwealth Privacy Act 1988* (Cth) and *Archives Act 1983* (Cth).

Yoorrook uses the term ‘record’ to refer to any record in any format about First Peoples held by:

- the Public Record Office Victoria (PROV)¹⁶
- the Victorian Registry of Births, Deaths and Marriages (BDM)¹⁷
- other State and non-government organisations, including state ward files, adoption records, institutional records, mission records, land records and police records
- the National Archives of Australia (NAA).

This includes historical and current records, as well as documents, correspondence, tapes, film, objects and materials, maps, illustrations and photographs.

What Yoorrook heard

First Peoples’ records in Victoria

Record holders in Victoria

Victoria’s record-keeping systems are complex and scattered. A range of government and non-government entities — including protection boards, police, welfare departments, adoption agencies, education departments, hospitals and missions — may have created records relevant to First Peoples in Victoria.¹⁸ There is still no single comprehensive database or index that provides information about what records are held by which organisation and where they are held.¹⁹ In Victoria, there are multiple different record holders, including government and non-government agencies as well as private holders. Historical government records about First Peoples are held by the Public Record Office Victoria (PROV) and the National Archives of Australia (NAA).²⁰

This dispersal of records across institutions and agencies ‘mirrors the dispossession and dislocation’ which has defined First Peoples’ colonial experience.²¹ The McDonald Family (Gunditjmara) of Tae Rak (Lake Condah) gave evidence about their experience of searching for information about family members across multiple inaccessible archives:

Records existed in various departments with no singular authority responsible for all information. Access to Mission records would enable our family to discover more information about our Ancestors. Whilst some information in this submission has been sourced from the Public Record Office of Victoria (PROV) (much of which remains undigitised) and local histories, much information is still inaccessible to families without access to university libraries or having the ability to travel to facilities interstate, such as AIATSIS.²²

MCDONALD FAMILY OF TAE RAK (LAKE CONDAH)

Lisa Zammit, CEO of Connecting Home, a support service for survivors of the Stolen Generations, told Yoorrook that some private record holders are obscure and difficult to trace:

There are ... some privatised organisations or companies that hold records ... that not even the Department researchers knew of. And we stumbled across a situation where there’s ... a business out there that holds records and we were able to find someone’s records through that. So that’s really problematic ... We have heard historically of other places where there’s cardboard boxes sitting in someone’s garage as well. But without any ... ability to — to look at how to seek that out it’s a challenge.²³

LISA ZAMMIT, ACCESS TO RECORDS ROUNDTABLE

Records held by the National Archives

Records relating to First Peoples in Victoria may also be held by the NAA.²⁴ In *walata tyamateetj: A Guide to Government Records about Aboriginal People in Victoria*,²⁵ the PROV and the NAA explained why these records may be at the NAA. They said it was due to the transfer of responsibility for Aboriginal Affairs from the State to the Commonwealth Government after the 1967 referendum.

In 1975 the Victorian Government transferred responsibility for Aboriginal affairs to the Commonwealth. Records that had already been deposited with Public Record Office Victoria (in particular records from the period 1836 to 1859) remained in the state collection. A large collection of records dating from circa 1860 to the 1970s was transferred to the federal Department of Aboriginal Affairs and is now held by the National Archives of Australia in Melbourne. Records created after 1975 by the Commonwealth and Victorian governments are held by the National Archives of Australia and Public Record Office Victoria respectively.²⁶

Records held by the NAA include Board of Protection and the Aboriginal Welfare Board minutes, correspondence and other related records, such as genealogies.²⁷

Yoorrook heard that there are multiple State and Commonwealth laws governing access to records and inconsistent application of standards between government departments and across non-government record holders.²⁸

Research and support services

Research and support is often required to navigate access to records, but there is no central place for First Peoples to get help in locating records. Yoorrook heard that there are many services that provide support in accessing various kinds of records. Table 38.1 provides an overview of the key Victorian Government services and resources available to First Peoples seeking access to individual and family history records.

The Department of Premier and Cabinet advised that of the six services outlined in Table 38.1, ‘[o]nly one of the services is led by First Peoples staff (Department of Government Services (DGS) Marguk-bulok koolin-ik Team). The other services provide short courses on cultural safety during staff induction’.²⁹ In correspondence to Yoorrook, the Department of Justice and Community Safety (DJCS) also told Yoorrook that its Stolen Generations Reparations Unit is overseen by a Deputy Secretary who is an Aboriginal person, and all staff roles in that Unit are either Aboriginal designated or identified roles.³⁰

Table 38.1: Government research services and resources³¹

Research service / resource	First Peoples-specific	Individuals can search for own records directly ³²	Fee	Service provided
Department of Families, Fairness and Housing (DFFH)				
Care Leaver Records Service	No	No	No	Provides access to personal wardship, out-of-home care and child protection records via Freedom of Information (FOI) request.
Finding Records website	No	No	No	Provides information about accessing personal historical records. Contains over 200 collection guides for individual institutions and historical information about former government and non-government institutions, departmental services and functions.
Department of Health				
Records Management Unit	No	No	No	Conducts research and provides records via a form on the Finding Records website or FOI [Freedom of Information] request. Also forwards requests for records received through the Finding Records contact form to the Care Leaver Records Service, as appropriate. ³³
Department of Justice and Community Safety (DJCS)				
Stolen Generations Reparations Unit	Yes	No	No	Determines eligibility for the Stolen Generations Reparations Package by postal, online or phone application and administers the Package. The Support Services Team can assist individuals to prepare their applications. The Stolen Generations Reparations Unit works with other agencies to identify supporting information.
Adoption Information Service (AIS)	No	No	No	Provides access to government and non-government adoption records via online application form. The AIS can contact family on behalf of an applicant and provide funding for individuals to search for and contact family via the Victorian Adoption Network for Information and Self-Help (VANISH). Records are provided via FOI request or under Part VI of the <i>Adoption Act 1984</i> , depending on the circumstances. First Peoples are given priority.

Research service / resource	First Peoples-specific	Individuals can search for own records directly ³²	Fee	Service provided
Department of Government Services — Births, Deaths and Marriages (BDM)				
Ask a Family History Expert	No	No	Yes	Individuals can lodge an application for BDM genealogists to conduct a family history.
Registry of BDM website	No	Yes	Yes	Individuals can search and apply for BDM records online. Unrestricted records can be accessed upon application by any member of the public. After completing a search for an unrestricted record, a person can either view the record summary free of charge or buy the record in uncertified or certified (legal certificate) format. Restricted records (30 years post-death and 100 years post-birth) are governed by BDM’s access policy. Fees may potentially be waived for hardship, but there is no specific waiver for First Peoples except those in prison.
Marguk-bulok koolin-ik Team ³⁴	Yes	Yes	No	Provides support to First Peoples to access BDM services. First Peoples can contact the team and communities can submit an online request for a visit.
PROV				
Koorie Records Unit (KRU) ³⁵ Koorie Reference Service	Yes	Yes	No	Individuals can apply for assistance from the Koorie Reference Officer at PROV using an online enquiry form. The KRU offers limited help with locating records through the Koorie Index of Names and other key records, but cannot provide extensive research. It currently has no staff identifying as Aboriginal or Torres Strait Islander.
Online Catalogue	No	Yes	No	Individuals can search for records via PROV online catalogue. Most are open to the public, though online details are limited to titles and high-level descriptions. Some records may not be searchable by name. A minority are closed. Records can be viewed at the Victorian Archives Centre, North Melbourne.
Koorie Index of Names (KIN database)	Yes	Yes	No	An ongoing project to build a searchable index of Aboriginal Affairs records from the 1830s to 1940s in the PROV collection for personal and family reconnection. Accessible on site at the Victorian Archives Centre. A key tool used by the Koorie Reference Service to assist those seeking family records.

The Victorian Government told Yoorrook that all services listed in Table 38.1 employ archival or records experts and that senior archivists require post-secondary-school qualifications.³⁶ The Victorian Government has also produced resources such as *Finding Your Story*³⁷ and *walata tyamateetj: A Guide to Government records about Aboriginal People in Victoria*³⁸ to assist First Peoples individuals and agencies to locate records. Yoorrook heard that these resources need to be updated and better publicised.³⁹

Some government services have information-sharing agreements in place to support First Peoples’ access to records and to avoid time-consuming and retraumatising engagement with multiple government record holders. For example, Yoorrook heard about the information-sharing agreement in place between Department of Justice and Community Safety (DJCS) and Department of Families, Fairness and Housing (DFFH). The agreement supports the assessment of applications and the delivery of reparations through the Stolen Generations Reparations Package (see Table 38.1). The State said:

Since July 2022, the DFFH Records Management Unit has been supporting the DJCS Stolen Generations Reparations Unit with the information required to process reparations payments. The next stage of this package will be the release of personal records ... with DFFH working with DJCS to scope this work.⁴⁰

PROV told Yoorrook that it has developed initiatives to promote information about the types of records available to the public.⁴¹ This includes online and published information, training, participation in information sharing forums and community outreach.⁴² At the time of writing, PROV does not have a First Peoples governance mechanism to inform this work. This is both surprising and disappointing. However, PROV told Yoorrook that it is looking to establish an advisory board of First Peoples to provide feedback and information about how best to meet First Peoples’ needs.⁴³ Yoorrook considers that this should be implemented as a priority.

The NAA has also made some attempts to support First Peoples in accessing their records, including by compiling lists of resources, research guides and the [Bringing Them Home name index](#). The Stolen Generations Reparations Unit also funds a role at NAA to support its research and assessment functions, as well as records access for eligible Stolen Generations Reparation Package applicants.

Dedicated non-government services can also assist First Peoples to access family history records and provide cultural support. Key services available in Victoria are set out in Table 38.2. These services were established primarily to assist members of the Stolen Generations (and their families) to reconnect with family and reclaim their identity.

Table 38.2: Non-government research services⁴⁴

Research service	Service provided	Funding
Koorie Heritage Trust Family History Service (the Trust)	Provides confidential genealogy research and referrals, including a family history pack with trees and records, for eligible Victorian members of the Stolen Generations, Koorie community in custody and the broader Koorie community.	Department of Premier and Cabinet (DPC) provided \$1.7 million from 2019–23 ‘for broader services ... not specific to individual and family research.’ ⁴⁵
Connecting Home	Delivers multiple support services to members of the Stolen Generations and their families.	DPC fund Connecting Home directly to support Stolen Generations. ⁴⁶ DPC provided \$2.4 million from 2019–2023. ⁴⁷ DJCS provides funding to Connecting Home to support community members to apply for the Stolen Generations Reparations Package but not for research services. ⁴⁸ DJCS funds Connecting Home to support applicants to the Package, as well as additional general promotional activities, such as attending community events. ⁴⁹ The initial agreement with Connecting Home was due to end on 31 March 2027, ⁵⁰ and was for \$100,000, to be revisited depending on demand for Connecting Home supports. A further agreement was made between DJCS and Connecting Home for \$200,000 to provide supports for applicants from 1 July 2024 to 30 June 2026. ⁵¹
Link-Up Victoria	Assists Aboriginal and Torres Strait Islander people in tracing their family histories and reuniting with lost relatives. It offers support in understanding the impacts of historical policies, as well as cultural and emotional assistance.	DJCS (via the Stolen Generations Reparations Unit) provides funding to Link-Up Victoria to support community members to make applications to the Stolen Generations Reparations Package, which includes sourcing and providing information, but not strictly for research services. ⁵²
Find & Connect	A national initiative managed by a team at The University of Melbourne to ‘document the history of child welfare in Australia’ and provide support to people who were in State care (between 1920 and 1980). It includes a web resource and support services.	Find & Connect is funded by the Commonwealth Department of Social Services (DSS). ⁵³

Although Yoorrook received positive reports about support services, these services are often under-resourced and unable to meet demand.⁵⁴ For example, Denise Sweet (Bundjalung, Gumbaynggirr) said:

[T]he Koorie Family History unit which I know only to have three of deadliest most dedicated workers that have been there 20 plus years that work — will work ’til 11, 12 o’clock at night to get things done for people. They should be a team of eight.⁵⁵

DENISE SWEET

The State claims to own First Peoples’ records

Institutions that collect and keep records continue to presume that First Peoples do not own or control State and non-State records made about them. This presumption strips First Peoples of their agency and directly contradicts the right to self-determination. It makes First Peoples dependent on mainstream institutions to provide access to their histories.

Yoorrook heard a strong desire from First Peoples for record-keeping agencies to transfer control of family and community records about First Peoples, or copies of these, to First Peoples-controlled archives or repositories.⁵⁶ Aunty Bev Murray (Wemba Wemba, Yorta Yorta) of Link-Up Victoria and the Victorian Aboriginal Child and Community Agency (VACCA) stated:

[W]e must manage them and we must control them ... Because ... there’s history in there that needs to come out. And sure, we know the individual stories of Stolen Generations mob ... but we need to look at the collective story ... we have been talking about having our own, you know, First Nations knowledge centre around that. Because until we manage it, until we control them nothing is going to change and there’s history there that’s going to be lost again for us.⁵⁷

AUNTY BEV MURRAY, ACCESS TO RECORDS ROUNDTABLE

Yoorrook supports community-controlled archives that prioritise First Peoples’ perspectives, control and access. Yoorrook visited the Aboriginal-led and controlled Aboriginal History Archive housed at Moondani Balluk Indigenous Academic Unit at Victoria University. The archive documents Aboriginal resistance over the last 100 years and is a strong example of the power of self-determined record-keeping.

Yoorrook heard that further funding is needed to support First Peoples to manage their own archives.⁵⁸ This has been asked for over many years. For example, a participant reported to the Koorie Archiving project in 2009: ‘One thing I really believe in is keeping places ... It’s just a shame how the funding always keeps mucking up’.⁵⁹ This includes funding for training, infrastructure, digitisation, research, identification of relevant records and ongoing maintenance.⁶⁰

Importance of access to records for First Peoples

It is an injustice that First Peoples are forced to turn to the same State that historically stripped them of their identity, Peoplehood, culture and family ties to recover aspects of those very things. The late respected Elder, Uncle Jack Charles (Taungurung, Boon Wurrung, Dja Dja Wurrung, Woiwurrung, Yorta Yorta, Palawa) reflected on not having access to information about his identity and family. He highlighted how being denied access to records is akin to a denial of personhood:

It’s tough being denied the rightful inheritance of who I really am — my identity. At times it’s traumatic, because I’m almost at the end of the journey and I’m still discovering my story. It was only in 2017 that the Koorie Heritage Trust told me who my father was — an Aboriginal man from Leeton in New South Wales. And it’s shameful that I got this information so late in my life.⁶¹

UNCLE JACK CHARLES

Yoorrook heard that for many First Nations people, both historical and recent records — including files, photographs and correspondence — can help to provide a sense of identity and critical links to community, culture and Country.

Records can contain pivotal information that can help to ‘re-instate pride in family experiences, re-affirm interaction with broad family networks, help to revive and maintain Aboriginal traditions, provide an understanding of the historical background of contemporary personal issues, and lead to the reclaiming of ownership of material pertaining to family life’.⁶²

Access to historical records can be vital in the healing process for families separated by the State, as well as their descendants.⁶³ Aunty Charmaine Clarke (Gunditjmara) and the late respected Elder, Aunty Fay Carter (Dja Dja Wurrung, Yorta Yorta) conveyed the sense of healing that can come from information about individual and collective identity:

It’s my story ... I wanted to know why people made the decisions they did ... They never told me the efforts my parents were going through ... the hoops that they had to jump through, the stress on them ... Talking to my siblings ... we all ... had somehow formed an opinion, a sense of abandonment from Mum and Dad ... Dad had died already. So Mum copped a lot when we were at home at various times and had yarns with her ... When I finally sat down with her and asked, ‘Where were you?’ I heard her, she was there. She’d never left. They’d never left. ... But what was between her and her kids was the welfare ... So the file, to me, shed a lot of light on that. It was not just my story, it was their story too.⁶⁴

AUNTY CHARMAINE CLARKE

There are so many families that don’t know who they are ... I think knowing who you are, where you come from and where your roots are, gives you so much strength. And I pass that onto young people. I say to them, “Find out who you are. Trace it. Find out. Once you know who you are, then you can build on it. That gives you that basic building block to build on.”⁶⁵

AUNTY FAY CARTER

Yoorrook heard that easier and simpler access to historical records is needed to understand the breadth of information held across government and non-government entities. This will enable First Peoples to engage with that content and decide how best to use it. Aunty Bev Murray explained:

[T]here’s some fantastic records that they have in there [PROV] and, you know, lots of stories. And they’re sitting there, collecting dust, you know. And we need to honour the people in those records ... There’s this fantastic petition that Lake Tyers mob wrote. So, yeah, getting these things out and getting them to Traditional Owner groups ... So that we can decide how they can be used and we can decide ... bring them into ... the present and make sure they’re there for the future ... [for] our mob and our kids.⁶⁶

AUNTY BEV MURRAY, ACCESS TO RECORDS ROUNDTABLE

Find & Connect submitted how access to records can assist with truth-telling and healing:

As well as benefiting the individual, records can establish an official history of the impact of colonisation on First Peoples in Victoria. We can better understand the movement of children away from their families, and the justifications and impacts of child removal. Where history has been written by the colonisers, correcting the official record with the experience of First Peoples is an important step towards Makarrata, and underpins the testimonies given in truth telling.⁶⁷

FIND & CONNECT

RECORDS OF CHILDREN IN OUT-OF-HOME CARE

Accurate and comprehensive record-keeping for children in out-of-home care is vital, with the potential to ‘have profound effects for individuals over the course of a lifetime’.⁶⁸ Yoorrook heard evidence about the importance of access to contemporary records for children and young people in out-of-home care, to support their connections to culture, family and community. Aunty Muriel Bamblett (Yorta Yorta,Dja Dja Wurrung, Taungurung, Boon Wurrung), CEO of the Victorian Aboriginal Child and Community Agency (VACCA), told Yoorrook:

[S]ome of our children when they come into our care ... sadly ... their family will die. And so the kids are coming to us and asking for our records, and it’s not just about historical, but it’s about storytelling. And so, you know, we’ve been able to tell children that, you know, their mum and dad love them, you know. We’ve got evidence of, you know, how mum and dad fought and tried to [get them back] ... I think those sort of stories are really important for children.⁶⁹

AUNTY MURIEL BAMBLETT, ACCESS TO RECORDS ROUNDTABLE

Children always ask ... ‘Do you have photos?’ And there’s no real obligation on us to hold photos of family or to get photos of a child’s grandparents and things like that. And so for Aboriginal children I think we do a disservice [if] we just keep a paper [record] ... ticking boxes rather than making it a living document for children.⁷⁰

AUNTY MURIEL BAMBLETT, ACCESS TO RECORDS ROUNDTABLE

The need for better record-keeping to improve wellbeing of children and young people in care is also supported by research.⁷¹ The Royal Commission into Institutional Responses to Child Sexual Abuse similarly found that records perform an important role in promoting consistent practice, institutional accountability, transparency and the retention of organisational memory.⁷²

Barriers to access

First Peoples face multiple compounding barriers to accessing personal and family records held by State and non-State institutions.⁷³ Barriers include:

- knowing where to search for records
- difficulties navigating relevant websites and archival centres
- availability and discoverability of records
- access restrictions
- accuracy of records
- costs
- delays.

For outer suburban, regional and interstate First Peoples, additional barriers include having to order records ahead of a visit and travel to urban centres.

The State acknowledged that in some instances undertaking archival searches requires specialist research expertise in archival evidence.⁷⁴ The language and descriptions of records, especially government institutions’ provenance-based language, can hide information that might be important to First Peoples.⁷⁵ Most archival listings are not digitised, and of those that have been digitised, not all are search-enabled.⁷⁶ This means that in some instances, even if individuals are able to navigate the complexity of record listings, they may still have to physically visit facilities and review documents page by page.⁷⁷

We’ve found that researching government records is often complicated and time consuming. The systems of record keeping codes and procedures often mean Aboriginal people get lost.⁷⁸

AUNTY MURIEL BAMBLETT, ACCESS TO RECORDS ROUNDTABLE

Yoorrook also heard of instances where records no longer exist or are not held by the State.⁷⁹

Uncertainty how and where to search for records

Many First Peoples may not be aware that there are government and non-government records containing information about their personal and family histories. Due to the fractured nature of record-keeping systems in Victoria, it can be daunting and frustrating to attempt to access records.⁸⁰ CEO of VACCA, Aunty Muriel Bamblett (Yorta Yorta, Dja Dja Wurrung, Taungurung, Boon Wurrung) told Yoorrook:

I think that particularly at VACCA a lot of our people don’t know about the services available to access records or understand their rights of access ... and go on — through their whole lives not knowing or doing anything about it, because it’s just not readily available information.⁸¹

AUNTY MURIEL BAMBLETT, ACCESS TO RECORDS ROUNDTABLE

Yoorrook heard that this process can be particularly challenging for Stolen Generations survivors.⁸²

Restricted records

Time restrictions on records can create barriers to accessing information. Yoorrook heard that PROV records containing private or personal information are withheld from public access (‘closed’) for a period of time.⁸³ This is normally 75 years after creation for adults and 99 years after creation for children.⁸⁴ This means that descendants of individuals may not be able to access information.

PROV advised that people can still request access to most closed records from the responsible government department.⁸⁵ For example, former wards of the State can apply for their records through the Care Leaver Records Service at DFFH and adoption records through Adoption Victoria at DJCS.⁸⁶ People can also make Freedom of Information (FOI) requests to the responsible government department.⁸⁷ Births, Deaths and Marriages Victoria (BDM) also restricts access to records for prescribed periods of time, as outlined in Table 38.3.

Table 38.3: Life events (births, deaths, marriages) and length of record restriction period⁸⁸

Life event	Time restriction on records
Birth (includes name and sex)	100 years after the date of the birth and 30 years after the person’s death
Death	30 years after the date of death
Marriage or registered relationship	60 years after the date of marriage or registration, and 30 years after the death of both people

Yoorrook heard that these time restrictions do not recognise the needs and experiences of First Peoples searching for records to reconnect with family, community and country. Dr Jennifer Bates, Koorie Family History Service Manager at the Koorie Heritage Trust, said:

Finding out who you are and who you belong to both in terms of family and Country, and culture [one of] the biggest obstacle[s] is Births, Deaths and Marriages ... getting your own adoption file or ward record is an obstacle, but once you’ve got that people want to trace back who their family is.⁸⁹

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

The following example of accessing time-restricted records provided by the Department of Government Services demonstrates how restriction periods overlook the unique needs of First Peoples. It also highlights the necessity for First Peoples-specific support services to navigate these complexities.

ACCESSING TIME-RESTRICTED RECORDS⁹⁰

The Marguk-bulok koolin-ik Team [Department of Government Services]⁹¹ received a referral from a *Bringing Them Home* worker from an Aboriginal Community Controlled Organisation [ACCO]. The ACCO was working with First Peoples women who are searching for their families for the purposes of re-authoring their family narrative.

One participant was seeking access to a copy of her grandmother’s birth and death certificates (restricted for 100 and 30 years respectively). Certificates may be released if third-party authority of permission is provided. In this participant’s situation, family members had passed or had no contact due to removal policies. BDM were unable to release the certificates as they were still in the restriction period.

The participant explained that she wanted to access this information to gain information about her Aboriginal grandmother’s surname at birth and place of birth, to establish her connection to her grandmother’s Country. The Maguk-bulok koolin-ik Team were able to supply a letter of verification — a letter from BDM confirming information that is held on the register, where the applicant cannot show eligibility to access that information but can show a legitimate need.⁹² With this information, the participant was able to complete further searches and connect to her grandmother’s Country.⁹³

Privacy laws are designed to protect third-party information from being disclosed without consent. However, Yoorrook heard that in practice these protections limit First Peoples' access to family information and their ability to track ancestry, understand their personal histories and reconnect with family, community and Country.⁹⁴ Such laws focus on the individual and do not acknowledge First Peoples' broader family and community relationships.⁹⁵ In many instances these protections still apply where the family member has died.

One of the other things to do with privacy is that families wishing to access records about each other are also blocked. So just say a whole family of siblings have been removed and some of them have died. Somebody can get their own records, but may not be able to access their sibling's records even though they've passed away.⁹⁶

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

Elder Uncle Larry Walsh (Daung Whurrung/Taungurung) describes how he was given access to information about his sister by a social worker:

Then mum told me ... [t]hat she couldn't find my two sisters. So I went and seen my social worker ... and we had a conversation. I said, 'I believe I've got another sister I don't know much about.' ... He opened my file and suggested that maybe he make me a cup of tea. And I was okay with it. But he left the file open, and I think he wanted me to sneak behind the desk and read it. So I did. And there was my sister's name and her address.⁹⁷

UNCLE LARRY WALSH

ACCESSING ADOPTION RECORDS

Access issues are exacerbated for First Peoples seeking access to adoption records.

[T]he more I hear, I feel there's more paperwork of mine which I would love to get a hold of. If there is more paperwork on the adoption, then don't I have a right to that paperwork? I feel this is important to have, not for me, but more for my children and grandchildren to understand history.⁹⁸

ANONYMOUS 323

Yoorrook heard that adoption legislation in Victoria creates barriers for First Peoples tracing their ancestry. For example, if a person wants to find out information about a grandparent who was adopted and is now deceased, they must either:

- wait 99 years before they can access their file when the records become public, or
- make an application for access either to the County Court or to the Secretary on a discretionary basis.⁹⁹

This is because the State does not recognise a grandchild as having a right to access records, even in circumstances where their parent (who had such right) has died.¹⁰⁰ Aunty Muriel Bamblett told Yoorrook that 'sealed adoption records are probably the thing that cause us the most heartache'.¹⁰¹ '[I]t's not sealed adoption of just their records. It's sealed adoption of their culture, community and who they are ... they lose their identity.'¹⁰²

[W]e have many people that are coming to us to say, '... I want to find my family, but my grandfather, they were his records and ... he had to give permission and he died before he gave permission.' And so these children know they're Aboriginal, but they've got no way [to access the records]. And we've sealed the rights first of culture and knowing who you are versus the rights to, you know, privacy ... how [do] you explain to a child that, 'You can't — we can't establish your Aboriginality, because the rights of, you know, your grandfather preclude your rights to know who you are[?]'¹⁰³

AUNTY MURIEL BAMBLETT, ACCESS TO RECORDS ROUNDTABLE

Yoorrook notes that the State has established an Adoption Information Register for individuals to consent to family contact.¹⁰⁴ DJCS reported cases where the Adoption Information Register played a role in identifying siblings who had been adopted.¹⁰⁵ However, there was concern that many First Peoples are unaware of this:

There is an adoption register [but] ... You've got to know about it to know to do it. It's not something that's widely advertised.¹⁰⁶

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

Costs, fees and application processes

State record application processes

Services that do not allow direct access to records require First Peoples to complete an application process or FOI request. This often requires interaction with mainstream services, correct documentation and in some instances cost. It can also be time-intensive due to delays while applicants wait for their requests to be processed.

In 2017, the Royal Commission into Institutional Responses to Child Sexual Abuse noted that FOI and privacy legislation was intended to ‘provide a clear, transparent and consistent process for individuals to seek access to and request amendment or annotation of records about themselves.’¹⁰⁷ However, it heard that survivors found these systems ‘complex, costly, adversarial and traumatising’ to navigate. These difficulties were magnified for people with limited literacy.¹⁰⁸ Yoorrook heard that these issues persist.¹⁰⁹

Yoorrook heard that First Peoples seeking access to records from the DFFH Care Leaver Records Service must make an FOI request.¹¹⁰ The Victorian Government said that approximately 70 per cent of applicants to the Care Leaver Records Service are represented by support agencies or lawyers.¹¹¹ The State also advised that the Care Leaver Records Service is experiencing delays, but applicants can request priority in certain circumstances, including where the care leaver is of advanced age or terminally ill.¹¹² First Peoples seeking records from the Adoption Information Service are also required to submit an FOI application or an application under Part VI of the *Adoption Act 1984*, and the State advised that this ‘can take months’ to process.¹¹³

Cost and fees

Yoorrook heard that cost can be prohibitive for First Peoples seeking access to records. The *Bringing Them Home* report described the injustice this causes:

Levying an application fee is not only inappropriate, it is unjust. The individual’s need for the information has been created by government policies identified as genocidal and as gross violations of human rights. It is unjust to make restitution, including family reunion, and rehabilitation conditional on the victim’s ability to pay.¹¹⁴

The Koorie Records Taskforce successfully advocated for access to all personal records for First Peoples held by Victorian Government departments to be cost-free.¹¹⁵ Accordingly, the Koorie Heritage Trust advised that they do not pay costs or fees associated with accessing personal records for clients, including adoption records.¹¹⁶ However, given this was a recent change, some government agencies and the broader community may not be aware of it, and it may not always be clear from the relevant forms.¹¹⁷

Yoorrook heard of support agencies using discretionary funds to cover costs of access to records and other documents for their clients, despite not receiving funding for this. Lisa Zammit of Connecting Home told Yoorrook:

Births, Deaths and Marriages allow Aboriginal people one free birth certificate. Following on from that they have to be paid ... for us in terms of our organisation it comes down to what discretionary funds we have available to assist with purchasing certificates for records.¹¹⁸

LISA ZAMMIT, ACCESS TO RECORDS ROUNDTABLE

Yoorrook heard that the cost of the BDM Ask a Family History Expert genealogist service is prohibitive for multi-generational searches (each single search costs \$60).¹¹⁹ BDM also charges an issuing fee of \$54.40 per record.¹²⁰ There are fee waivers for financial hardship and the Aboriginal Relationships Officer has delegation to waive fees, but

the State advised there is no specific waiver for First Peoples, except for First Peoples in prison.¹²¹ The State has indicated that BDM are updating their fee waiver policy for Stolen Generations survivors,¹²² but Yoorrook has not seen evidence that this has been implemented.

Incorrect indexing of records can add to costs and difficulties of access. Dr Jennifer Bates from the Koorie Heritage Trust spoke about fees associated with accessing incorrectly indexed records held by BDM:

We’ve approached [BDM] even just for a search of a record that had been indexed incorrectly and we couldn’t find. We know it exists, but we couldn’t — we just asked, ‘Can you search your indexes? This is what we need’. [We] gave them the information and, ‘We’ll buy the certificate’. But they referred us to the research branch of [BDM], which is fee based. ... We couldn’t find the certificate we wanted. It needs a deeper level search, which obviously we can’t do.¹²³

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

Some non-government organisations also charge fees for access to their records.¹²⁴ Yoorrook heard that there is a need for government brokerage to cover the costs associated with digitising and accessing non-government records.¹²⁵

Delays

First Peoples often face extreme delays in accessing records. This is particularly concerning for older or critically unwell First Peoples and those pursuing redress.

[First Peoples] shouldn’t have to be competing ... for their records ... I have seen situations where people have started their application form and passed away, and missed out ... let alone accessing — waiting a year to access your records. That’s just appalling.¹²⁶

LISA ZAMMIT, ACCESS TO RECORDS ROUNDTABLE

Some schemes such as the Stolen Generations Reparations Package make provision to indicate if applicants are terminally ill or chronically unwell. This information is then used to process advance payments for applicants while their application for full reparations is being assessed. The information is also used to give their application priority. Although in theory this means the Department can access records in a timelier manner,¹²⁷ Yoorrook heard that in practice it has not mitigated delays associated with accessing records.¹²⁸

Yoorrook heard that delays are partly caused by insufficient resourcing of record-holding services. The State advised that PROV currently has 1.8 full-time equivalent staff servicing its Koorie Records Unit, with a portion working jointly across PROV and NAA.¹²⁹ The Koorie Records Unit received 352 requests from 2019 to 2023, 63 per cent from individuals.¹³⁰ PROV advised that in addition to low staff numbers, staff vacancies affect service delivery.¹³¹ The Service Charter requires a 45-day turnaround.¹³² The State provided an example of staff taking nine hours to service a request for records, but 74 days to provide the information to the requester.¹³³ This was partly due to a vacancy in the Koorie Reference Officer position.

Yoorrook heard community support for expanding the role of the Aboriginal Unit at BDM and better resourcing it to support adoptees seeking record changes and other First Peoples seeking access to family records.¹³⁴

Poor record-keeping

First Peoples’ records have been lost, destroyed, poorly indexed and poorly stored. Barry Jacobs (Jindali) reflected:

I just want to be able to find out about my past and try and put the pieces together. ... From the Indigenous side of things, I'm getting connected with that now. ... But it's a mystery, it's a bloody mystery. So many records were destroyed.¹³⁵

BARRY JACOBS

Yoorrook heard of instances where agencies had lost, destroyed or blocked access to records.

Records have been kept in drawers, boxed up in humid or damp conditions, or abandoned in sheds for decades, which has led to their destruction.¹³⁶

FIND & CONNECT

Many of the churches were concerned about litigation, so there was wholesale destruction of records. And so I think it's really important to look at how do we preserve and get really good access to records, and how do we actually ... stop that illegal, you know, destruction of records.¹³⁷

AUNTY MURIEL BAMBLETT, ACCESS TO RECORDS ROUNDTABLE

Yoorrook heard that PROV has only been in existence since the *Public Records Act 1973* (Vic), meaning that record-keeping practices prior to that date were not guided by legislation.¹³⁸ PROV told Yoorrook that it was 'almost an accident' that some records have been preserved. PROV also told Yoorrook that many records were destroyed in the past, not necessarily for nefarious reasons — for example, paper was donated to war efforts.¹³⁹

UNITED ABORIGINES MISSION

Yoorrook heard about significant challenges that services are having accessing records held by the United Aborigines Mission (UAM). Dr Catherine O'Neill, the National Editor and Research Coordinator of the Find & Connect web resource project, submitted extensive documents on how Find & Connect and other services have struggled to obtain records from UAM.¹⁴⁰

Historian Dr Catherine Bishop also made a submission detailing her experience in accessing records from UAM for biographical research on a UAM missionary.¹⁴¹ Dr Bishop first requested records from UAM in 1989–90. At that time, some records were held by a UAM member at his home, while other records were held at the UAM national office. In 2007, she was again granted access to records that were being stored in the garage of a home of a UAM member. She stated:

One wall of the garage was taken up by cupboards running along the full length of the wall. These cupboards were stacked from floor to ceiling with labelled boxes of documents. The boxes of records were not in any order, and a significant number were misfiled and/or incorrectly labelled.¹⁴²

DR CATHERINE BISHOP

In 2016, she again requested access but was denied, being told 'that all the records were in storage in shipping containers and that no one could get access to them as UAM did not have the necessary staff'.¹⁴³ A copy of correspondence from UAM stated: 'The archives we held in Doncaster were closed in 2010 and the property sold with records going into long term storage, so access is not possible, there is nobody to attend to this'.¹⁴⁴

PROV also noted that a shift in archival practice and theory has impacted which records have been preserved.¹⁴⁵ For example, it explained that earlier versions of PROV's standards were less focused on records of individuals, and records may have been destroyed as a result.¹⁴⁶ PROV explained that in the past, archiving practices were more focused on telling the story of government, but 'now it is more focused on documenting people's rights'.¹⁴⁷

PROV echoed Dr Catherine Bishop's concerns in relation to historical records that have been inadequately indexed and stored.¹⁴⁸ It acknowledged that insufficient description or searchable metadata is an issue across PROV's collection.¹⁴⁹ For example, PROV told Yoorrook that there are boxes of folders, files and other papers relating to the Aborigines Protection Board and the Aborigines Welfare Board that are all mixed up together and missing important metadata.¹⁵⁰

PROV advised Yoorrook that unlike library catalogues, archives do not catalogue their collections according to subject.¹⁵¹ Available metadata reflect the record-keeping system of the agency that created the records, so descriptions are not applied uniformly.¹⁵² Keyword searching is therefore limited and may not reflect current researcher priorities.¹⁵³

PROV advised that it has digitised all of the historical Aboriginal Affairs records in its collection for conservation reasons, as well as to improve access for First Peoples.¹⁵⁴ Only some Aboriginal Affairs series have been indexed and are searchable by name using the Koorie Index of Names (KIN) database.¹⁵⁵ There are still many records in their collection yet to be indexed for the KIN database.¹⁵⁶ The project has been supported by the PROV Volunteer Program, which has been on hold since March 2020 due to the pandemic.¹⁵⁷ PROV advised that there are plans to restart indexing KIN soon, but progress is expected to be slow.¹⁵⁸

Insufficient, incorrect and insulting information

Yoorrook heard that records may contain insufficient information or information that is derogatory, insulting and untrue. Aunty Charmaine Clarke said:

I have also experienced difficulties in obtaining access to my own historical welfare files (dating back to the 1970s) as well as the trauma I experienced reading the disparaging and slanderous file notes in relation to my mother. These records, unless you can access and amend them for accuracy, will inform and shape the future interactions between Aboriginal families and the authorities. The records set the tone and are usually full of negative biases. It is critical that we have policies to access and improve transparency around these processes.¹⁵⁹

AUNTY CHARMACHINE CLARKE

Aunty Donna Wright (Kerrupmara, Nillaan, Gunditjmarra, Dhauwurd wurrung, Djab wurrung, Kamilaroi) described reading a record about her family that was full of lies:

And if you look at that police report, I think it is mum's file we've got. This is the file that she — they're her records. And you have a look at some of the information on there and it talks about ... the character of our grandparents ... it's absolutely shocking and horrible to read ... all these lies that are written on that form. So it's absolutely disgusting to read. Because our grandparents were good people. They were hardworking people. They loved their children. They lived and breathed for them.¹⁶⁰

AUNTY DONNA WRIGHT

Yoorrook heard of First Peoples being unable to correct inaccurate records because they are owned by the government and non-government entities that created them. A research project into archives and First Peoples in Victoria between 2003 and 2008, overseen by Uncle Jim Berg (Gunditjmara) and Lynette Russell, found that many participants wanted to challenge the contents of archives through ‘recording their own narratives and perspectives alongside’ the record.¹⁶¹

Set the record straight. I wouldn’t feel too bad about that idea at all. That’s one thing that needs to be bloody well done because these bastards have gone way over the fence. No, there needs to be an answer to them ... To even up the injustices. Put the record straight.¹⁶²

KOORIE ARCHIVING: TRUST AND TECHNOLOGY PROJECT

Some record holders enable First Peoples to attach a statement to the top of files. However, this does not extend to changing or removing content:¹⁶³

We’ve had many Stolen Generations upset by what they’ve seen in their records that’s untrue, but they can’t do anything to change it other than put something written on the top. They can’t say, ‘Rip out that page. That’s not true’ because it’s — it’s not owned by them.¹⁶⁴

LISA ZAMMIT, ACCESS TO RECORDS ROUNDTABLE

Greg Baldwin also told Yoorrook how difficulties in accessing records, and inaccuracies in records were impacting his family who has been impacted by the Stolen Generations. He detailed how one family member was buried in an unmarked grave and another family member was buried with the wrong surname.¹⁶⁵ He notified the cemeteries trust who updated their records, and BDM who made corrections to their records and re-issued death certificates. However, Greg Baldwin described his difficulties in making further corrections to death certificates held by BDM (to include biological children of the deceased if they were removed and adopted out to other families during the Stolen Generations).¹⁶⁶

PROV advised that there is scope to add statements to public records, including records in PROV’s custody where this does not change or remove information.¹⁶⁷ Although PROV does not currently offer this service, it is supportive of this type of initiative.¹⁶⁸ PROV noted that there may be logistical issues relating to staffing and system limitations, as well as the wide variety of formats (physical and digital) held at PROV.¹⁶⁹

Yoorrook also heard of instances where information was inconsistently redacted without explanation. This can prevent First Peoples from accessing the names of family members, as well as the full extent of their personal histories.

I’ll have clients say, ‘I got my records, but there’s a heap of it blacked out.’ A heap of it’s redacted and there’s no real explanation of why.¹⁷⁰

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

People that applied for their records years ago, there were slabs that were blacked out and if they never went back to obtain new records they don’t know that redaction rules have changed and they might be able to get more information in their files.¹⁷¹

LISA ZAMMIT, ACCESS TO RECORDS ROUNDTABLE

But there’s still [instances] where siblings have been redacted ... there may be siblings they don’t know about, but it’s redacted and they can’t see that information.¹⁷²

LISA ZAMMIT, ACCESS TO RECORDS ROUNDTABLE

[S]omebody might get their file years and years ago and then have reapplied for it for reparations more recently. And there are massive discrepancies in what they got the first time around compared to what they got the second time around ... They might have got a massive file the first time around and hardly anything this time around, but we’ve also had clients have the opposite happen ... [I]s it the discretion of the person who’s releasing the file as to how much that person’s getting? ... [T]here needs to be more consistency.¹⁷³

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

Reinforcing trauma

Yoorrook heard that the way records are released can be culturally unsafe for many First Peoples. This is particularly the case for Stolen Generations survivors.

[A]nyone who is working in this space from the Department needs to have some sort of cultural awareness training that is specific to this space ... something that’s specific to Stolen Generation survivors. I’ve been in ones where, you know, the case worker is sort of, I guess taking at face value what’s in the record and not reading between the lines ... that’s probably safe for them, but not necessarily safe for the client.¹⁷⁴

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

Dr Jennifer Bates described the issue with government workers reading through records with First Peoples without a cultural and historical contextual understanding:

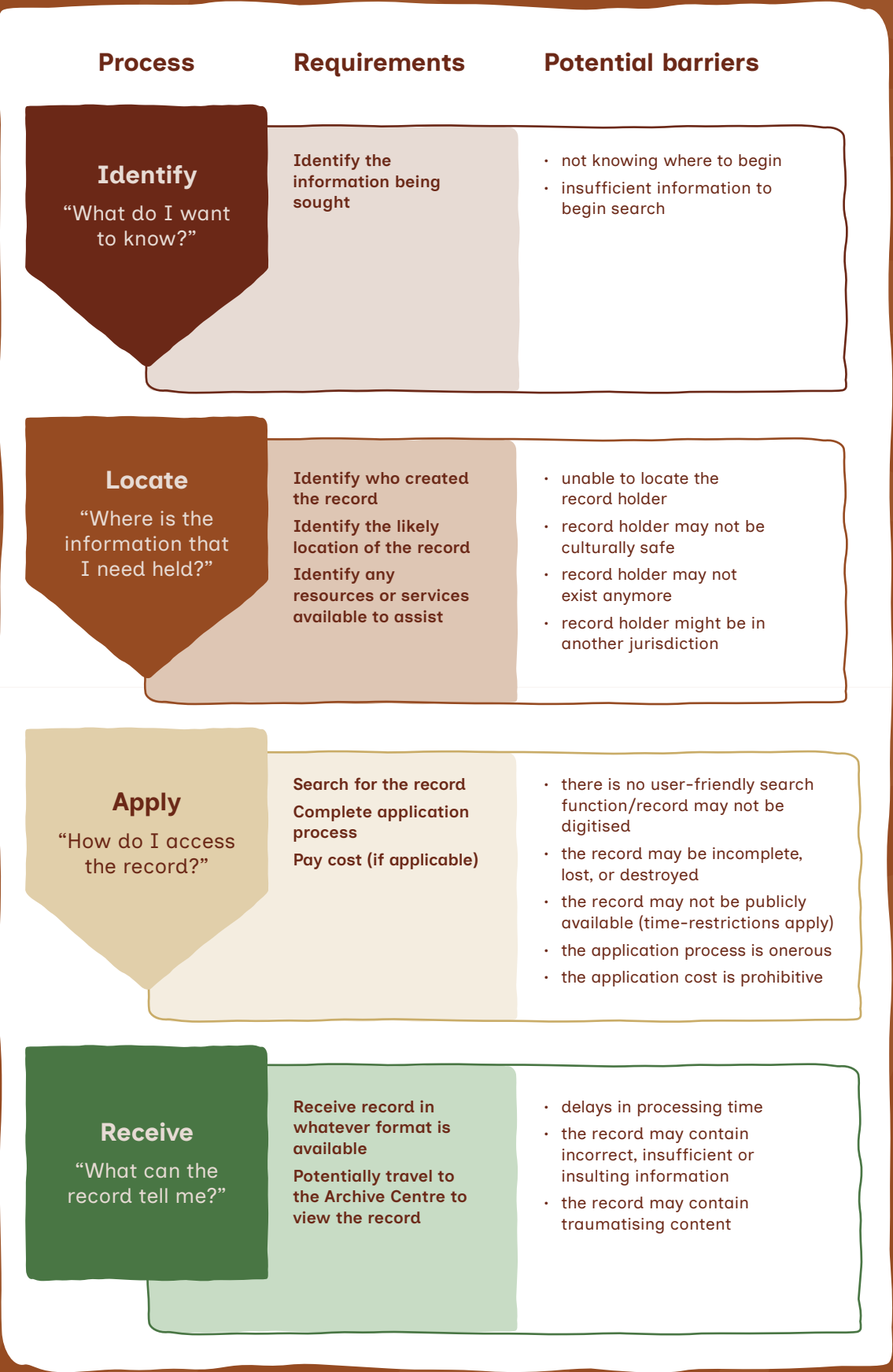
[W]e were picking up on nuances to do with, you know, that the mum had tried to get the child back multiple times so, therefore, maybe was coerced into giving up the child and didn’t do it willingly ... whereas the case worker was more taking it, you know, ‘Was removed on this date’ and was ... not seeing that there was attempts to get the child back.¹⁷⁵

DR JENNIFER BATES, KOORIE HERITAGE TRUST ROUNDTABLE

Yoorrook heard that given the traumatising content of records and the memories they may incite, First Peoples may require access to culturally safe support and counselling.¹⁷⁶ In correspondence to Yoorrook, the State noted that the Stolen Generations Reparations Unit has implemented a model under which applicants are contacted to discuss the types of records held and what to expect, and they are offered access to counselling support services before records are released.¹⁷⁷ This model is still in its early stages. It was designed incorporating advice from the Stolen Generations Advisory Committee, which is comprised of members of the Stolen Generations and their descendants.¹⁷⁸

As Find & Connect highlighted, ‘[r]ecords access is a deeply personal, and often traumatic, experience.’¹⁷⁹ For these reasons, First Peoples-led services are critical.

Figure 38.1: The steps to accessing a record for First Peoples



Indigenous Data Sovereignty and Indigenous Data Governance

Data sovereignty is a rights-based framework informing the ownership, control, management, and acquisition of data. In the Indigenous context this reinforces self-determination through enabling Aboriginal organisations, communities and individuals to understand data generation, maintenance, ownership, control, access and possession ... Giving complete access to this data is essential in the truth-telling process as the lives, experiences, genealogy and narratives of our people is held up in these databases.¹⁸⁰

VICTORIAN ABORIGINAL CHILD AND COMMUNITY AGENCY

First Peoples in Victoria want to create, own and access their own data and narratives.¹⁸¹ To exercise self-determination, First Peoples ‘require more than just “access” to existing data and records held by governments’.¹⁸² As recognised by the Productivity Commission, First Peoples must also ‘determine what data they need and how data about them is collected, accessed and used’.¹⁸³

To achieve this, First Peoples in Australia and globally have been advocating for Indigenous Data Sovereignty (ID-SOV) and Indigenous Data Governance (ID-GOV).¹⁸⁴ These concepts recognise that data is a ‘cultural, strategic and economic asset’¹⁸⁵ for First Peoples and they provide a rights-based framework for First Peoples to exercise self-determination and advance wellbeing and nation rebuilding.¹⁸⁶

Yoorrook’s Letters Patent require it to uphold ‘the sovereignty of First Peoples over their knowledge and stories’.¹⁸⁷ ID-SOV and ID-GOV principles should guide the way forward on First Peoples’ access to and control over records.

WHAT IS INDIGENOUS DATA SOVEREIGNTY AND INDIGENOUS DATA GOVERNANCE?

In 2018, the Maïam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Collective released a communique defining Indigenous Data Sovereignty and Indigenous Data Governance. It also established a set of principles to advance a shared understanding of these rights in Australia.¹⁸⁸

‘Indigenous Data’ refers to information or knowledge, in any format [inclusive of statistics], that is about and may affect Indigenous people ... collectively and individually.¹⁸⁹

Indigenous Data Sovereignty refers to the right of Indigenous peoples to exercise ownership over Indigenous Data. Ownership of data can be expressed through the creation, collection, access, analysis, interpretation, management, dissemination and reuse of Indigenous Data.¹⁹⁰

Indigenous Data Governance refers to the right of Indigenous peoples to autonomously decide what, how and why Indigenous Data are collected, accessed and used. It ensures that data on or about Indigenous peoples reflects [their] priorities, values, cultures, worldviews and diversity.¹⁹¹

The principles state that Indigenous peoples have the right to:

- exercise control of the data ecosystem including creation, development, stewardship, analysis, dissemination and infrastructure.
- data that is contextual and disaggregated (available and accessible at individual, community and First Nations levels).
- data that is relevant and empowers sustainable self-determination and effective self-governance.
- data structures that are accountable to Indigenous peoples and First Nations.
- data that is protective and respects First Peoples’ individual and collective interests.¹⁹²

These rights and principles are supported by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP),¹⁹³ which recognises First Peoples’ inherent rights to self-determination and governance over their peoples, countries and resources.¹⁹⁴

Indigenous Data Sovereignty is now a global movement, with activities expanding from raising awareness within Indigenous nations and nation state data entities, to the instituting of Indigenous data governance principles and protocols.¹⁹⁵

The Victorian Government recognised ‘the importance of embedding IDS [Indigenous Data Sovereignty] principles in relation to First Peoples’ records held and collected across Government.’¹⁹⁶ The Government has also recognised the need to better consider and support ID-SOV, including in the *Victorian Government Self-Determination Reform Framework*.¹⁹⁷ It is time to action these commitments.

ID-SOV and ID-GOV provide a framework for First Peoples to make the best decisions to support their communities¹⁹⁸ when it comes to data and records. As outlined in the 2023 Indigenous Data Sovereignty Summit Communique, ID-GOV must be ‘integrated at all data lifecycle stages, utilising mechanisms aligned with Indigenous-determined needs and aspirations’.¹⁹⁹ This requires that First Peoples lead and control ID-GOV processes.²⁰⁰ As articulated by Diane E Smith, ‘data collection for exercising effective governance and the effective governance of data are ... fundamental to underwriting the daily exercise of Indigenous self-determination and sovereignty’.²⁰¹

Yoorrook heard strong community support for the State to uphold and embed ID-SOV across all areas, including education, health, and housing.²⁰² This includes entities that hold First Peoples’ data being accountable for how it is managed,²⁰³ ensuring that the Victorian Government provides the data it holds to First Peoples-led community organisations, and resourcing First Peoples to frame their own narratives and effectively access, store and use data to advance their needs and aspirations.²⁰⁴

This aligns with the recommendations from the Productivity Commission’s review of Closing the Gap (January 2024) to ‘amend the [Closing the Gap] Agreement to include [ID-SOV] and [ID-GOV] under Priority Reform 4 and commit governments to:

- reform existing data systems in line with [ID-GOV]
- strengthen the technical data capability of ACCOs [Aboriginal Community Controlled Organisations] and the Indigenous data capability of governments
- invest in Indigenous data infrastructure.²⁰⁵

Further, it recommended the establishment of a national Bureau of Indigenous Data.²⁰⁶

INQUIRIES AMENDMENT (YOORROOK JUSTICE COMMISSION RECORDS AND OTHER MATTERS) BILL 2024

To implement Yoorrook’s previous recommendations on data and records, the Victorian Government introduced the Inquiries Amendment (Yoorrook Justice Commission Records and Other Matters) Bill 2024 (Vic). The Bill provides for the Yoorrook Justice Commission to make orders to close or restrict access to certain evidence given by First Peoples individuals once Yoorrook ceases to exist. This is to prevent use of First Peoples’ evidence which is not consistent with the consent of the author(s). It also exempts records subject to those orders from Freedom of Information legislation.

The Bill passed the Legislative Assembly in January 2025 and was passed on 18 February 2025.²⁰⁷

The way forward

Access to records for First Peoples in Victoria should be streamlined and straightforward to comply with ID-SOV and ID-GOV. It should be consistent with the UNDRIP principles. Yoorrook heard that action is needed to implement a coherent, consistent approach for First Peoples to access personal and family records, reduce delays, and mitigate cost and other application barriers.²⁰⁸ The State has not transferred ownership or control of First Peoples’ family and community records to First Peoples-led archives or repositories.²⁰⁹

Yoorrook heard calls for the establishment of an independent research unit or First Peoples-led archives services and facilities. Such services or facilities should have wide-ranging powers to enable access to records held by both government and non-government agencies.

I think consistency is one of the huge things I’m hearing that’s really needed in relation to records, whether it’s ownership, whether it’s what kind of records are kept, how to access them ... whether it starts with the State and then moves to a national approach there needs to be some consistency in how it’s done.²¹⁰

AUNTY MURIEL BAMBLETT, ACCESS TO RECORDS ROUNDTABLE

An independent, Victorian, First Peoples-controlled statewide body for First Peoples’ data and records, perhaps linked with the accountability body called for in Recommendation 9, could provide the necessary Indigenous data governance oversight of state-held existing and future records. This entity could deliver similar ID-SOV and ID-GOV functionality as the Bureau of Indigenous Data recommended by the Productivity Commission in January 2024. This would include functions such as:

- providing ID-SOV and ID-GOV training and support to state record-holding entities
- providing data governance expertise
- providing a culturally safe place for First Peoples to deposit records
- delivering data and record capability training for Victorian ACCOs and First Peoples community organisations.

There is a need to improve networks of support, training and resources for service providers supporting First Peoples to access their records. This is critical to support new workers, reduce burnout and improve career pathways. While there are some notable resources such as *Finding Your Story*, these need to be updated and better publicised. Yoorrook heard that there need to be improved career pathways and traineeships to attract First Peoples into records management.

Yoorrook shares concerns that non-State entities involved in the removal, care, placement or adoption of First Nations’ children may not be acting consistently with ID-SOV and ID-GOV or the *Bringing Them Home* recommendations that deal with the (non-)destruction of records, record preservation and record access.²¹¹ Minimum standards should apply to all record holders in relation to records management, culturally safe access and repatriation.²¹²

If Aboriginal peoples’ records are not safe Aboriginal people are not safe. These regulatory frameworks could be amended to establish mandatory standards in relation to client records management.²¹³

VICTORIAN ABORIGINAL CHILD AND COMMUNITY AGENCY

Recommendations

RECOMMENDATION 97

The Victorian Government must commit funding and resources to systemic reform to facilitate, embed and ensure Indigenous Data Sovereignty and Indigenous Data Governance in relation to First Peoples’ records, including through treaty by funding, resourcing and supporting the establishment of a Victorian First Peoples-controlled statewide body for First Peoples’ data, records and data governance expertise.

RECOMMENDATION 98

The Victorian Government must:

- a. Provide ongoing and sustainable funding for existing First Peoples-controlled archives, including for operational costs;
- b. Increase resources for organisations supporting First Peoples to access their records;
- c. Prioritise the digitisation and searchability of First Peoples’ records, including working with First Peoples to reframe how records are described; and
- d. Provide First Peoples with priority access to records and archives identified as relating to First Peoples.

Endnotes

1. Witness Statement of Minister Gabrielle Williams MP, 3 May 2022, 16 [117].

2. Lynette Russell, ‘Indigenous Knowledge and Archives: Accessing Hidden History and Understandings’ (2005) 36(2) *Australian Academic & Research Libraries*, 161–171, 164.

3. Penny van Toorn, ‘Hegemony or Hidden Transcripts?: Aboriginal Writings from Lake Condah, 1876–1907’ (2005) 29(86) *Journal of Australian Studies*, 13–27, 18. See also Trish Luker, ‘Decolonising Archives: Indigenous Challenges to Record Keeping in ‘Reconciling’ Settler Colonial States’ (2017) 32(91–2) *Australian Feminist Studies* 108–125, 112.

4. Monash University, the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, [Koorie Archiving: Trust and Technology: Final Report](#) (Report, 2009), 52–53.

5. Amanda Lourie, Nina Kojovic, Katrina Hodgson, Mahnaz Alimardanian, ‘Native Title Archives: Traditional Owner community owned and controlled repositories’ (2019) 20(2) *Journal of Colonialism and Colonial History*, 1–22; Lynette Russell, ‘Indigenous Records and Archives: Mutual Obligations and Building Trust’ (2005) 34(1) *Archives and Manuscripts*, 32–43, 37.

6. Indigenous Archives Collective, ‘[Indigenous Archives Collective Position Statement on the Right of Reply to Indigenous Knowledges and Information held in Archives](#)’ (Position Statement, 2021); See also Trish Luker, ‘Decolonising Archives: Indigenous Challenges to Record Keeping in ‘Reconciling’ Settler Colonial States’ (2017) 32(91–2) *Australian Feminist Studies* 108–125, 112; International Council of Archives Expert Matters Indigenous Group, [Tandanya – Adelaide Declaration](#) (Declaration, 25 October 2019).

7. See for example Recommendation 53 in *Royal Commission into Aboriginal Deaths in Custody* (Report, 15 April 1991) vol 2; Recommendation 23 in Australian Human Rights Commission, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Final Report, 1997), 341; Victorian Koorie Records Taskforce, [wilam naling ... knowing who you are: Improving Access to Records of the Stolen Generations](#) (Report, 2006); *Royal Commission into Institutional Responses to Child Sexual Abuse (Final Report)*, Volume 8: Recordkeeping and information sharing (Report, 15 December 2017); Stolen Generations Reparations Steering Committee, *Stolen Generations Reparations Victoria* (Report, 2021).

8. *Royal Commission into Institutional Responses to Child Sexual Abuse (Final report)*, Volume 8: Recordkeeping and information sharing. (Final Report, 15 December 2017). 42–43.

9. See Indigenous Archives Collective, ‘[Indigenous Archives Collective Position Statement on the Right of Reply to Indigenous Knowledges and Information Held in Archives](#)’ (2021).

10. Victorian Koorie Records Taskforce, [wilam naling ... knowing who you are: Improving Access to Records of the Stolen Generations](#) (Report, 2006), 15.

11. Karen Adams, Shannon Faulkhead, Rachel Standfield, Petah Atkinson, ‘Challenging the colonisation of birth: Koori women’s birthing knowledge and practice’ (2018) 31 *Women and Birth*, 81–88, 82.

12. Victorian Koorie Records Taskforce, [wilam naling ... knowing who you are: Improving Access to Records of the Stolen Generations](#) (Report, 2006), 15.

13. Public Record Office Victoria, ‘[Legislation: Government recordkeeping laws in Victoria](#)’, ‘What laws affect government recordkeeping in Victoria?’ (Webpage, 11 September 2024); Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 1–2, served on the State of Victoria on 22 November 2024.

14. *Public Records Act 1973* (Vic), s 2.

15. *Evidence Act 2008* (Vic), Dictionary.

16. The Public Record Office Victoria was established by the *Public Records Act 1973* (Vic) to better preserve and manage public records created by the public offices that make up State and local government in Victoria. PROV preserves a small percentage of all government records created, those records deemed to be of enduring value to Victorians and the State of Victoria: Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 1, served on the State of Victoria on 22 November 2024.

17. The Registry of Births, Deaths and Marriages was established in 1853 to register significant life events of Victorians: BDM, ‘[History of the Registry](#)’ (Webpage, 15 October 2024).

BDM is responsible for recording all Victorian births, adoptions, marriages, deaths and domestic and caring relationships, registering name changes, registering changes of record of sex, issuing certificates and offering a civil marriage service.

18. Australian Human Rights Commission, *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Children from Their Families (the Bringing Them Home report)* (Final Report, 1997), 283.

19. Australian Human Rights Commission, *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Children from Their Families (the Bringing Them Home report)* (Final Report, 1997), 283.

20. The split is the result of administrative changes in Aboriginal Affairs between the Victorian Government and the Commonwealth: Public Record Office Victoria (PROV) and National Archives of Australia (NAA), [walata tyamateetj: A Guide to Government Records about Aboriginal People in Victoria](#) (2014), 17.

PROV advised that permanent value public sector records are transferred from Victorian public offices to PROV once they are no longer needed. Records can be in physical format (stored in the physical repository) or digital format (stored in the Digital Archive): See Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 1–2, served on the State of Victoria on 22 November 2024.

21. Monash University the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, [Koorie Archiving: Trust and Technology: Final Report](#) (Report, 2009), 33.

22. McDonald Family of Tae Rak (Lake Condah), Submission 202, 187.

23. Transcript of roundtable on access to records, 13 December 2023, 6–7, served on the State of Victoria on 1 April 2024.

24. Victorian Aboriginal Child and Community Agency, Submission 77 (Criminal Injustice), 32–34.

25. Public Record Office Victoria (PROV) and National Archives of Australia (NAA), [walata tyamateetj: A Guide to Government Records about Aboriginal People in Victoria](#) (Guide, 2014).

26. Public Record Office Victoria (PROV) and National Archives of Australia (NAA), [walata tyamateetj: A Guide to Government Records about Aboriginal People in Victoria](#) (Guide, 2014) 17.

27. National Archives of Australia (NAA), ‘[Records about First Australians](#)’ (Webpage); Victorian Aboriginal Child and Community Agency, Submission 77 (Criminal Injustice), 32–34.

28. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 7–9, served on the State of Victoria on 22 November 2024.

29. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 7, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

30. Correspondence from the Victorian Government Solicitors Office to King & Wood Mallesons (Solicitors Assisting) dated 24 December 2024.

31. Information collated from the Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 5–10, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

32. DPC advised that ‘there are six research services that provide access to historical records, but do not allow the public to directly search for their own records. Instead, access is facilitated via online application and FOI [Freedom of Information] requests that can take months’: Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 5, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

33. Correspondence from the Victorian Government Solicitors Office to King & Wood Mallesons (Solicitors Assisting) dated 24 December 2024.

34. The Marguk-bulok koolin-ik Team is the only service in this table that is led by First Peoples staff: Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 7, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

35. The [Koorie Records Unit](#) was established in response to the *Bringing Them Home* Report. Yoorrook heard that it promotes awareness about records relating to First Peoples within the PROV collection and aims to improve accessibility of these records to First Peoples communities. This includes providing a central entry point for people seeking support to access open Victorian government records in both the PROV and NAA collections and a dedicated Koorie Reference Officer to provide confidential advice and assistance. See Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 2, served on the State of Victoria on 22 November 2024.

36. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 7, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

37. Public Record Office Victoria (PROV), [Finding Your Story: A Resource Manual to the Records of The Stolen Generations in Victoria](#) (Guide, 2005).

38. Public Record Office Victoria (PROV), [walata tyamateetj: A Guide to Government Records About Aboriginal People in Victoria](#) (Guide, 2014).

39. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 27, served on the State of Victoria on 1 April 2024.

40. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 11, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

41. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 5, served on the State of Victoria on 22 November 2024.

42. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 5–6, served on the State of Victoria on 22 November 2024.

43. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 4, served on the State of Victoria on 22 November 2024.

44. Information in this table was collated from the Department of Premier and Cabinet, Response to RFI, ‘*State Response to Request for Information*’, 7–9, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

45. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 3, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

46. Correspondence from the Victorian Government Solicitors Office to King & Wood Mallesons (Solicitors Assisting) dated 24 December 2024.

47. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 3, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

48. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 3, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

49. Correspondence from the Victorian Government Solicitors Office to King & Wood Mallesons (Solicitors Assisting) dated 24 December 2024.

50. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 9, produced by the State of Victoria in response to the Commission’s Request for Information dated 22 September 2023.

51. Correspondence from the Victorian Government Solicitors Office to King & Wood Mallesons (Solicitors Assisting) dated 24 December 2024.

52. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 9, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

53. Find & Connect, Submission 495, 1: Find & Connect, ‘[About Us](#)’(Webpage).

54. Denise Sweet, Submission 90, 16; Uncle Jim Berg, Submission 464 ([Video played in Hearings](#)), 31.

55. Denise Sweet, Submission 90, 18.

56. Previous inquiries have made similar recommendations for example: Australian Human Rights Commission, *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Children from Their Families (the Bringing Them Home report)* (Final Report, 1997), 296; Stolen Generations Reparations Steering Committee, *Stolen Generations Reparations Victoria* (Report, 2021) 72.

57. Transcript of roundtable on access to records, 13 December 2023, 13, served on the State of Victoria on 1 April 2024.

58. Lionel E Bamblett, Submission 966, 1–2; Transcript of Uncle Gary Murray, 26 April 2024, 30 [6]–[10], 44 [11]–[44]; Transcript of roundtable on access to records, 13 December 2023, 13, served on the State of Victoria on 1 April 2024.

59. Monash University the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, *Koorie Archiving: Trust and Technology: Final Report* (Final Report, 2009), 29.

60. For example see Indigenous Archives Collective, *Indigenous Archives Collective Position Statement on the Right of Reply to Indigenous Knowledges and Information Held in Archives* (Position Statement, 2021)

61. Jack Charles, ‘Epilogue; The journey never-ending’ in *Uncle Jack Charles: A Born-Again Blakfella* (Penguin Books, 2019), 127.

62. Victorian Koorie Records Taskforce, *wilam naling ... knowing who you are: Improving Access to Records of the Stolen Generations* (Report, 2006), 14.

63. Victorian Koorie Records Taskforce, *wilam naling ... knowing who you are: Improving Access to Records of the Stolen Generations* (Report, 2006), 14.

64. Transcript of Aunty Charmaine Clarke, 8 December 2022, 208 [8]–[29].

65. Witness Statement of Aunty Fay Carter, 29 April 2022, 19 [94]–[95].

66. Transcript of roundtable on access to records 13 December 2023, 36, served on the State of Victoria on 1 April 2024.

67. Find & Connect, Submission 495, 8.

68. *Monash University. Recordkeeping Best Practice Guide to support implementation of the Charter of Lifelong Rights in Childhood Recordkeeping in Out-of-Home Care: Version 1 (Guide, November 2021)*, 3.

69. Transcript of roundtable on access to records, 13 December 2023, 30, served on the State of Victoria on 1 April 2024.

70. Transcript of roundtable on access to records, 13 December 2023, 30, served on the State of Victoria on 1 April 2024.

71. *Victoria Hoyle*, Elizabeth Shepherd, Elizabeth Lomas, Andrew Flinn, ‘Recordkeeping and the life-long memory and identity needs of care-experienced children and young people’ (2020) 25(4) *Child & Family Social Work*, 935–945, 936; Frank Golding, Antonina Lewis, Sue McKemmish, Gregory Rolan, and Kirsten Thorpe, ‘Rights in records: A Charter of lifelong rights in childhood recordkeeping in out-of-home care for Australian and Indigenous Australian children and care leavers’ (2021) 25(9) *The International Journal of Human Rights*, 1625–1657.

72. *Royal Commission into Institutional Responses to Child Sexual Abuse (Final Report)*, Volume 8 *Recordkeeping and information sharing (Report, 15 December 2017)*, 38.

73. See for example The Healing Foundation, *Make Healing Happen: It’s Time to Act* (Report, May 2021) 138–139; Indigenous Archives Collective, ‘*Position Statement on the Right of Reply to Indigenous Knowledges and Information Held in Archives*’ (2021); International Council of Archives Expert Matters Indigenous Group, *Tandanya – Adelaide Declaration* (Declaration, 25 October 2019); Monash University the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, *Koorie Archiving: Trust and Technology: Final Report* (Final Report, 2009).

74. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 7, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

75. Transcript of roundtable on access to records, 13 December 2023, 14, served on the State of Victoria on 1 April 2024; Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 26, served on the State of Victoria on 1 April 2024.

76. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 13, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

77. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 13, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023; Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 10, served on the State of Victoria on 22 November 2024; McDonald Family of Tae Rak (Lake Condah), Submission 202, 187; Lionel E Bamblett, Submission 966, 1.

78. Transcript of roundtable on access to records, 13 December 2023, 4, served on the State of Victoria on 1 April 2024.

79. For example, the State advised that the Adoption Information Service (AIS) can only search adoption records organised by the Aborigines Welfare Board from 1929 to 1968. This is because adoption was not legally formalised until the *Adoption of Children Act 1928*; Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 17, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023. See also Transcript of roundtable on access to records, 13 December 2023, 6–8, served on the State of Victoria on 1 April 2024.

80. Transcript of roundtable on access to records, 13 December 2023, 4, 6, served on the State of Victoria on 1 April 2024; Find & Connect, Submission 495, 3–4; Karyne Humphris, Submission 324, 2–3, 8–9.

81. Transcript of roundtable on access to records, 13 December 2023, 4, served on the State of Victoria on 1 April 2024.

82. Transcript of roundtable on access to records, 13 December 2023, 6–7, served on the State of Victoria on 1 April 2024.

83. Summary Report — Public Record Office Victoria Site Visit, 14 May 2024, 2, served on the State of Victoria on 22 November 2024.

84. *Public Records Act 1973* (Vic), s 9. The Minister responsible for PROV declares these records closed for a specified period of time, after consultation with the Minister responsible for the area of government transferring the records to PROV: Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 2, served on the State of Victoria on 22 November 2024.

85. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 2, served on the State of Victoria on 22 November 2024.

86. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 2, served on the State of Victoria on 22 November 2024.

87. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 2, served on the State of Victoria on 22 November 2024; Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 5, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

88. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 6, 15, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023; Births Deaths and Marriages Victoria, ‘*Information is Restricted for Specific Periods*’ (Webpage, 25 September 2024).

89. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 22, served on the State of Victoria on 1 April 2024.

90. The following case study has been adapted from a Department of Government Services (DGS) case study in Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 12, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

91. The Department of Government Services (DGS) Marguk-bulok koolin-ik Team is an Aboriginal-led team who support First peoples to access BDM services: Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 15–16, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

92. Births Deaths and Marriages Victoria, ‘*Letter of verification*’ (Webpage, 4 October 2024).

93. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 12, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

94. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 4, 10–11, served on the State of Victoria on 1 April 2024; Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 33. See also Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 3–4, served on the State of Victoria on 22 November 2024.

95. Monash University the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, *Koorie Archiving: Trust and Technology: Final Report* (Final Report, 2009), 24; Australian Human Rights Commission, *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Children from Their Families (the Bringing Them Home report)* (Final Report, 1997), 290, 295, 303.

96. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 33, served on the State of Victoria on 1 April 2024.

97. Transcript of Uncle Larry Walsh, 20 May 2022, 148 [34]–[44].

98. Anonymous 323, Submission 323, 4.

99. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 30, served on the State of Victoria on 1 April 2024.

100. *Adoption Act 1984* (Vic) ss 100 and 100A; Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 30, served on the State of Victoria on 1 April 2024.

101. Transcript of roundtable on access to records, 13 December 2023, 5, served on the State of Victoria on 1 April 2024.

102. Transcript of roundtable on access to records, 13 December 2023, 4, served on the State of Victoria on 1 April 2024.

103. Transcript of roundtable on access to records, 13 December 2023, 4, served on the State of Victoria on 1 April 2024.

104. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 5, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

105. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 12, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

106. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 34–35, served on the State of Victoria on 1 April 2024.

107. *Royal Commission into Institutional Responses to Child Sexual Abuse (Final Report)*, *Volume 8 Recordkeeping and information sharing* (Report, 15 December 2017), 93.

108. *Royal Commission into Institutional Responses to Child Sexual Abuse (Final Report)*, *Volume 8 Recordkeeping and information sharing* (Report, 15 December 2017), 93.

109. Transcript of roundtable on access to records, 13 December 2023, 33, 37, served on the State of Victoria on 1 April 2024.

110. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 4–5, 15, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

111. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 6, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

112. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 15–16, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

113. Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 5, 15, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

114. Australian Human Rights Commission, *Australian Human Rights Commission, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Children from Their Families (the Bringing Them Home report)* (Final Report, 1997), 295.

115. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 2, served on the State of Victoria on 1 April 2024.

116. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 2–4, served on the State of Victoria on 1 April 2024.

117. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 2–4, served on the State of Victoria on 1 April 2024.

118. Transcript of roundtable on access to records, 13 December 2023, 29.

119. See also Department of Premier and Cabinet, ‘*State Response to Request for Information*’, 6, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

120. Department of Premier and Cabinet, ‘State Response to Request for Information’, 6, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

121. Department of Premier and Cabinet, ‘State Response to Request for Information’, 10, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023. See also Births, Deaths and Marriages Victoria, ‘[Financial hardship and fee waiver](#)’ (Webpage, 25 September 2024).

122. Department of Premier and Cabinet, ‘State Response to Request for Information’, 10, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

123. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 23, served on the State of Victoria on 1 April 2024.

124. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 6, served on the State of Victoria on 1 April 2024.

125. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 6, served on the State of Victoria on 1 April 2024.

126. Transcript of roundtable on access to records, 13 December 2023, 33, served on the State of Victoria on 1 April 2024.

127. Victorian Government, ‘[Stolen Generations Reparations Package: Support and Further Assistance – Support services after you apply: advance payments for medical illness](#)’ (Webpage, October 2024).

128. Transcript of roundtable on access to records, 13 December 2023, 14, served on the State of Victoria on 1 April 2024.

129. Department of Premier and Cabinet, ‘State Response to Request for Information’, 4, 9, 19, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

130. Department of Premier and Cabinet, ‘State Response to Request for Information’, 9, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

131. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 3–4, served on the State of Victoria on 22 November 2024.

132. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 3, 10, served on the State of Victoria on 22 November 2024.

133. Department of Premier and Cabinet, ‘State Response to Request for Information’, 14, produced by the State of Victoria on 12 October 2023 in response to the Commission’s Request for Information dated 22 September 2023.

134. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 22, served on the State of Victoria on 1 April 2024.

135. Barry Jacobs, Submission 284, 3.

136. Find & Connect, Submission 495, 4.

137. Transcript of roundtable on access to records, 13 December 2023, 5 [30], served on the State of Victoria on 1 April 2024.

138. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

139. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

140. Dr Catherine O'Neill, Submission 535, 1–24, 72–84, 117–145.

141. Dr Catherine Bishop, Submission 533, 2.

Yoorrook notes that UAM initially granted Dr Bishop access to UAM records to support her biographical research on missionary Annie Lock.

142. Dr Catherine Bishop, Submission 533, 3.

143. Dr Catherine Bishop, Submission 533, 3.

144. Dr Catherine Bishop, Submission 533, 7.

145. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

146. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

147. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

148. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 4, 7–8, served on the State of Victoria on 22 November 2024.

149. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 7–8, served on the State of Victoria on 22 November 2024.

150. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 7, served on the State of Victoria on 22 November 2024.

Yoorrook also heard that PROV is piloting an AI system to try and train it to read 19th century handwriting to transcribe these records, rather than just create images. This would enable the records to be searchable: Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 15–16, served on the State of Victoria on 22 November 2024.

151. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

152. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

153. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 8, served on the State of Victoria on 22 November 2024.

154. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 3–4, served on the State of Victoria on 22 November 2024.

155. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 4, served on the State of Victoria on 22 November 2024.

156. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 4, 15, 17–18, served on the State of Victoria on 22 November 2024.

Note that KIN does not include any records held by NAA. NAA has a separate [Bringing Them Home \(BTH\) name index](#) for locating records about Aboriginal people in its collection: See Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 18, served on the State of Victoria on 22 November 2024.

157. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 18, served on the State of Victoria on 22 November 2024.

158. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 18, served on the State of Victoria on 22 November 2024.

159. Witness Statement of Aunty Charmaine Clarke, 7 December 2022, 2 [12].

160. Transcript of Aunty Donna Wright, 1 March 2023, 7 [45]–[50].

161. Monash University the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, [Koorie Archiving: Trust and Technology; Final Report](#) (Final Report, 2009), 7.

162. Monash University the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, [Koorie Archiving: Trust and Technology; Final Report](#) (Final Report, 2009), 36.

163. For example, as set out by PROV: ‘Part V of the *Freedom of Information Act 1982* provides for the right to request the correction or amendment of information contain in a public record where it is inaccurate, incomplete, out of date or would give a misleading impression. The public office or the Minister can decide whether to allow this. This correction or amendment may take the form of a notation of the original document, however no correction or amendment shall be made which has the effect of deleting or expunging the information which has been corrected or amended or of destroying the document except with the concurrence of the Keeper. There have been instances where the Keeper has approved the destruction or expungement of information from public records, in cases where the harms caused by the information have outweighed the need to retain the information’: Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 11, served on the State of Victoria on 22 November 2024.

164. Transcript of roundtable on access to records, 13 December 2023, 14, served on the State of Victoria on 1 April 2024.

165. Greg Baldwin (Kenneth Gregory Baldwin), Submission 630, 1.

166. Greg Baldwin (Kenneth Gregory Baldwin), Submission 630, 2. Note Greg Baldwin said that BDM refuse to list children on a death certificate as those children were adopted. He understands this is due to ‘Section 43 of the BDMR Act 1996, using the requirements of the Births, Deaths and Marriages Registration Regulation 2019 (the BDMR) section 9 (1)(I) which prevented adopted children from being shown/added to the natural mother’s death certificate’.

167. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 10–11, served on the State of Victoria on 22 November 2024.

168. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 10–11, served on the State of Victoria on 22 November 2024.

169. Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 11, served on the State of Victoria on 22 November 2024.

170. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 10, served on the State of Victoria on 1 April 2024.

171. Transcript of roundtable on access to records, 13 December 2023, 14, served on the State of Victoria on 1 April 2024.

172. Transcript of roundtable on access to records, 13 December 2023, 14, served on the State of Victoria on 1 April 2024.

173. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 10, served on the State of Victoria on 1 April 2024.

174. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 7, served on the State of Victoria on 1 April 2024.

175. Transcript of roundtable with Koorie Heritage Trust, 20 February 2024, 7, served on the State of Victoria on 1 April 2024.

176. PROV acknowledged that the process of accessing records can be distressing for First Peoples. However, it does not currently offer counselling services and advised it does not have the expertise or the resourcing to provide these services. PROV advised that they refer clients who are not already supported to other agencies to agencies including Link-Up, Connecting Home, Koorie Heritage Trust, Bringing Them Home workers, and the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Family History Unit: Summary Report — Public Record Office Victoria (PROV) Site Visit, 14 May 2024, 12, served on the State of Victoria on 22 November 2024.

177. Correspondence from the Victorian Government Solicitors Office to King & Wood Mallesons (Solicitors Assisting) dated 24 December 2024.

178. Correspondence from the Victorian Government Solicitors Office to King & Wood Mallesons (Solicitors Assisting) dated 24 December 2024.

179. Find & Connect Web Resource, Submission 495, 3.

180. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic), 38.

181. See Witness Statement of Marcus Stewart, Inaugural Co-Chair of First Peoples’ Assembly of Victoria, 29 April 2022, 27 [75], 55 [155]–[157], 56 [160]–57 [165]. See also Terri Janke, ‘True Tracks: Indigenous cultural and intellectual property principles for putting self-determination into practice’ (Thesis, Australian National University, 2019); Monash University, [Statement of Principles relating to Australian Indigenous Knowledge and the Archives](#) (2009).

182. Australian Government Productivity Commission, *Review of the National Agreement on Closing the Gap Study Report: Volume 1* (Report, January 2024) 63. See also Victorian Aboriginal Child and Community Agency, Submission 539 (Economic), 38–39.

183. Australian Government Productivity Commission, *Review of the National Agreement on Closing the Gap Study Report: Volume 1* (Report, January 2024), 63.

184. See especially Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, ‘[Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 20th June 2018, Canberra, ACT](#)’ (2018); See generally Maggie Walter, Tahu Kukutai, Stephanie Russo Carroll, Desi Rodriguez-Lonebear (eds), *Indigenous Data Sovereignty and Policy* (Routledge, 2021).

185. Maiam nayri Wingara Indigenous Data Sovereignty Collective, Australian Indigenous Governance Institute and the Lowitja Instituite, ‘*Indigenous Data Governance Communique*; National Indigenous Data Sovereignty Summit, 13th June 2023, Cairns, QLD’ (2023), 1.

186. Victorian Aboriginal Child and Community Agency, Submission 539 (Economic), 38–39. See also generally *The International Work Group for Indigenous Affairs, ‘The Indigenous World 2022: Indigenous Data Sovereignty’* (Webpage, 1 April 2022); Jacob Prehn and Maggie Walter, ‘Indigenous Data Sovereignty and Social Work in Australia’ (2023) 76(3) *Australian Social Work* 371–378, 372; Maggie Walter and Michele Suina, ‘Indigenous data, indigenous methodologies and indigenous data sovereignty’ (2019) 22(3) *International Journal of Social Research Methodology*, 236–237, 233.

187. Victoria, [Yoorrook Justice Commission, Letters Patent](#), 4(f)(iv).

188. Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, [Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 20th June 2018, Canberra, ACT](#) (2018).

189. Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, [*Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 20th June 2018, Canberra, ACT*](#) (2018), 1.

190. Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, [*Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 20th June 2018, Canberra, ACT*](#) (2018), 1. See also Lowitja Institute and Maiam nayri Wingara Indigenous Data Sovereignty Collective, [*Taking Control of Our Data: A Discussion Paper on Indigenous Data Governance for Aboriginal and Torres Strait Islander People and Communities*](#) (Discussion Paper, January 2024), 8.

191. Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, [*Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 20th June 2018, Canberra, ACT*](#) (2018), 1. See also Lowitja Institute and Maiam nayri Wingara Indigenous Data Sovereignty Collective, [*Taking Control of Our Data: A Discussion Paper on Indigenous Data Governance for Aboriginal and Torres Strait Islander People and Communities*](#) (Discussion Paper, January 2024), 8, 11.

192. Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, [*Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 20th June 2018, Canberra, ACT*](#) (2018), 2.

193. United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007).

194. Victorian Aboriginal Community Controlled Health Organisation, Submission 445 (Health, Education, Housing), 69. See also International Work Group for Indigenous Affairs, [*'The Indigenous World 2022: Indigenous Data Sovereignty'*](#) (Webpage, 1 April 2022); Maggie Walter, [*'The Voice of Indigenous Data: Beyond the Markers of Disadvantage'*](#), *The Griffith Review* (Webpage); Megan Davis, 'Data and the United Nations Declaration of the Rights of Indigenous Peoples' in Tahu Kukutai and John Taylor (eds), [*Indigenous Data Sovereignty: Toward an Agenda*](#) (ANU Press, 2016), 35.

195. Gawaian Bodkin-Andrews, Maggie Walter, Vanessa Lee, Tahu Kukutai, Ray Lovett, [*Delivering Indigenous Data Sovereignty*](#) (National Indigenous Research Conference Presentation, 2 July 2019); Lowitja Institute and Maiam nayri Wingara Indigenous Data Sovereignty Collective, [*Taking Control of Our Data: A Discussion Paper on Indigenous Data Governance for Aboriginal and Torres Strait Islander People and Communities*](#) (Discussion Paper, January 2024), 2–3.

196. Witness Statement of Minister Gabrielle Williams MP, 3 May 2022, 16 [119]; Transcript of Minister Gabrielle Williams MP, 6 May 2022, 299–300 [45]–[15]; Witness Statement of Minister Natalie Hutchins MP, 18 March 2024, 33 [161].

197. Victorian Government, *Victorian Aboriginal Affairs Framework 2018–2023* (2018) 27; Victorian Government, *Self-Determination Reform Framework* (2019) 11. See also Transcript of Minister Gabrielle Williams MP, 6 May 2022, 300 [40]–[45].

198. Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, [*Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 20th June 2018, Canberra, ACT*](#) (2018), 2.

199. Maiam nayri Wingara Indigenous Data Sovereignty Collective, Australian Indigenous Governance Institute and the Lowitja Institute, [*Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 13th June 2023, Cairns, QLD*](#) (2023), 1.

200. Lowitja Institute and Maiam nayri Wingara Indigenous Data Sovereignty Collective, [*Taking Control of Our Data: A Discussion Paper on Indigenous Data Governance for Aboriginal and Torres Strait Islander People and Communities*](#) (Discussion Paper, January 2024).

201. Diane E Smith, 'Governing data and data for governance: the everyday practice of Indigenous sovereignty' in Tahu Kukutai and John Taylor (eds), *Indigenous data sovereignty: Toward an agenda* (ANU Press, 2016), 119. See also Lowitja Institute, *Indigenous Data Governance Communique* (National Indigenous Data Sovereignty Summit, Cairns, 13 June 2023) 1.

202. First Peoples' Assembly of Victoria, Submission 490 (Education, Health and Housing), 14–15; Victorian Aboriginal Child and Community Agency, Submission 539 (Economic), 38–39.

203. Maiam nayri Wingara Indigenous Data Sovereignty Collective, Australian Indigenous Governance Institute and Lowitja Institute, [*Indigenous Data Sovereignty: Communique. Indigenous Data Sovereignty Summit, 13th June 2023, Cairns, QLD*](#) (2023), 1.

204. First Peoples' Assembly of Victoria, Submission 490 (Education, Health and Housing), 14.

205. Australian Government Productivity Commission, *Review of the National Agreement on Closing the Gap Study Report: Volume 1* (Report, January 2024), 8, 15–16.

206. Australian Government Productivity Commission, *Review of the National Agreement on Closing the Gap Study Report: Volume 1* (Report, January 2024), 8, 16.

207. *Inquiries Amendment (Yoorrook Justice Commission Records and Other Matters) Bill 2024* (Vic) < <https://www.legislation.vic.gov.au/bills/inquiries-amendment-yoorrook-justice-commission-records-and-other-matters-bill-2024>>; See also Hansard Record [here](#); Yoorrook Justice Commission, [*'Yoorrook welcomes legislative amendments to help safeguard First Peoples' records'*](#) (Media Release, 27 February 2025).

208. Transcript of roundtable on access to records, 13 December 2023, 32–33. See also Monash University the Public Record Office of Victoria, Koorie Heritage Trust, the Victorian Koorie Records Taskforce, and the Australian Society of Archivists Indigenous Issues Special Interest Group, [*Koorie Archiving: Trust and Technology: Final Report*](#) (Final Report, 2009); The Healing Foundation, [*Make Healing Happen: It's Time to Act*](#) (Report, May 2021) 138; Indigenous Archives Collective, [*Indigenous Archives Collective Position Statement on the Right of Reply to Indigenous Knowledges and Information held in Archives*](#) (2021); International Council of Archives Expert Matters Indigenous Group, [*Tandanya – Adelaide Declaration*](#) (Declaration, 25 October 2019).

209. Australian Human Rights Commission, *Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Children from Their Families (the Bringing Them Home report)* (Final Report, 1997), 296; see further Chapter 12: Cultural heritage.

210. Transcript of roundtable on access to records, 13 December 2023, 32–33, served on the State of Victoria on 1 April 2024.

211. Victorian Aboriginal Child and Community Agency, Submission 77 (Criminal Justice), 33.

212. Victorian Aboriginal Child and Community Agency, Submission 77 (Criminal Justice), 34.

213. Victorian Aboriginal Child and Community Agency, Submission 77 (Criminal Justice), 34.

Part J

Call to action

Chapter 39: Redress

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Introduction

The Terms of Reference for Yoorrook require it to consider ‘redress’ as a component of the truth-telling process. The State should provide appropriate redress for the perpetration of injustice. The evidence has shown that in the case of First Peoples in Victoria, the injustice is ongoing, embedded and resistant to change. In these circumstances, redress must also serve the purposes of incentivising change, limiting further injustice and ensuring First Peoples’ ownership of change.

Then Minister for Aboriginal Affairs, the Hon Gabrielle Williams MP¹, acknowledged the ongoing nature of the injustices in her statement:

The broad mandate of the Commission reflects the Victorian Government’s commitment to truth telling, and to reform, reparation and the advancement of a treaty or treaties founded on a shared understanding of the truth. The Government must acknowledge and confront the grave wrongs that have been committed — and that may be ongoing.²

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Premier of Victoria the Hon Jacinta Allan MP accepted in oral evidence that determining appropriate redress for systemic injustice is a function of Yoorrook.³ Minister Williams confirmed that treaty negotiations would not preclude reparations and that nothing would be ‘off the table’.⁴

What is redress?

Redress refers broadly to any measure that attempts to correct or remedy a wrong, including providing compensation or restitution. This term is commonly used in legal and human rights contexts where individuals or groups seek redress for violation of their rights, unfair treatment, discrimination or other harms. Redress may be sought for historical, inter-generational or ongoing harms, or a combination of these.

The terminology used for redress may differ according to context. As noted above, Yoorrook’s Terms of Reference use the term ‘redress’. Many of the cases in international law and foreign domestic law use the term ‘reparations’, as do some of the submissions Yoorrook received. Throughout this chapter, and elsewhere in this report, Yoorrook uses both terms as appropriate and in accordance with the source material.

What Yoorrook heard

Injustices, rights violations and other harms

Yoorrook’s mandate

Yoorrook’s Terms of Reference provide it with a broad mandate to investigate a range of injustices, including both historical and ongoing systemic injustices.

Evidence received

In conducting its inquiry, Yoorrook heard evidence about historical and ongoing injustices, rights violations and other harms experienced by First Peoples in Victoria since the start of colonisation.

Yoorrook heard that First Peoples in Victoria have experienced and continue to experience a range of injustices, rights violations and other harms, including:

- the theft of land and waters, dispossession and denial of First Peoples’ property rights, including through acts done by the State, by religious institutions and by educational institutions, resulting in cultural and economic loss⁵
- the imposition and use of oppressive laws, policies and practices to forcibly evict and expel First Peoples from their lands⁶
- the incarceration of First Peoples by the State and by religious institutions on missions and reserves⁷
- acts of genocide,⁸ massacres, wars, unlawful killings and other violence (including rape and other sexual violence), often with genocidal intent and effect⁹
- linguicide and the destruction and suppression of language and culture, including of spirituality and cultural practices, protocols and ceremonies¹⁰
- the forced removal of children from their families and communities, often with genocidal and linguistic intent and effect¹¹
- the decimation of the First Peoples population through disease and other health issues caused by the impacts of colonisation on culture and way of life¹²
- the servitude of First Peoples and theft of their wages¹³
- the theft and destruction by the State and educational institutions of cultural knowledge, artefacts, ancestral remains and sacred objects¹⁴
- the exclusion of First Peoples from soldier settlement schemes, and the use of soldier settlement schemes to take First Peoples’ land¹⁵
- the invasion of First Peoples’ privacy, including through the collection, possession, use and control of data and information about First Peoples¹⁶
- the exclusion and disadvantaging of First Peoples in healthcare and wellbeing systems¹⁷
- the exclusion and disadvantaging of First Peoples in the education system, including early years, primary and secondary schooling and tertiary education¹⁸
- the exclusion and disadvantaging of First Peoples in the housing system, including social housing, the private rental market and home ownership¹⁹
- the exclusion and disadvantaging of First Peoples in economic and political life.²⁰

The State should provide redress for all these matters.

Genocide

The United Nations adopted the *Convention on the Prevention and Punishment of the Crime of Genocide* (‘Genocide Convention’) in 1948, and it came into force on 12 January 1951.²¹ Australia ratified the *Genocide Convention* in 1949.²² However, genocide was first recognised as a crime under international law in 1946,²³ and the concept and definition of genocide as a crime against humanity had been contemplated since at least 1944 and possibly as early as before or during the Second World War.²⁴

Article 2 of the *Genocide Convention* provides that:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;**
- b) Causing serious bodily or mental harm to members of the group;**
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;**
- d) Imposing measures intended to prevent births within the group;**
- e) Forcibly transferring children of the group to another group.²⁵**

In accordance with the definition set out above, genocide is not limited to acts perpetrated by state actors,²⁶ acts that affect a group in its entirety²⁷ or acts that succeed in destroying the group; attempt is sufficient.²⁸

As noted above, Yoorrook has inquired into massacres, wars, killing and genocide and other acts of a similar gravity. Yoorrook has heard evidence that all of these acts occurred in Victoria. Noting that Australia did not adopt the *Genocide Convention*, including the formal definition of genocide, until 1949, Yoorrook uses the definition of genocide as a guide for determining, in principle and in substance, the nature and effect of the acts that took place and the gravity of the injustices perpetrated against First Peoples.

Massacres, killings and sexual violence

As outlined in Chapter 7: How colonisers stole Country and Chapter 8: Impacts of Country being stolen, Yoorrook has heard evidence of violence that included massacres, wars and killings. Yoorrook heard that in Victoria there were at least 49 recorded massacres,²⁹ of which at least eight involved ‘agents of the state’, while the others were largely carried out by non-state actors, such as settler-colonisers, squatters and pastoralists. In certain instances, colonisers attempted to wipe out the entire group or clan of First Peoples — the colonisers pursued and indiscriminately shot members of the group on sight, including women and children.³⁰ Yoorrook also heard evidence of sexual violence committed against First Nations women, including rape and sexual exploitation.³¹

Colonial authorities, the State Government and broader white society knew about violence and massacres at the time and did not act to prevent them.³² Prominent colonial newspaper *The Australian* editorialised that the expenditure of First Peoples life was ‘an everyday occurrence’ and that the ‘necessity’ of these acts ‘leads us to be easily reconciled to each step in the process of extermination’.³³ Reports of massacres were made to colonial authorities and went largely unpunished.³⁴ Individuals who engaged in mass murder of First Peoples were allowed to attain prominence in colonial society.³⁵ Colonisers wrote about the general understanding that to take land it was necessary to ‘slaughter natives right and left’³⁶ and that ‘natives’ were ‘hunted down with ... unsparing perseverance’.³⁷

Yoorrook heard that by 1901, colonisation had decimated the population of First Peoples in Victoria to between 1 per cent and 5 per cent of the pre-colonisation population. This was a near-complete annihilation brought about by colonisers’ mass killings, the introduction and spread of disease, sexual violence, environmental degradation, and State policies of cultural erasure, suppression of language, removal of children, absorption and assimilation.³⁸

Some First Peoples told Yoorrook that these acts were genocidal in nature and effect.³⁹ Some direct descendants of colonisers expressed the same view.⁴⁰ Professor Richard Broome told Yoorrook that there had been ‘cultural genocide’⁴¹ in Victoria and there were ‘relations of genocide’ between First Peoples and colonists.⁴² He also expressed his opinion that there was no intention to commit genocide, despite the government being aware of the likelihood and occurrence of violence against First Peoples and not preventing it.⁴³ Associate Professor Katherine Ellinghaus cautioned against focusing on intention and told Yoorrook that in her view all five elements of the *Genocide Convention* Article 2 definition of genocide occurred in Victoria.⁴⁴ Dr Bill Pascoe agreed, noting that at least for certain colonists (such as the so-called ‘Highland Brigade’), there was a clear intention to ‘wipe out everyone, which is an act of genocide’.⁴⁵

Based on the evidence Yoorrook received, colonisation in Victoria involved acts of genocide and the gravest forms of injustice against First Peoples. Further, acts of killing and sexual violence were clearly illegal under British common law imported into Australia and were outside acceptable standards of conduct at the time.⁴⁶

Segregation and assimilation

Yoorrook also heard that the practices of segregation and assimilation by the State and churches through protectorates, missions and reserves were acts aimed at the separation and destruction of First Peoples groups.

In *Yoorrook for Justice*, Yoorrook noted that First Peoples were imprisoned on missions and reserves, ostensibly for ‘protection’ from colonial violence, and were prevented from practising culture and speaking language.⁴⁷ As outlined in Chapter 7: How colonisers stole Country and Chapter 8: Impacts of Country being stolen, Yoorrook heard that this intentional destruction of language and culture was a manifestation of genocide and linguicide.⁴⁸ Assimilationist policies also included restrictions on First Peoples women’s reproductive autonomy.⁴⁹ Aunty Dr Jill Gallagher AO (Gunditjmara) told Yoorrook that the majority of missions and reserves were ‘set up to absolutely destroy us’.⁵⁰

Child removal

In *Yoorrook for Justice*, Yoorrook noted that forced child removals have been found to constitute genocide under the *Genocide Convention*,⁵¹ and frontier violence included kidnapping First Peoples children.⁵² That practice evolved as part of the system of missions and reserves — with the Aboriginal Protection Board describing its policy of separating children from their families as ‘the beginning of the end’.⁵³

Yoorrook notes that the question of genocide was considered by the Australian Human Rights and Equal Opportunity Commission’s National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. In its report published in 1997 (*Bringing Them Home*), the Inquiry found that the forced removal of First Peoples children from their families and communities involved genocide because it had the predominant aim of ‘the absorption or assimilation of the children into the wider, non-Indigenous community so that their unique cultural values and ethnic identities would disappear, giving way to models of Western culture’.⁵⁴ The Inquiry found that such removal was genocidal even where it was said to have also been motivated by other objectives, such as welfare.⁵⁵ The Inquiry further found that policies and practices of preferring non-Indigenous foster and adoptive families for First Peoples children, which continued well into the 1970s and 1980s, were also arguably genocidal.⁵⁶

Acts of frontier violence and policies and practices of segregation and assimilation, including through forced child removals, were genocidal in nature and effect. Even those that claimed to be for the ‘protection’ of First Peoples aimed to eradicate First Peoples as a group or eradicate First Peoples’ language, culture and identity.

Minister Williams told Yoorrook that there was ‘certainly an attempt’⁵⁷ at genocide in Victoria — itself a violation of the *Geneva Convention*⁵⁸ — and stated, on behalf of the government that:

The Victorian Government acknowledges the State’s active and tacit involvement in violence — including massacres, killings, rape and pillaging — are part of Victoria’s history.⁵⁹

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Other rights violations

As detailed in Chapter 4: Rights, First Peoples’ unique and inherent rights are recognised in the *United Nations Declaration on the Rights of Indigenous Peoples* (‘*UNDRIP*’) and in other international and domestic instruments. These include a wide range of individual and collective legal, political, cultural, social, economic, and land and resources rights. They also include core rights under the *Universal Declaration of Human Rights*, such as the rights to life, dignity and equality.⁶⁰

Many of the historical injustices outlined above and throughout this report pre-date the international human rights regime. However, in substance, they are acts that today would be regarded as gross violations of First Peoples’ fundamental human rights and breaches of First Peoples’ dignity and humanity. Furthermore, many of them were illegal under British law at the time, making clear that they not only offend current social and legal norms but also offended social and legal norms at the time.

As set out in Yoorrook’s reports, the theft of land and waters, dispossession and denial of First Peoples’ property rights and the forcible eviction of First Peoples from their land are inconsistent with Article 8 of *UNDRIP*, which broadly prohibits forced assimilation and destruction of culture, including through dispossession of lands, territories or resources, Article 10 which provides that Indigenous peoples shall not be forcibly removed from their lands or territories, and Articles 25 and 26 which relate to traditionally owned lands, territories and resources. The massacres, wars, unlawful killings and other violence that occurred in Victoria are inconsistent with the rights to life, physical and mental integrity, and liberty and security of person under Article 7 of *UNDRIP*.⁶¹ The forced removal of children from their families and communities is also expressly prohibited under Article 7. Similarly, linguicide and the destruction and suppression of language and culture, and of spirituality and cultural practices, protocol and ceremonies, are inconsistent with multiple rights that recognise the importance of being able to practise, preserve and teach culture, such as Articles 8, 11, 12 and 13.

Many of the ongoing injustices outlined above and throughout this report can also be characterised as gross violations of First Peoples’ fundamental human rights and breaches of First Peoples’ dignity and humanity.

For example, Article 21 provides that Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including in the areas of health, education and housing. Yoorrook has heard that First Peoples continue to be excluded and disadvantaged across each of these areas.⁶² Article 23 further provides that Indigenous peoples have the right to develop, determine and — as far as possible — administer programs for their health, education, housing and other economic and social matters. Yet Yoorrook has heard that the government stifles this element of self-determination by failing to provide secure and ongoing funding and support to First Peoples.⁶³

The government has long recognised the need for redress

The inclusion of redress as a topic of investigation for Yoorrook was well understood by all involved as a necessary component of any lasting agreement settling historical and ongoing grievances.

In 1975, the late Hon Senator Neville Bonner AO (Queensland Liberal Party and Independent) moved a motion that was ultimately passed in the Australian Senate in the following terms:

That the Senate accepts the fact that the [I]ndigenous people of Australia, now known as Aborigines and Torres Strait Islanders, were in possession of this entire nation prior to the 1788 First Fleet landing at Botany Bay, urges the Australian Government to admit prior ownership by the said [I]ndigenous people, and introduce legislation to compensate the people now known as Aborigines and Torres Strait Islanders for dispossession of their land.⁶⁴

HON SENATOR NEVILLE BONNER AO

The factual foundation of that motion is now beyond dispute, but the Australian Parliament has never passed comprehensive legislation to compensate all First Peoples for dispossession of the lands they possessed in 1788.⁶⁵

Dispossession removed the riches and wealth of First Peoples in Victoria in favour of the British Government and British colonisers who sought land, whether as land speculators, pastoralists, farmers or squatters. The removal of First Peoples’ property was unlawful. Under British law, and the international law operative at the time, the existence of the First Peoples of Victoria in societies, with laws, belief systems and rights in property, meant that those rights were required to be recognised and protected.

The failure to recognise and protect First Peoples’ rights to their lands and waters makes any dispossession of those lands unlawful. However, as those lands and waters have now been held for many generations by the ‘settlers’ and later arrivals in Victoria, in most cases it is not possible to return them to First Peoples without buying the lands and waters from those who now have ownership.

In evidence, counsel assisting Yoorrook Tony McAvoy SC brought to Premier Allan’s attention proposals from 1840 for the establishment of a fund comprising 15 per cent of all land sales in the colony for the benefit of First Peoples. Premier Allan indicated that she was not aware of such proposals in 1840 and was not aware of a fund into which 15 per cent of land sales was held by government for the benefit of First Peoples.⁶⁶

Other recognition of the obligation to compensate First Peoples can be found in contemporaneous records. In 1837, the United Kingdom Parliament published the report of the Parliamentary Select Committee on Aboriginal Tribes (known as the Buxton Report), in which the Committee stated:

[I]f we are ever able to make atonement to the remnant of this people, it will require no slight attention, and no ordinary sacrifices on our part to compensate the evil association which we have inflicted; but even hopelessness of making reparation for what is past would not in any way lessen our obligation to stop, as far as in us lies, the continuance of iniquity.⁶⁷

PARLIAMENTARY SELECT COMMITTEE ON ABORIGINAL TRIBES

In 1860, the Select Committee of the Victorian Legislative Council on the Aborigines recommended in its report that ‘[i]n order to make permanent provision for the maintenance and management of the Aboriginal population, a sufficient quantity of

land be set aside in different districts, to be held in trust ... under whose control any expenditure incurred on account of the Aboriginal inhabitants shall be defrayed’.⁶⁸

In 1877, the Victorian Royal Commission on the Aborigines published its report, in which the Commission stated:

The care of the natives who have been dispossessed of their inheritance by colonization is a sacred obligation upon those who have entered upon the land.⁶⁹

When the revenues derived from the territory of Victoria are compared with the pittance required to continue the policy initiated by Parliament on behalf of the scanty remnant of the natives who are left, it cannot be doubted that the Government will gladly keep alive, on their behalf, the system which has already done so much good.⁷⁰

VICTORIAN ROYAL COMMISSION ON THE ABORIGINIES

As a contemporary continuation of this theme, important examples of the recognition of the need for redress can be seen in the regime for compensation to Traditional Owners under the *Native Title Act 1993* (Cth),⁷¹ in the agreements made under the *Traditional Owner Settlement Act 2010* (Vic) (‘TOSA’)⁷² and in the developing jurisprudence in the case of *Northern Territory of Australia v Griffiths* (‘*Timber Creek*’) and others.⁷³ The need for redress is therefore recognised in Australian law, as well as at international law and in foreign domestic law (as discussed in Chapter 4: Rights).

The law continues to develop around how the relevant bodies should calculate such redress. In *Timber Creek*, the High Court of Australia confirmed that calculating compensation under the *Native Title Act 1993* (Cth) for the loss of non-exclusive native title rights required consideration of economic loss, interest on economic loss and non-economic cultural loss.⁷⁴ This guidance can be instructive beyond compensation under the *Native Title Act 1993* (Cth). However, even with that guidance, the valuation of loss (both economic and cultural), and the precise calculation of compensation, is a matter to be assessed carefully, having regard to the circumstances of each case.

Many witnesses who participated in Yoorrook’s inquiry spoke of the importance of redress, seeing it as restitution, as an ingredient of the healing journey, as an entitlement and as a matter of justice. For instance, Aunty Marjorie Thorpe (Gunaikurnai, Tjapwurrung) told Yoorrook:

The fraction — you know, the — the children who have been removed and the people who have been dislocated is just horrific and we are still trying to recover from that and it is ongoing so where is — so where is the justice in that, when you are talking about — this is our Country, this is our land. We want a better deal. We want a fair deal. You know, it is more than compensation, it is about reparations, because what was taken from us needs to be restored as best as we’re able to.⁷⁵

AUNTY MARJORIE THORPE

Ngarra Murray (Wamba Wamba, Yorta Yorta, Dhudhuroa, Jupagulk, Baraparapa, Wiradjuri, Dja Dja Wurrung), Co-Chair of the First Peoples’ Assembly of Victoria said:

Insofar as the financial impacts of dispossession on First Peoples continue today, Treaty is an opportunity to bring First Peoples into the economy. No amount of money could ever possibly address the immeasurable suffering and hurt caused by the dispossession, murder and injustice inflicted on our peoples since invasion. But through Treaty, we will look at what changes we can make now to create a better future for our people.⁷⁶

NGARRA MURRAY, CO-CHAIR OF FIRST PEOPLES’ ASSEMBLY OF VICTORIA

Yoorrook heard from Uncle Gary Murray (Dhudhuroa, Yorta Yorta, Barapa Barapa, Dja Dja Wurrung, Wamba Wemba, Wergaia, Wiradjeri, Waywurru) and others that reparations were essential in correcting injustice:

Next chapter is reparations. Ongoing compensation. Not once-off. You took my land forever and my water and my minerals. You have to pay us forever. Because whitefellas’ wealth came off of what they stole from us. Absolutely. This stuff probably has to go to the International Court of Justice, as well as maybe to the High Court. It’s unfinished legal business that comes out of Mabo, terra nullius and all the other stuff that comes with the Native Title Act, the TOS Act and the rest of it.⁷⁷

UNCLE GARY MURRAY

White people altogether make millions of dollars trading stolen [I]ndigenous lands back and forth between themselves in the form of real estate, with some becoming super rich through the mining of stolen lands, while Aboriginal people are the ones more likely to be experiencing homelessness and poor overcrowded conditions. First Nations peoples absolutely should not have to rent land that was stolen from them — in fact the colonisers should absolutely pay reparations through rent as various First Nations people have protested for. White people and the colonial state should also return land to [I]ndigenous peoples as a form of reparations as well.⁷⁸

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Economic redress: principles and examples

As detailed in Chapter 4: Rights, under international human rights legal principles, First Peoples have a right to redress for land, territories and resources that have been taken from them. Any redress — economic or non-economic — cannot make up for the loss of Country and the cultural, physical and emotional harm that loss caused and continues to cause. However, redress is an important step in providing the economic and non-economic base for First Peoples to rebuild and succeed, as well as being a right based on the historical conduct of the State and its actors. Redress is also important for the harms and rights violations suffered by First Peoples in Victoria.

Many have attested that redress should aim to achieve some form of restitution. Restitution entails taking into account all the changes to the world, the environment and society, and putting the aggrieved party in the position in which they would have been ‘but for’ the wrongdoing.

What does full restitution look like for the First Peoples of Victoria? For the period of British rule, it would involve the return of or payment in full for all lands, waters and resources that the government appropriated or alienated, plus loss of rents, loss of earnings and non-economic loss for all harms and rights violations. For the period post-British rule, it would involve compensation for both over-policing and under-policing, and for inadequate housing, health, education, employment and training, and exclusion from economic prosperity and political life.

The various land rights schemes that exist in Victoria are entirely inadequate but nevertheless provide some limited form of restitution. They are also acknowledgements of wrongdoing and indebtedness.

The existence of international legal principles, and the fact that they have been applied to provide redress in other jurisdictions, is one of the reasons the First Peoples’ Assembly of Victoria recommended that a redress formula be negotiated through the treaty process.⁷⁹

At Yoorrook’s hearings, Co-Chair of the First Peoples’ Assembly of Victoria Rueben Berg (Gunditjmara) explained:

I think it is also beneficial to be able to step back and look at things from a global scale and recognise that these sorts of conversations have already happened in other jurisdictions ... if there are applied standards that have been used in [other] jurisdictions, it makes the most sense to draw from that ... [T]hese aren’t outlandish things that are being considered, these are things that sit in a standard way of approaching these sorts of considerations from a global perspective.⁸⁰

RUEBEN BERG, CO-CHAIR OF FIRST PEOPLES’ ASSEMBLY OF VICTORIA

The treaty process in Victoria could therefore learn from, and consider applying, the principles of economic redress that have been developed and applied at international law and in the domestic legal settings of other jurisdictions.

In summary, the key principles of economic redress that Yoorrook heard evidence about are as follows:

- self-determination is fundamental, and any redress to be adopted must be aligned with what affected First Peoples consider appropriate to restore the wrongs suffered.
- economic redress should compensate for financial loss (taking into account matters such as the market value of the land) as well as other loss and impacts such as collective loss of social, economic, political, cultural and spiritual values.
- economic redress should involve, as its principal aim, restitution of traditional lands. Where restitution of traditional lands is not possible, economic redress should involve fair and equitable compensation. This may include grants of land of equivalent status, size and value. It may also include monetary compensation, or some other form of appropriate redress to be determined through negotiations with affected First Peoples.
- calculating economic redress is a difficult and imperfect exercise, and must be assessed on a case-by-case basis with affected First Peoples’ perspectives at the forefront of any negotiations.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) principles

UNDRIP is an authoritative international human rights legal standard. However, unless it is enacted in domestic legislation, it does not give rise to legally binding obligations in Australian law. Few nation-states have incorporated UNDRIP into their domestic law, though its principles are reflected in certain legally binding human rights treaties, such as the *African Charter on Human and Peoples’ Rights* (‘*African Charter*’)⁸¹ and the *Inter-American Convention on Human Rights*.⁸² For this reason, the body of case law about UNDRIP’s interpretation and application is limited. The case law that does exist, however, provides useful guidance about how UNDRIP principles have been interpreted and applied in the context of economic redress.

As noted in Chapter 4: Rights, Article 28 of UNDRIP is of particular relevance to the question of economic redress. It provides that Indigenous Peoples have the right to redress by means that can include restitution. When restitution is not possible, First Peoples have the right to redress by a just, fair and equitable compensation for the lands, territories and resources that they have traditionally owned or otherwise occupied or used, and that have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

In its submission to Yoorrook, First Nations Legal and Research Service (FNLRS) explained that Article 28 includes three distinct ‘obligations’ applicable in determining redress (referred to in its submission as ‘reparations’) for loss of ownership and control of traditional lands:

- in the first instance, reparations are to be in the form of restitution — that is, the return of traditional lands to First Peoples. This is also supported by Articles 8(2) and 11(2) of UNDRIP.
- to the extent restitution is not possible, reparations are to be in the form of just and equitable compensation, including the granting of land equal in quality, size and legal status, or monetary compensation or other appropriate redress.
- reparations adopted are to be decided by considering what is appropriate to effectively restore the wrongs suffered according to the perception of First Peoples. This is also supported by Articles 8(2) and 38 of UNDRIP.⁸³

Principles from international case law

There are two noteworthy cases that considered Article 28 of UNDRIP in determining reparations for loss of ownership and control of traditional lands — the *Ogiek* case⁸⁴ and the *Endorois* case.⁸⁵ The *Ogiek* case was determined by the African Court on Human and Peoples’ Rights (African Court), and the *Endorois* case was determined by the African Commission on Human and Peoples’ Rights (African Commission). Both cases relied primarily on the application of the *African Charter*,⁸⁶ with the African Court and the African Commission each considering Article 28 of UNDRIP in their decisions.

The general principles for economic redress (referred to in the cases, and therefore below, as ‘reparations’) that emerged from those cases are:

- any violation of an international obligation that has caused loss or damage entails the duty to provide appropriate reparations.⁸⁷
- reparations must aim to repair both material prejudice and moral prejudice. Reparations may serve several purposes, but their fundamental purpose is to restore an individual or community to the position they would have been in had they not suffered the harm, while at the same time establishing means of deterrence to prevent recurrence of violations.⁸⁸

- the concept of ‘moral prejudice’ includes both the suffering and distress caused to the direct victims and their families, and the impairment of values that are highly significant to them.⁸⁹ At international law, the quantification of such harm requires the Court to exercise its discretion in equity to determine what amounts to fair compensation.
- economic reparations are to be calculated to achieve ‘full reparation’, commensurate with the prejudice suffered.⁹⁰
- calculations of economic reparations must take into account a fair balance between the form of reparations and the nature of the violation, as well as the express wishes of the victim.⁹¹

The principles specific to loss and restitution of land that emerge from those cases are:

- the physical location and boundaries of the relevant traditional lands must be identified. Proper demarcation is important and necessary to provide certainty — without it, mere abstract or legal recognition of Indigenous lands, territories or resources can be practically meaningless.⁹² This provides a basis for consideration of loss and restitution.
- at international law, granting First Peoples privileges such as mere access to land is inadequate protection of their rights to land. Legal and secure recognition of their collective title to the land is required to guarantee their permanent use and enjoyment of the land.⁹³
- First Peoples’ concepts of ownership of land reflect their unique situations and ways of life and are not necessarily the same as other forms of state ownership (such as the possession of a fee simple title). International law obliges states to attune their legal systems to accommodate First Peoples’ rights to property, including land.⁹⁴
- the fact that land may already be subject to leases or concessions does not absolve the State of its responsibilities regarding economic redress. The state must commence consultation between First Peoples and other concerned parties to reach an agreement on returning the land or establishing shared land rights. If an agreement cannot be reached, the State must either return the land to the First Peoples and compensate the other concerned parties or agree on appropriate compensation for the First Peoples.⁹⁵
- if it is not possible to return the land or establish shared land rights, the State must surrender alternative lands of equal extension and quality, to be chosen in agreement with the members of the relevant First Peoples, according to their own consultation and decision procedures.⁹⁶

There is also international case law considering compensation in relation to loss of traditional lands that pre-dates UNDRIP. For example, in the *Yakye Axa*⁹⁷, *Sawhoyamaxa*⁹⁸ and *Saramaka*⁹⁹ cases, the Inter-American Court of Human Rights (Inter-American Court) applied the Inter-American Convention and ordered the return of traditional lands as well as compensation for non-economic loss. These cases were considered by the Full Court of the Federal Court of Australia in *Timber Creek*,¹⁰⁰ and form part of the relevant jurisprudence on compensation for the effects of the loss of ownership and control of traditional lands, including cultural loss.

In each of the *Yakye Axa*, *Sawhoyamaxa* and *Saramaka* cases, the Inter-American Court emphasised the significance of the communities’ relationship with their traditional lands¹⁰¹ and noted that any denial of the enjoyment or exercise of their territorial rights put them ‘at risk of losing or suffering irreparable damage to their cultural identity and life and to the cultural heritage to be passed on to future generations’.¹⁰²

The principles that emerge from those cases are consistent with those outlined in relation to Article 28 above:

- at first instance, restitution should be made by returning traditional lands.¹⁰³
- where it is not possible to return traditional lands, alternative lands should be granted to the community, with such lands to be chosen by consensus within the community and in accordance with the community’s own consultation and decision-making, practices and customs.¹⁰⁴
- the process of returning land should be swift, with the Inter-American Court ordering in each of these cases that land must be returned within three years of its decision.¹⁰⁵
- in addition to returning traditional land, compensation can be awarded for:
 - property damage¹⁰⁶
 - loss of or detriment to income and quality of life¹⁰⁷
 - environmental degradation and destruction¹⁰⁸
 - damage to cultural and spiritual values, including to cultural identity.¹⁰⁹

A further example of international principles to be applied to the calculation of compensation in a human rights context is the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (also known as the Van Boven Principles).¹¹⁰ This are referred to in Yoorrook’s Letters Patent as a key relevant human rights instrument (see Chapter 4: Rights). Relevantly, the Principles provide that:

9. Statutes of limitations shall not apply in respect of periods during which no effective remedies exist for violations of human rights and humanitarian law. Civil claims relating to reparations for gross violations of human rights and humanitarian law shall not be subject to statutes of limitations.¹¹¹

The Principles were attached as an appendix to the *Bringing Them Home* report,¹¹² which concluded that a comprehensive concept of reparation, including both economic and non-economic redress, was the appropriate approach to providing remedies for child removals:

The Inquiry concurs with van Boven that the only appropriate response to victims of gross violations of human rights is one of reparation. In international law and in the practice of other countries the term ‘compensation’ is generally reserved for forms of reparation paid in cash or in kind. Other terms are used for non-monetary compensation. The term ‘reparation’ is the comprehensive notion.¹¹³

BRINGING THEM HOME REPORT

The Principles were recommended as a potential starting point, together with *UNDRIP*, for the calculation of reparations in the Northern Territory.¹¹⁴

Principles from foreign domestic law

There are a number of other countries, particularly Canada and New Zealand, that have established treaty and settlement processes. These existing approaches may be instructive for the Victorian treaty processes, including in relation to economic redress.

In its submission to Yoorrook, FNLRS provided preliminary and illustrative comparative examples, with a focus on Canada when considering economic redress. FNLRS recommended that the State should commission a comprehensive comparative analysis as part of the treaty process and put in place formal structures to facilitate engagement with other jurisdictions and relevant international bodies. This would enable the parties to Victorian treaty processes to better understand and harness the experience of other jurisdictions rather than — as Co-Chair of the First Peoples’ Assembly of Victoria Rueben Berg said to Yoorrook — ‘reinventing the wheel from scratch’.¹¹⁵

Canadian approach to economic redress

Indigenous land rights in Canada are primarily recognised through treaties between the federal, provincial or territorial governments and different First Nations groups. In many areas of Canada, First Nations land rights have been surrendered or modified pursuant to treaty. Canadian law requires that First Nations Peoples’ perspectives are incorporated into any principles developed to provide appropriate compensation for impacts to First Nations land rights.¹¹⁶

FNLRS undertook a preliminary review of Canadian treaties¹¹⁷ and told Yoorrook that the clear overarching principles are of achieving the reinstatement of equivalent land and, if replacement lands cannot be provided, paying monetary compensation.¹¹⁸

FNLRS observed that, as with the international law decisions considering Article 28 of *UNDRIP*, the Canadian approach promotes ‘the surrender of alternative lands of equal extension and quality, which will be chosen by agreement with the members of the relevant First Nations Peoples, according to their own consultation and decision procedures’.¹¹⁹

The outcomes negotiated in Canadian treaties are inherently variable, as they depend on the perspective of the affected First Nations communities and the type and size of the relevant land. However, it can be observed that the approach to economic redress in the Canadian treaties:

- has detailed and effective consultation with First Nations groups as its fundamental pillar
- prioritises the provision of suitable alternative lands in the relevant region as redress of expropriated lands, over monetary compensation¹²⁰
- emphasises principles of market value and equivalent reinstatement¹²¹
- ensures that compensation is provided for matters such as:
 - replacement value of any improvements on land that is expropriated
 - disturbance caused by expropriation
 - adverse effects on cultural or other special value of the land
 - adverse effects on wildlife, harvesting and habitats
 - reasonable costs of negotiation, mediation or arbitration.

FNLRS also drew Yoorrook’s attention to two pieces of Canadian legislation that provide some guidance as to the appropriate calculation of compensation: the *Métis Settlement Act 1990*¹²² and the *Framework Agreement on First Nation Land Management Act 2002*.¹²³ Both pieces of legislation provide that compensation should take into account market-value-based factors (such as the economic and productive value of the land and the replacement value of any improvement to the land) as well as cultural impacts.

Challenges in calculating economic redress

In its submission to Yoorrook, FNLRS noted that calculating the quantum of economic redress is ‘often a difficult and imperfect exercise’ for a number of interrelated reasons.¹²⁴ Redress is to be quantified on a case-by-case basis through a subjective inquiry rather than a principled basis for calculation. This is because real ‘redress’ can only be achieved by understanding the actual value of the loss to the First Peoples concerned, rather than through an objective assessment such as the economic value of the land.

Ultimately, through a process of negotiation the State must agree with First Peoples on the quantum and scale of economic redress, and how it is balanced against non-economic forms of redress. To ensure free, prior and informed consent, those negotiations should include a baseline expert assessment of the quantum of:

- just terms of financial compensation that would provide reasonable redress for the State’s historical conferral of rights to land, which has caused loss, diminution and impairment of native title rights and interests, since the date of the asserted acquisition of British sovereignty
- any additional compensation that might be payable with regard to Article 28 of *UNDRIP* as restitution for loss of social, economic, political, cultural and spiritual values as a result of historical assimilation policies, forced removals and other discriminatory government initiatives and policies affecting First Peoples’ rights to land.¹²⁵

The challenges involved in this task include the difficulty of quantifying collective losses of a non-financial nature, the cultural harm caused by loss of Country, the inadequate documentation of losses and the inherent uncertainty in predicting the position the victims might have been in if the violation had not occurred.

These challenges should not, however, act as a deterrent. As the evidence demonstrates, economic redress has been successfully quantified and delivered at both international and foreign domestic law. The principles developed in those contexts can act as a useful guide in Victorian treaty processes.

Non-economic redress: principles and examples

As noted in Chapter 4: Rights, First Peoples have a right to redress consistent with international human rights principles as articulated in *UNDRIP*.

In its submission to Yoorrook, FNLRS noted that the current native title and *Traditional Owner Settlement Act 2010* (Vic) (*TOSA*) regimes in Victoria provide for recognition and conferral of a range of non-financial rights and benefits.¹²⁶ Accordingly, these existing regimes could be utilised in treaty negotiations to provide forms of non-economic redress.

However, the range of possible options for non-economic redress is broader than what is currently available under the native title and *TOSA* regimes. FNLRS told Yoorrook that the recommendations of other reports and inquiries and the provision of non-economic redress under international and foreign domestic law are illustrative of the broader range of rights and benefits that might be considered as part of treaty negotiations.

KEY PRINCIPLES OF NON-ECONOMIC REDRESS

In summary, the key principles of non-economic redress that Yoorrook heard evidence about are:

- as with economic redress, self-determination is fundamental, and any non-economic redress must be aligned with what the affected First Peoples consider appropriate to restore the wrongs suffered.
- non-economic redress can include steps to progress self-determination, such as the conferral of legal authority, the withdrawal of legal obstacles and impediments to the exercise of traditional law and custom, and support of data sovereignty.
- non-economic redress can involve the grant of land and land rights, and such rights need not be limited by what is currently available to First Peoples in Victoria under the *Native Title Act*, *TOSA* or other current legislation.
- non-economic redress can progress the economic development of First Peoples through ongoing arrangements such as royalties, equity partnerships and profit-sharing arrangements from resource development and other similar activities on their Country.
- non-economic redress can also progress the economic development of First Peoples through the provision of goods, services and ‘in-kind’ benefits to support and strengthen First Peoples organisations, communities, families and businesses.
- non-economic redress can progress cultural restitution through education and resources for First Peoples’ languages, culture and history.
- non-economic redress can include healing and restorative measures such as family reunions and reconnection to Country.
- forms of non-economic redress will often need to be provided in combination with other forms of redress (whether economic or non-economic) to properly compensate First Peoples for loss of ownership and control of land.

UNDRIP principles

As noted in Chapter 4: Rights, Article 28 of *UNDRIP* is of particular relevance to the question of redress. The text of Article 28 makes clear that redress under *UNDRIP* includes non-economic redress as well as economic redress. The harms and rights violations suffered by First Peoples, and sought to be addressed by Article 28, clearly go beyond purely economic wrongs. It is therefore appropriate that non-economic redress options be available and considered.

Principles from earlier Australian reviews and inquiries

The Australian Government has commissioned a number of reviews and inquiries into issues that impact First Peoples in Australia. Many of these have included recommendations in relation to non-economic redress for loss of ownership and control of land. The most critical recommendations are discussed below.

In 2021, the National Indigenous Australians Agency published its *National Guiding Principles for Native Title Compensation Agreement Making*. Principle 8 relevantly provides:

The aspirations of native title parties will inform agreement making, including resolving compensation through non-financial benefits.¹²⁷

This principle recognises that the impacts of the loss of land ownership and control go beyond monetary loss and include loss of the ability to exercise, enjoy and perpetuate traditional laws and customs.¹²⁸

The previous reviews and inquiries have recommended various forms of non-economic redress. The most critical are discussed below.

Self-determination

As with the principles set out above in relation to economic redress, the principle of self-determination ‘sits at the heart’ of *UNDRIP* and of treaty processes and redress.¹²⁹

In its submission to Yoorrook, FNLRS observed that treaty processes should pursue self-determination and look to opportunities to promote self-determination by:

- conferring legal authority to self-govern in relation to discrete areas of law
- withdrawing legal obstacles and impediments to the exercise of traditional law and custom.¹³⁰

Non-economic redress can therefore include steps to progress self-determination, such as the devolution of power from the State to community-controlled organisations, and corresponding support to ensure a successful transition and future for those organisations.

Land grants

Non-economic redress can include provision of land, in combination with financing, to enable First Peoples to use the land for housing or other economic purposes.

This was recommended by the 1973 Woodward Royal Commission, which noted that cash compensation was ‘no answer to the legitimate claims of a people with a distinct past who want to maintain their separate identity in the future’.¹³¹

The Woodward Royal Commission recommended that Aboriginal land rights be recognised through the grant of communal and inalienable fee simple title.¹³² The recommendations of the Woodward Royal Commission ultimately resulted in the passage of the *Aboriginal Land Rights (Northern Territory) Act 1976* (‘ALRA’) and the establishment of a system of Aboriginal Land Trusts that hold title and are managed by Land Councils. In its submission, the Comhar Group told Yoorrook that the ALRA model for holding title and making decisions about land ‘remains the high watermark for land rights legislation in Australia’.¹³³

Similar points have also been raised in the *Royal Commission into Aboriginal Deaths in Custody* report published in 1991,¹³⁴ the Aboriginal and Torres Strait Islander Commission’s *Recognition, Rights and Reform* report published in 1995,¹³⁵ and evidence cited in the *Bringing Them Home* report.¹³⁶

In 2015, the Council of Australian Government’s *Investigation into Indigenous Land Administration and Use* report expressed support for granting commercially and culturally valuable land to native title-prescribed body corporates and Aboriginal and Torres Strait Islander-owned land-holding entities.¹³⁷

There is currently legislation that provides for grants of land to First Peoples communities in New South Wales and the Northern Territory.

In Victoria, the following grants of land are available:

- under *TOSA*, through grants of freehold title (with or without condition) and Aboriginal title
- under the *Aboriginal Heritage Act 2006* (Vic), through grants of freehold title of Aboriginal places of such cultural heritage significance that it is irreplaceable
- under the *Native Title Act 1993* (Cth), agreed in an Indigenous Land Use Agreement.

FNLRS told Yoorrook that the kinds of title that could be conferred through treaty negotiations need not be limited to those available under *TOSA*, and forms of title available in other jurisdictions could be considered.¹³⁸

Co-extensive rights

Where native title has been extinguished, it may be possible to negotiate co-extensive rights, which partly revive those extinguished native title rights. This can include grants of conditional title over certain areas to allow First Peoples’ access to land to use particular resources,¹³⁹ preserve traditional stewardship, or undertake site monitoring.¹⁴⁰

In Victoria, a form of co-extensive rights is available through the conferral of Traditional Owner rights under *TOSA*. However, FNLRS told Yoorrook that a broader range of co-extensive rights (including commercial rights) could be conferred through treaty.

Cultural restitution

Cultural restitution, in the form of education and resources, is another mechanism for addressing the loss of cultural connection associated with the loss of ownership or control of land.

Cultural restitution was considered in the *Bringing Them Home* report and can include the provision of funding and support towards education and resources for First Peoples’ languages, culture and history.

FNLRS told Yoorrook that any such funding should be in addition to, and should not detract from, funding for existing programs and services for First Peoples.¹⁴¹

Royalties, equity partnerships and profit-sharing arrangements

The Woodward Royal Commission recommended the granting of mining royalties and equity interests for Traditional Owners in the Northern Territory who, through Aboriginal Land Councils, might negotiate consent for exploration licences. This was reflected in the *ALRA*.

The *Recognition, Rights and Reform* report also recognised that compensation or redress could include the payment of royalties or revenue derived from use of land, finding that royalties ‘should be an essential element of a compensation package with respect to any communities affected by resource development’.¹⁴²

FNLRS told Yoorrook that the native title future act process and the *TOSA* land use activity regime in Victoria allow First Peoples groups to negotiate royalties, equity partnerships and profit-sharing arrangements with developers. However, FNLRS noted that their negotiating leverage varies and is not commensurate with the impact of the proposed project on their Country or their rights and interests.¹⁴³ This makes it more difficult for First Peoples groups to achieve good outcomes that provide adequate redress.

Provision of goods, services and ‘in-kind’ benefits

Redress can also include benefits to support economic development, such as provision of:

- housing or ownership of revenue-generating property
- land, services or goods
- training, secondments or staffing capacity-building to prescribed body corporates or other relevant First Peoples entities.

In its submission to Yoorrook on housing and homelessness, the Victorian Aboriginal Legal Service (VALS) recommended that redress include the transfer of the infrastructure of service delivery (for example, with respect to housing) to First Peoples organisations and service providers. VALS cited the transfer of social housing assets to Aboriginal Housing Victoria as an example. Such transfers would need to be accompanied by proper resourcing of those organisations to support self-determination and ensure their success.¹⁴⁴

VALS also recommended that redress include options such as the transfer of ownership of public housing accommodation to First Nations people and families. VALS told Yoorrook this approach would build the economic prosperity and independence of individuals or families and break the cycle of intergenerational poverty, even more so than the transfer of housing stock to Aboriginal Housing Victoria.¹⁴⁵

FNLRS recommended careful consultation be undertaken with First Peoples communities before these forms of redress are provided, and that consideration be given to combining these forms of redress with others.¹⁴⁶ That would ensure that First Peoples’ organisations are not provided redress that becomes a burden for which they are under-resourced.

Employment and supplier quotas

In a native title context, employment and supplier quotas have been identified as ways of strengthening the operation of prescribed body corporates.

FNLRS told Yoorrook that these mechanisms might also indirectly assist in facilitating redress and self-determination, particularly where the loss of land ownership or control was brought about by entities that have the capacity to offer employment or contractual opportunities (such as government, mining or pastoral companies).¹⁴⁷

FNLRS told Yoorrook that, compared to other forms of redress, quotas are unlikely to wholly compensate First Peoples for loss of ownership and control of land, but may be appropriate in combination with other forms of redress.¹⁴⁸

Data sovereignty

As noted in Chapter 38: Access to records, Indigenous Data Sovereignty is the right of Indigenous Peoples to govern the creation, collection, ownership and application of their data.¹⁴⁹

The concept and terminology of ‘data sovereignty’ is relatively recent, but the principles underpinning it are not. The *Bringing Them Home* report found that being able to freely access information critical to their history and survival as peoples was an important requirement of First Peoples’ right to self-determination. It also said that access to information could be an important part of redress:

Indigenous people require personal, family and community information ... to assist them to recover from a past marked by gross violations and their human and community rights by governments.¹⁵⁰

BRINGING THEM HOME REPORT

The role of data sovereignty in the context of redress is two-fold: measures to support data sovereignty can be a form of non-economic redress, and the ownership and control of data can support First Peoples’ decision making and prioritisation of matters that may be the subject of future non-economic redress (such as service delivery).

Principles from Victorian regimes and those of other Australian jurisdictions

Non-economic redress is provided for in some comprehensive native title settlements in other Australian jurisdictions. In its submission to Yoorrook, FNLRS outlined three Western Australian examples: the South West Native Title Agreement, the Tjiwarl Indigenous Land Use Agreement and the Yamatji Nation Indigenous Land Use Agreement.

Each of these agreements was negotiated by the relevant Traditional Owner groups and the outcomes therefore reflect their unique circumstances. However, at a high level, the agreements included non-economic redress, such as:

- statutory recognition as Traditional Owners of the relevant area
- creation of a trust to hold land, and transfer of land (as freehold or conditional freehold) into that trust
- access to Crown land
- joint management with government over land set aside for conservation
- grant of water licences
- ongoing support with funding applications
- creation of working groups to support community businesses and economic opportunities.¹⁵¹

In Victoria, First Peoples groups can seek a native title settlement under TOSA. To date, four settlement agreements have been made under TOSA. FNLRS told Yoorrook that these include land-related non-economic redress measures such as:¹⁵²

- grants of Aboriginal title over lands, such as national parks, to be jointly managed with the State
- full transfer of culturally significant freehold property to First Peoples groups
- rights for First Peoples to access and use Crown land for traditional purposes, such as hunting, fishing and camping in accordance with existing laws and property interests
- recognition of rights to take and use certain natural resources on Crown land (subject to negotiation with the State).

Historically, land has also been granted back to particular First Peoples communities in freehold title under the *Aboriginal Lands Act 1970* (Vic),¹⁵³ which granted the former Framlingham and Lake Tyers reserves to First Peoples residents, and the *Aboriginal Lands Act 1991* (Vic),¹⁵⁴ which granted historic mission cemeteries to Aboriginal communities.

The Victorian Government also provides some form of redress through the Stolen Generations Reparations Package, which addresses the impacts of forced removal, including loss of ownership and control of land and loss of connection to family, identity, culture, community and Country. In its submission to Yoorrook on land injustice, VALS noted that in addition to a lump sum payment and a personal apology from the Victorian Government, the Stolen Generations Reparations Package includes access to restorative redress that may involve family reunions and reconnection to Country where possible.¹⁵⁵ VALS told Yoorrook that this can be an ‘integral part of the healing process for many Stolen Generations’.¹⁵⁶

VALS also told Yoorrook that any future redress ‘must be wholly anti-racist’.¹⁵⁷ Restorative measures can be important forms of non-economic redress and could be considered in treaty negotiations. For such non-economic redress to be truly restorative, the State must deliver it in a way that is respectful, culturally appropriate and trauma-informed.

Principles from foreign domestic law

In its submission to Yoorrook, FNLRS provided preliminary and illustrative comparative examples, with a focus on Canada and New Zealand, when considering non-economic redress.

Similar to economic redress, FNLRS recommended that the State commissions a comprehensive comparative analysis as part of the treaty process and engages with other jurisdictions and relevant international bodies to better understand and harness the experience of other jurisdictions.

FNLRS told Yoorrook that forms of non-economic redress in Canada and New Zealand include the following:¹⁵⁸

- enacting *UNDRIP* in domestic legislation, so that it gives rise to legally binding obligations, and creating action plans to achieve *UNDRIP*’s objectives, including those relating to economic, health and social rights, and cultural, religious and linguistic rights
- adopting agreed historical accounts, which support truth-telling
- requiring acknowledgements and apologies from the Crown for past injustices
- setting aside land for exclusive use by First Nations Peoples
- transferring Crown land
- enabling self-government and law-making authority within specific areas — the matters for self-government may be very broad and may include the administration of justice, hunting, fishing, conservation, scientific research, housing, town planning and education
- providing statutory acknowledgement of significant areas
- establishing consultation and participation requirements, wildlife harvesting rights, and participation in land use and land management in specific areas
- establishing rights to negotiate with resource development companies, including to negotiate equity participation
- legislating new protections for wildlife, including to stop logging and limit the amount of land that can be disturbed by new resource extraction projects
- enabling co-governance arrangements and relationship agreements.

The way forward

As shown throughout Yoorrook’s reports and in this chapter, the provision of redress by the State to First Peoples is a critical component of truth-telling and of addressing historical and ongoing injustice. Based on the principles explained in this chapter, Yoorrook’s recommendations set out how the Victorian Government should approach redress in its negotiations with First Peoples as part of the treaty process.

Recommendations

RECOMMENDATION 99

The Victorian Government must:

- a. Officially acknowledge the responsibility of its predecessors for laws, policies and practices that contributed to systemic injustices against Victorian First Peoples;
- b. Make official apologies to First Peoples in Victoria; and
- c. Negotiate with the First Peoples’ Assembly of Victoria a form of words for official apologies to First Peoples individuals and communities.

RECOMMENDATION 100

Through both Statewide and Traditional Owner treaties, the Victorian Government must provide redress for injustice which has occurred during and as a result of the colonial invasion and occupation of First Peoples’ territories and all consequent damage and loss, including economic and non-economic loss for genocide, crimes against humanity and denial of freedoms.

In respect of the redress obligations for the taking of land, waters and resources from First Peoples, the Victorian Government must act consistently with the principles in UNDRIP Articles 8(2)(b) and 28, including the following:

- a. Redress for economic loss including past loss, loss of opportunities and loss to future generations;
- b. Interest on economic loss;
- c. Redress for non-economic loss including cultural loss, assessed as at the date of extinguishment; and
- d. Interest on non-economic loss.

Redress should take the form of:

- e. Restitution of traditional lands, waters and natural resources ownership rights to First Peoples;
- f. Monetary compensation;
- g. Tax relief; and
- h. Such other financial or other benefits as may be requested by the First Peoples’ Assembly of Victoria or the local treaty bodies in treaty negotiations.

‘Redress’ does not, in principle, include equitable benefit-sharing of natural resources or the revenue or other benefits derived from the use or exploitation of natural resources. First Peoples have a separate right to equitable benefit-sharing from the exploitation or use of the natural resources on their territories. Notwithstanding this, the First Peoples Assembly of Victoria and local treaty bodies should not be prohibited from allocating additional benefit share to meet redress obligations for historical wrongs.

Endnotes

1. The Hon. Gabrielle Williams was Minister for Aboriginal Affairs from March 2020 until June 2022, when this became known as Minister for Treaty and First Peoples (she held this Ministership from June 2022 to October 2023). The Hon. Natalie Hutchins has been Minister for Treaty and First Peoples since October 2023. Natalie Hutchins was also the Minister for Aboriginal Affairs from December 2014 to December 2018. See Parliament of Victoria, ‘[The Hon. Gabrielle Williams](#)’ (Webpage); See Parliament of Victoria, ‘[The Hon. Natalie Hutchins](#)’ (Webpage).

2. Witness Statement of the Minister Gabrielle Williams MP, 3 May 2022, 3 [22].

3. Transcript of Premier Jacinta Allan MP, 29 April 2024, 16 [3]–[23].

4. Transcript of Minister Gabrielle Williams MP, 6 May 2022, 314 [44]–315 [4].

5. As set out in Chapter 2: Sovereignty, Chapter 7: How colonisers stole Country, Chapter 8: Impacts of Country being stolen, Chapter 14: Water, Chapter 15: Earth, sea and living things, Chapter 23: Tertiary overview and historical context, Chapter 34: Housing overview and historical context and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 47–48.

6. As set out in Chapter 7: How colonisers stole Country, Chapter 34: Housing overview and historical context and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 47–51.

7. As set out in Chapter 7: How colonisers stole Country, Chapter 8: Impacts of Country being stolen and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 50–54.

8. As set out in Chapter 7: How colonisers stole Country and Chapter 8: Impacts of Country being stolen and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 47, 49–50, 54, 58.

9. As set out in Chapter 7: How colonisers stole Country, Chapter 8: Impacts of Country being stolen and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 49–51.

10. As set out in Chapter 7: How colonisers stole Country and Chapter 8: Impacts of Country being stolen and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 51–55, 61.

11. As set out in Chapter 8: Impacts of Country being stolen and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 51–61.

12. As set out in Chapter 7: How colonisers stole Country, Chapter 8: Impacts of Country being stolen and Chapters 28–35: Health and Healthcare.

13. As set out in Chapter 7: How colonisers stole Country, Chapter 8: Impacts of Country being stolen and Chapter 36: Economic prosperity.

14. As set out in Chapter 7: How colonisers stole Country, Chapter 8: Impacts of Country being stolen, Chapter 9: How we got here — overview of recognition systems, Chapter 12: Cultural heritage and Chapter 23: Tertiary overview and historical context.

15. As set out in Chapter 7: How colonisers stole Country and Chapter 36: Economic prosperity.

16. As set out in Chapter 38: Access to records and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 56–57 (in relation to members of the Stolen Generations accessing their records), 156–158 (in relation to confirmations of Aboriginality and related difficulties in accessing records).

17. As set out in Health and Healthcare Chapters and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023), 133–137 (in relation to early help and intervention programs), 190–193 (in relation to the health, development and wellbeing needs of children in the child protection system), 258–261 (in relation to the decriminalisation of public drunkenness), 266–269 (in relation to deaths and serious injuries in police custody), 324–325 (in relation to the health, development and wellbeing needs of children in the criminal justice system), 364–372 (in relation to the health and wellbeing needs of adults in the criminal justice system).

18. As set out in Chapters 17–22: Education – Schooling and Chapters 23–24: Education – Tertiary.

19. As set out in Chapters 26–27: Housing .

20. As set out in Chapter 36: Economic prosperity and Chapter 37: Political life.

21. *Convention on the Prevention and Punishment of the Crime of Genocide*, opened for signature 9 December 1948, 78 UNTS 277 (entered into force 12 January 1951).

22. *Genocide Convention Act 1949* (Cth).

23. *The Crime of Genocide*, GA Res 96–I, UN Doc A/RES/96–I (11 December 1946).

24. At the Fifth International Conference for the Unification of Penal Law held in Madrid in October 1933, Raphael Lemkin called for what would amount to the actual conception of genocide to be declared a crime (using the terms ‘barbarism’ and ‘vandalism’), though this was rejected. He later adopted the term ‘genocide’: Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Carnegie Endowment for International Peace, 1944), 91–92.

25. *Convention on the Prevention and Punishment of the Crime of Genocide*, opened for signature 9 December 1948, 78 UNTS 277 (entered into force 12 January 1951), art 2.

26. Those who commit genocide or genocidal acts are considered responsible under the Convention, whether they are constitutionally responsible rules, public officials or private individuals: *Convention on the Prevention and Punishment of the Crime of Genocide*, opened for signature 9 December 1948, 78 UNTS 277 (entered into force 12 January 1951), art 4.

27. The Convention specifically refers to groups ‘in whole or in part’: *Convention on the Prevention and Punishment of the Crime of Genocide*, opened for signature 9 December 1948, 78 UNTS 277 (entered into force 12 January 1951), art 2.

28. Conspiracy to commit genocide and an attempt to commit genocide are both crimes, whether or not actual destruction occurs: *Convention on the Prevention and Punishment of the Crime of Genocide*, opened for signature 9 December 1948, 78 UNTS 277 (entered into force 12 January 1951), art 3(b) and (d).

29. Transcript of Dr Bill Pascoe, 26 March 2024, 43 [29]; Dr Bill Pascoe presentation to Yoorrook in hearings on 28 March 2024, ‘[Colonial Violence in Victoria](#)’, 9. See also University of Newcastle, Colonial Frontier Massacres in Australia, 1788–1930, ‘[Frontier Massacres Between 1780 and 1930 in Australia by Current State and Territory Borders](#)’ (Webpage, 2024).

30. See Chapter 7: How colonisers stole Country.

31. Witness Outline of Aunty Dr Jill Gallagher, 28 March 2024, 2 [16]–[17]; Transcript of Aunty Marjorie Thorpe, 15 April 2024, 26 [16]–[28]; Witness Statement of Marcus Stewart, Inaugural Co-Chair of First Peoples’ Assembly of Victoria, 29 April 2022, 26–27 [73] (citations omitted); Witness Statement of Aunty Dr Alma Thorpe, 3 May 2022, 12 [64], 18 [107]; Transcript of Aunty Glenys Watts, 6 December 2022, 77 [39]–[42]; Witness Outline of Aunty Glenys Watts, 6 December 2022, 2 [19].

32. Dr Bill Pascoe presentation to Yoorrook in hearings on 28 March 2024, ‘[Colonial Violence in Victoria](#)’, 10. Note that ‘agents of the state’ refers to government employees or people acting on behalf of the government, such as police and government surveyors: Transcript of Dr Bill Pascoe, 26 March 2024, 43 [9]–[47], 46 [23]–[37], 53 [14]–[36].

33. The Australian, “‘[Vox Populi Vox Dei](#)’: Expedition of Discovery’ (8 November 1836). See also Chapter 7: How colonisers stole Country.

34. See Chapter 7: How colonisers stole Country.

35. See Chapter 7: How colonisers stole Country.

36. See Chapter 7: How colonisers stole Country.

37. See Chapter 7: How colonisers stole Country.

38. See Chapter 8: Impacts of Country being stolen.

39. See, for example, Transcript of Braydon Saunders, 25 March 2024, 54 [42]–[44]; Uncle Robbie Thorpe (Djuran Bunjilinee), Submission 295; Transcript of Uncle Johnny Lovett, 29 April 2022, 93 [10]–[20]; Witness Statement of Aunty Dr Alma Thorpe, 4 May 2024, 6 [25]; Witness Statement of Marcus Stewart, Inaugural Co-Chair of the First Peoples’ Assembly of Victoria, 29 April 2022, 17–18 [52].

40. Witness Outline of Suzannah Henty, 27 March 2024, 1–2.

Yoorrook notes that another descendant of the Henty family, Grenville Henty Silvester, disputes Suzannah Henty’s characterisation of the Henty family’s reason for wanting to have title over the land: Grenville Henty Silvester, Submission 553.

41. Yoorrook notes that, although the term ‘cultural genocide’ is often used, it has been rejected by some. Historian Patrick Wolfe rejects the term on the basis that it describes a ‘qualified genocide’ when in fact ‘it is certainly going to have a direct impact on that people’s capacity to stay alive’: Patrick Wolfe, ‘Settler Colonialism and the Elimination of the Native’ (2006) 8(4) Journal of Genocide Research 387, 398–399, 402.

42. Professor Broome attributed this term to Tony Barta, ‘Relations of Genocide: Land and Lives in the Colonization of Australia’ in Isidor Wallimann and Michael N Dobkowski (eds), *Genocide and the Modern Age: Etiology and Case Studies of Mass Death* (Greenwood Press, 1987) 237, 247–8.

43. Transcript of Professor Richard Broome, 26 March 2024, 51 [41]– 52 [35].

44. Transcript of Associate Professor Katherine Ellinghaus, 26 March 2024, 52 [39]–[43].

45. Transcript of Dr Bill Pascoe, 26 March 2024, 53 [14]–[29].

46. Senior Counsel Assisting Yoorrook asked Dr Pascoe if Aboriginal people were understood to be subject to the laws of England and if the crimes of murder and unlawful killing were well known under British law in 1803 – Dr Pascoe responded that, according to the British, that was the formal position: Transcript of Dr Bill Pascoe, 26 March 2024, 26 [1]–[40].

47. Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, 31 August 2023), 51.

48. See, for example, Uncle Johnny Lovett and Claudette Lovett, Submission 228, 3; Transcript of Dr Aunty Vicki Couzens, 28 March 2024, 26 [34]–[37].

49. Witness Statement of Marcus Stewart, Inaugural Co-Chair of the First Peoples’ Assembly of Victoria, 29 April 2022, 26–27 [73], citing First Peoples’ Assembly of Victoria, [Tyerri Yoo-rrook \(Seed of Truth\): Report to the Yoo-rrook Justice Commission from the First Peoples’ Assembly of Victoria](#) (Report, June 2021), 18.

50. Transcript of Aunty Dr Jill Gallagher, 28 March 2024, 50 [31]–[37].

51. Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 54.

52. Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 49.

53. Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 51–54, citing Board for the Protection of the Aborigines, *Twenty-Third Report for the Protection of the Aborigines in the Colony of Victoria. Presented to Both Houses of Parliament* (Report, 1887) 4, 53.

54. Australian Human Rights and Equal Opportunity Commission, *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Final Report, 1997), pt 4 Reparation, ch 13 Grounds for Reparation: International human rights – Genocide.

55. Australian Human Rights and Equal Opportunity Commission, *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Final Report, 1997), pt 4 Reparation, ch 13 Grounds for Reparation: International human rights – Genocide.

56. Australian Human Rights and Equal Opportunity Commission, *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Final Report, 1997), pt 4 Reparation, ch 13 Grounds for Reparation: International human rights – Genocide.

57. Transcript of Minister Gabrielle Williams MP, 6 May 2022, 325 [35].

58. *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (‘Geneva Convention’), opened for signature 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950).

The Geneva Convention refers to international humanitarian laws consisting of four treaties and three additional protocols that establish international legal standards for humanitarian treatment in war.

59. Transcript of Minister Gabrielle Williams MP, 6 May 2022, 325 [8]–[10].

60. *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948), arts 3, 1, and 7, respectively.

61. They can also be characterised as breaches of rights under the *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948), including the rights to freedom and equality in dignity and rights (Article 1), life, liberty and security of person (Article 3), prohibition on torture and cruel, inhuman or degrading treatment of punishment (Article 5).

62. In relation to health, see: Chapters 28–35: Health and Healthcare and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023), 133–137 (in relation to early help and intervention programs), 190–193 (in relation to the health, development and wellbeing needs of children in the child protection system), 258–261 (in relation to the decriminalisation of public drunkenness), 266–269 (in relation to deaths and serious injuries in police custody), 324–325 (in relation to the health, development and wellbeing needs of children in the criminal justice system), 364–372 (in relation to the health and wellbeing needs of adults in the criminal justice system). In relation to education, see: Chapters 17–22: Education – Schooling and Chapters 23–25: Education – Tertiary. In relation to housing, see: Chapters 26–27: Housing.

63. As set out in Chapter 3: Self-determination, Chapter 13: Joint management, Chapter 16: Climate change, renewables and emergencies, Chapter 17: Schooling overview, Chapter 35: Housing and First Peoples in Victoria, Chapters 28–35: Health and Healthcare, Chapter 36: Economic prosperity and Yoorrook Justice Commission, [Yoorrook for Justice: Report into Victoria’s Child Protection and Criminal Justice Systems](#) (Report, August 2023) 93–95, 130–134, 321.

64. Australia, Senate, Hansard, 20 February 1975, 367.

65. Note: The NSW Parliament enacted the Aboriginal Land Rights Act 1983 (NSW) which had as an objective the compensation of Aboriginal people for the dispossession of their lands.

66. Transcript of Premier Jacinta Allan MP, 29 April 2024, 47 [5]–[33].

67. Parliamentary Select Committee (Great Britain), Aborigines Protection Society, *Report of the Parliamentary Select Committee on Aboriginal Tribes (British settlements)* (Report, 1837), 12.

68. Select Committee of the Legislative Council on the Protection to the Aborigines, *Report of the Select Committee of the Legislative Council* (Victoria, Report, 1860), 5. See also Victoria, Select Committee of the Legislative Council on the Aborigines, *Report of the Select Committee of the Legislative Council* (Report, 1859).

69. Victoria, Royal Commission on the Aborigines, *Report of the Commissioners* (Report, 1877), xvi.

70. Victoria, Royal Commission on the Aborigines, *Report of the Commissioners* (Report, 1877), xvi.

71. See Chapter 10: Native title.

72. See Chapter 11: Traditional Owner settlements.

73. *Northern Territory of Australia v Griffiths* (2019) 269 CLR 1; See Chapter 9: How we got here — overview of recognition systems.

74. *Northern Territory of Australia v Griffiths* (2019) 269 CLR 1, [3], [70], [74], [76], [87], [113], [254].

75. Transcript of Aunty Marjorie Thorpe, 15 April 2024, 26 [30]–[35].

76. Witness Statement of Ngarra Murray, Co-Chair of First Peoples’ Assembly of Victoria, 11 April 2024, 25 [80].

77. Transcript of roundtable with Dja Dja Wurrung Clan Aboriginal Corporation, 25 November 2023, 24–25.

78. Anonymous 258, Submission 258, 1.

79. First Peoples’ Assembly of Victoria, Submission 378 (Land, Sky, Waters), 5.

80. Transcript of Rueben Berg, Co-Chair of First Peoples’ Assembly of Victoria, 17 April 2024, 35 [41]– 36 [2].

81. *African Charter on Human and Peoples’ Rights (Banjul Charter)*, adopted June 27 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (entered into force 21 October 1982).

82. *Inter-American Convention on Human Rights*, opened for signature 22 November 1969, 620 UNTS 321 (entered into force 13 July 1978).

83. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Economic Compensation and Reparations, 4.

84. The Ogiek case concerned two decisions: *African Commission on Human and Peoples’ Rights v Republic of Kenya (Judgement)*, (African Court on Human and Peoples’ Rights, Application No. 006/2012 26 May 2017) (‘Ogiek Decision’) and *African Commission on Human and Peoples’ Rights v Republic of Kenya (Judgement)*, (African Court on Human and Peoples’ Rights, Application No. 006/2012 23 June 2022) (‘Ogiek Reparations Decision’).

85. *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (African Commission on Human Rights, Communication 276/2003 (11–25 November 2009) (‘Endorois Decision’).

86. *African Charter on Human and Peoples’ Rights (Banjul Charter)*, adopted June 27 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (entered into force 21 October 1982).

87. *Endorois Decision*, [233].

88. *Ogiek Reparations Decision*, [41].

89. *Ogiek Reparations Decision*, [86].

90. *Ogiek Reparations Decision*, [42].

91. *Ogiek Reparations Decision*, [43].

92. *Ogiek Reparations Decision*, [107].

93. *Ogiek Reparations Decision*, [110].

94. *Ogiek Reparations Decision*, [111].

95. *Ogiek Reparations Decision*, [117].

96. *Endorois Decision*, [234], citing *Yakye Axa v Paraguay*, Inter-American Court of Human Rights, 17 June 2005.

97. *Yakye Axa v Paraguay (Judgement)* (Inter-American Court of Human Rights, Series C no 125, 17 June 2005) (‘Yakye Decision’).

98. *Sawhoyamaxa Indigenous Community v Paraguay (Merits, Reparations and Costs)*, (Inter-American Court of Human Rights, Series C No 146, 29 March 2006) (‘Sawhoyamaxa Decision’).

99. *Saramaka People v Suriname (Preliminary Objections, Merits, Reparations, and Costs)* (Inter-American Court of Human Rights, Series C No 185, 28 November 2007) (‘Saramaka Decision’).

The Saramaka people are non-Indigenous, being descendants of African slaves forcibly taken to Suriname in the 17th century: *Saramaka Decision*, 23–24 [80].

100. *Northern Territory of Australia v Griffiths* (2017) 256 FCR 478, 573–575 [398]–[404].

101. *Yakye Axa Decision*, 76 [135]–[137], 84 [163], 98 [216]; *Sawhoyamaxa Decision*, 74 [131]–[132]; *Saramaka Decision*, 24–25 [82]–[84], 26 [86].

102. *Yakye Axa Decision*, 94 [203]; *Sawhoyamaxa Decision*, 100 [222].

In the Saramaka Decision, the Inter-American Court stated that without their traditional land “the very physical and cultural survival or such peoples is at stake”: 36 [121].

103. *Yakye Axa Decision*, 98 [216]–[217]; *Sawhoyamaxa Decision*, 98 [210]; *Saramaka Decision*, 56–57 [194].

104. *Yakye Axa Decision*, 98 [217]; *Sawhoyamaxa Decision*, 98 [212].

105. *Yakye Axa Decision*, 98 [217], 102 [233], 104 [242](6); *Sawhoyamaxa Decision*, 99 [215], 104 [239], 105 [248](6); *Saramaka Decision*, 56 [194].

106. *Saramaka Decision*, 58 [199].

107. *Yakye Axa Decision*, 91 [193]–[195]; *Sawhoyamaxa Decision*, 100 [223]; *Saramaka Decision*, 58 [200]–[201].

108. *Saramaka Decision*, 58 [200]–[201].

109. *Yakye Axa Decision*, 93–94 [199]–[206]; *Sawhoyamaxa Decision*, 100 [222]; *Saramaka Decision*, 58 [200]–[201].

110. *Basic Principles and Guidelines on the Rights to Reparations for Victims of Gross Violations of Human Rights and Humanitarian Law*. Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities E/CN.4/Sub.2/1996/17.

111. *Basic Principles and Guidelines on the Rights to Reparations for Victims of Gross Violations of Human Rights and Humanitarian Law*. Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities E/CN.4/Sub.2/1996/17. art 9.

112. Australian Human Rights and Equal Opportunity Commission, *Bringing them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Final Report, 1997), Appendix 8.

113. Australian Human Rights and Equal Opportunity Commission, *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Final Report, 1997), 244.

114. Northern Territory Treaty Commission, [Final Report](#) (Report, 29 June 2022) 33 – 34.

115. Transcript of Rueben Berg, Co-Chair of the First Peoples’ Assembly of Victoria, 17 April 2024, 35 [44].

116. *Delgamuukw v British Columbia* [1997] 3 SCR 1010, [81].

117. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Economic Compensation and Reparations, 10–11,26–28.

118. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Economic Compensation and Reparations, 10.

119. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Economic Compensation and Reparations, 10.

120. *Inuvialuit Final Agreement*, 18 August 1979, s 7(51) (entered into force 25 July 1984).

121. *Nisga’a Final Agreement*, 27 April 1999, Ch 3 (entered into force 11 May 2000) and *Land Claims Agreement between the Inuit of Labrador, Her Majesty the Queen in Right of Newfoundland and Labrador and Her Majesty the Queen in Right of Canada*, 22 January 2005, s 4.18.5 (entered into force 1 December 2005).

122. *Métis Settlement Act 1990* (Cth, Canada).

123. *Framework Agreement on First National Land Management Act 2002* (Cth, Canada).

124. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Economic Compensation and Reparations, 5.

125. First Nations Legal and Research Services, Submission 345, 21.

126. First Nations Legal and Research Services, Submission 345, 22.

127. National Indigenous Australian Agency, *National Guiding Principles for Native Title Compensation Agreement Making* (22 November 2021).

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131. *Aboriginal Land Rights Commission* (Second Report, April 1974) 10 [53]–[54]. See also *Aboriginal Land Rights Commission* (First Report, July 1973) 26 [153].

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135. Aboriginal and Torres Strait Islander Commission, *Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures* (Final Report, 1995), [4.44].

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137. Council of Australian Governments, *Investigation into Indigenous Land Administration and Use* (Report, December 2015), 29.

138. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Non-Economic Reparations, 5–6.

139. Aboriginal and Torres Strait Islander Commission, *Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures* (Final Report, 1995), 38 [4.41].

140. Michael Lavarch and Allison Riding, ‘A New Way of Compensating: Maintenance of Culture Through Agreement’ (Land, Rights, Laws: Issues of Native Title, Issues Paper No 41, April 1998), 6.

141. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Non-Economic Reparations, 7.

142. Aboriginal and Torres Strait Islander Commission, *Recognition, Rights and Reform: A Report to Government on Native Title Social Justice Measures* (Final Report, 1995), 38 [4.42].

143. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Non-Economic Reparations, 8.

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145. Victorian Aboriginal Legal Service, Submission 493 (Housing), 40.

146. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Non-Economic Reparations, 9.

147. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Non-Economic Reparations, 9.

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151. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Non-Economic Reparations, 11–12.

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153. *Aboriginal Lands Act 1970* (Vic).

154. *Aboriginal Lands Act 1991* (Vic).

155. Victorian Aboriginal Legal Service, Submission 339 (Land, Sky, Waters), 21.

156. Victorian Aboriginal Legal Service, Submission 339 (Land, Sky, Waters), 22.

157. Victorian Aboriginal Legal Service, Submission 339 (Land, Sky, Waters), 22.

158. First Nations Legal and Research Services, Submission 345, Addendum: Technical Paper on the Methods of Calculating Non-Economic Reparations, 13–21.

Part K

Appendices

Appendix A: Hearing witness list

Witness name	Organisation (if relevant)	Date of hearing
Hearing Block 6 – Land Injustice (March 2024 to April 2024)		
Uncle Mookeye (Michael) Bell		25 March 2024
Aunty Maude (Eileen) Alberts		25 March 2024
Damien Bell		25 March 2024
Aunty Denise Lovett		25 March 2024
Aunty Tina (Christina) Saunders		25 March 2024
Uncle Johnny Lovett		25 March 2024
Aunty Donna Wright		25 March 2024
Aunty Laura Bell		25 March 2024
Braydon Saunders		25 March 2024
Keicha Day		25 March 2024
Professor Julie Andrews	La Trobe University	26 March 2024
Emeritus Professor Richard Broome	La Trobe University	26 March 2024
Associate Professor Katherine Ellinghaus	La Trobe University	26 March 2024
Dr Bill Pascoe	University of Newcastle	26 March 2024
Professor Henry Reynolds	University of Tasmania	27 March 2024
Distinguished Professor Marcia Langton	University of Melbourne	27 March 2024
Uncle Jim Berg (Video)		27 March 2024
Uncle Robbie Thorpe (Djuran Bunjilinee) (Video)		27 March 2024
Aunty Jill Gallagher*	Victorian Aboriginal Community Controlled Health Organisation (VACCHO)	28 March 2024
Dr Aunty Vicki Couzens	Victorian Aboriginal Corporation for Languages	28 March 2024
Suzannah Henty		28 March 2024
Karen Jackson	Victoria University	15 April 2024
Dr Julia Hurst	University of Melbourne	15 April 2024
Uncle Graham Atkinson		15 April 2024
Aunty Marjorie Thorpe		15 April 2024
Craig Sandy	Surveyor-General of Victoria; Department of Transport and Planning	15 April 2024
Dr Erin O'Donnell	University of Melbourne	15 April 2024
Dr Katie O'Bryan	Monash University	15 April 2024
Will Mooney	Murray Lower Darling Rivers Indigenous Nations	15 April 2024
Karmen Jobling	Murray Lower Darling Rivers Indigenous Nations	15 April 2024
The Hon. Steve Dimopoulos MP	Minister for Environment; Department of Energy, Environment and Climate Action	16 April 2024
Tony Kelly	First Nations Legal & Research Services	16 April 2024
Rainer Mathews	First Nations Legal & Research Services	16 April 2024

Witness name	Organisation (if relevant)	Date of hearing
Will Crawford	First Nations Legal & Research Services	16 April 2024
Ngarra Murray*	First Peoples' Assembly of Victoria	17 April 2024
Rueben Berg*	First Peoples' Assembly of Victoria	17 April 2024
Paul Paton	Federation of Victorian Traditional Owner Corporations	17 April 2024
The Hon. Natalie Hutchins MP	Minister for Treaty & First Peoples; Department of Premier and Cabinet	18 April 2024
The Hon. Lily D'Ambrosio MP	Minister for Climate Action, Energy & Resources; Department of Premier and Cabinet	22 April 2024
Paul Paton	Federation of Victorian Traditional Owner Corporations	22 April 2024
Karrina Nolan	First Nations Clean Energy Network	22 April 2024
Jonathan Kneebone	First Nations Clean Energy Network	22 April 2024
Rebecca Halliday	GIRA consultancy	22 April 2024
Sonja Dare	Barngarla Determination Aboriginal Corporation	22 April 2024
Jason Bilney	Barngarla Determination Aboriginal Corporation	22 April 2024
Nick Llewellyn-Jones	Norman Waterhouse	22 April 2024
Aunty Joyce Kennedy		24 April 2024
Kathleen Terrick		24 April 2024
Uncle Brendan Kennedy		24 April 2024
The Hon. Harriet Shing MP*	Minister for Water; Department of Energy, Environment and Climate Action ¹	24 April 2024
Professor John Borrows	University of Victoria (Canada)	26 April 2024
Minda Murray	Australian National University	26 April 2024
Uncle Gary Murray		26 April 2024
Katherine Mullet	Gunaikurnai Land and Water Aboriginal Corporation	26 April 2024
John (Trakka) Clarke	Eastern Maar Aboriginal Corporation	26 April 2024
Mick Bourke	Dja Dja Wurrung Clans Aboriginal Corporation	26 April 2024
Matthew Shanks	Taungurung Land & Waters Council	26 April 2024
Uncle Andrew Gardiner		29 April 2024
The Hon. Premier Jacinta Allan MP	Premier of Victoria; Department of Premier and Cabinet	29 April 2024
Reverend David Fotheringham	Uniting Church in Australia	1 May 2024
Bishop Richard Treloar	Anglican Church	1 May 2024
Bishop Genieve Blackwell	Anglican Church	1 May 2024
Tim O'Leary	Catholic Church	1 May 2024
Archbishop Peter Andrew Comensoli	Catholic Church	1 May 2024

Witness name	Organisation (if relevant)	Date of hearing
Hearing Block 7 – Social Injustice (May 2024 to June 2024)		
Nerita Waight*	Ngaweeyan Maar-oo	27 May 2024
Michael Graham*	Ngaweeyan Maar-oo	27 May 2024
Lisa Briggs	Ngaweeyan Maar-oo	27 May 2024
Aunty Jill Gallagher*	Victorian Aboriginal Community Controlled Health Organisation (VACCHO)	27 May 2024
Sheree Lowe*	Victorian Aboriginal Community Controlled Health Organisation (VACCHO)	27 May 2024
Professor Raymond Lovett	Australian National University	28 May 2024
Ngarra Murray*	First Peoples' Assembly of Victoria	28 May 2024
Rueben Berg*	First Peoples' Assembly of Victoria	28 May 2024
Michael Graham*	Victorian Aboriginal Health Service (VAHS)	4 June 2024
Gavin Brown	Victorian Aboriginal Health Service (VAHS)	4 June 2024
Alan Brown	Victorian Aboriginal Health Service (VAHS)	4 June 2024
Darren Lovett	Victorian Aboriginal Health Service (VAHS)	4 June 2024
Uncle Lionel Bamblett	Victorian Aboriginal Education Association Inc (VAEAI)	4 June 2024
Uncle Professor Mark Rose*	Victorian Aboriginal Education Association Inc (VAEAI)	4 June 2024
Aunty Geraldine Atkinson	Victorian Aboriginal Education Association Inc (VAEAI)	4 June 2024
Aunty Dr Lois Peeler (Video)	Worawa Aboriginal College	4 June 2024
Jarvis Atkinson (Video)		4 June 2024
Darren Smith	Aboriginal Housing Victoria	5 June 2024
Tony (Anthony) Craig	Goolum Goolum Aboriginal Co-Operative	5 June 2024
Simon Flagg	Wathaurong Aboriginal Co-Operative	5 June 2024
Dallas Widdicombe	Bendigo & District Aboriginal Co-Operative	5 June 2024
Jenny Samms	Blueprint for an Aboriginal Specific Homelessness System Steering Committee	5 June 2024
Professor Wendy Stone	Swinburne University	5 June 2024
Commissioner Dr Heather Holst	Commissioner for Residential Tenancies; Department of Government Services	5 June 2024
Dr Laura Hilly	Commission for Residential Tenancies	5 June 2024
Dr Mati Keynes	University of Melbourne	5 June 2024
Hayley McQuire	National Indigenous Youth Education Coalition	5 June 2024
Associate Professor Nikki Moodie	University of Melbourne	5 June 2024
Jenny Atta	Department Secretary, Department of Education ²	6 June 2024

Witness name	Organisation (if relevant)	Date of hearing
Stephen Fraser	Deputy Secretary, School Education Programs and Support, Department of Education	6 June 2024
Alinta Williams	Australian Education Union – Victorian Branch	6 June 2024
Professor Liz Johnson	Senior Deputy Vice-Chancellor Academic, Deakin University	6 June 2024
Associate Professor Andrew Peters	Swinburne University	6 June 2024
Professor Barry Judd	Deputy Vice Chancellor (Indigenous), University of Melbourne	6 June 2024
Professor Duncan Maskall	Vice Chancellor, University of Melbourne	6 June 2024
Professor Iain Martin	Vice Chancellor, Deakin University	6 June 2024
Jamil Tye	Executive Director, External Community Engagement and Impact, Monash University	6 June 2024
Uncle Professor Mark Rose*	Pro Vice Chancellor Indigenous Strategy and Innovation, Deakin University	6 June 2024
Professor Sharon Pickering	Vice Chancellor, Monash University	6 June 2024
Professor Tristan Kennedy	Pro Vice Chancellor (Indigenous), Monash University	6 June 2024
Peta McCammon	Secretary, Department of Families, Fairness and Housing	7 June 2024
Dannii de Kretser	Deputy CEO of Homes Victoria, Department of Families, Fairness and Housing	7 June 2024
Commissioner Meena Singh	Commissioner for Aboriginal Children and Young People, Commission for Children and Young People	7 June 2024
Commissioner Liana Buchanan	Principal Commissioner for Children and Young People, Commission for Children and Young People	7 June 2024
Elias Jarvis	Commission for Children and Young People, Youth Council	7 June 2024
Nerita Waight*	Victorian Aboriginal Legal Service (VALS)	13 June 2024
Juergen Kaehne	Victorian Aboriginal Legal Service (VALS)	13 June 2024
Emily Yates	Victorian Aboriginal Legal Service (VALS)	13 June 2024
Commissioner Brigid Monagle	Commissioner, Victorian Public Sector Commission	13 June 2024
Tim Ada	Secretary, Department of Jobs, Skills, Industry and Regions ³	13 June 2024
The Hon. Ben Carroll MP	Minister for Education; Department of Education	14 June 2024
Aunty Jill Gallagher*	Victorian Aboriginal Community Controlled Health Organisation (VACCHO)	14 June 2024
Sheree Lowe*	Victorian Aboriginal Community Controlled Health Organisation (VACCHO)	14 June 2024
Aunty Nellie Flagg	Victorian Aboriginal Community Controlled Health Organisation (VACCHO)	14 June 2024

Witness name	Organisation (if relevant)	Date of hearing
Associate Professor Graham Gee	Murdoch Children’s Research Institute	14 June 2024
Anne Lenton	Djirra	14 June 2024
Antoinette Gentile	Djirra	14 June 2024
Professor Euan Wallace	Secretary, Department of Health ⁴	17 June 2024
Jodie Geissler	Deputy Secretary - Hospitals and Health Services, Department of Health	17 June 2024
Dr Clare Looker	Chief Health Officer, Department of Health ⁵	17 June 2024
The Hon. Ingrid Stitt MP	Minister for Mental Health; Minister for Ageing; Department of Health	17 June 2024
Katherine Whetton	Deputy Secretary - Mental Health and Wellbeing, Department of Health	17 June 2024
The Hon. Vicki Ward MP	Minister for the Prevention of Family Violence ⁶	20 June 2024
Dr Melanie Heenan	Deputy Secretary, Family Safety Victoria	20 June 2024
Mary-Anne Thomas MP	Minister for Health; Minister for Health Infrastructure ; Minister for Ambulance Services; Department of Health ⁷	21 June 2024
The Hon. Harriet Shing MP*	Minister for Housing; Department of Families, Fairness, and Housing ⁸	24 June 2024
Aunty Muriel Bamblett	Victorian Aboriginal Child and Community Agency (VACCA)	24 June 2024
Sarah Gafforini	Victorian Aboriginal Child and Community Agency (VACCA)	24 June 2024
Ian Hamm	First Nations Foundation	24 June 2024
Uncle Paul Briggs	Kaiela Institute	24 June 2024
Associate Professor Michelle Evans	Dilin Duwa Centre for Indigenous Business Leaderships, University of Melbourne	24 June 2024
Karen Milward	Kinaway (Victorian Aboriginal Chamber of Commerce, Victoria)	24 June 2024
The Hon. Tim Pallas MP	Treasurer of Victoria; Department of Treasury and Finance ⁹	26 June 2024

Descendants Day Hearing

Peter Sharp	4 September 2024
Katrina Kell	4 September 2024
Elizabeth Balderstone	4 September 2024

*Witness appeared multiple times

Endnotes

1. Yoorrook notes that as of December 2024, Gayle Tierney is Minister for Water. Minister Shing is now Minister for the Suburban Rail Loop; Minister for Housing and Building; Minister for Development Victoria and Precincts. See Premier of Victoria, Hon Jacinta Allan MP, [‘A Strong And Focused Team To Build Homes And Help Families’](#) (Webpage, 19 December 2024).
2. In February 2025, Jenny Atta replaced Prof Euan Wallace as Secretary of the Department of Health. In March 2025, Tony Bates became Acting Secretary.
3. Yoorrook notes that at the time he gave evidence in June 2024, Tim Ada was Secretary of Department of Jobs, Skills, Industry and Regions. As of 28 February 2025, Matt Carrick is the Secretary of Department of Jobs, Skills, Industry and Regions. See Premier of Victoria, Hon Jacinta Allan MP, [‘A Strong And Focused Team To Build Homes And Help Families’](#) (Webpage, 19 December 2024).
4. In February 2025, Jenny Atta replaced Professor Euan Wallace as Secretary of the Department of Health
5. Dr Tarun Weeramanthri is now the Chief Health Officer.
6. In December 2024, Natalie Hutchins became the Minister for Prevention of Family Violence
7. As of December 2024, Melissa Horne is the Minister for Health Infrastructure.
8. As of December 2024 Minister Shing is the Minister for Housing and Building; Minister for Development Victoria and Precincts; and Minister for the Suburban Rail Loop. See Premier of Victoria, Hon Jacinta Allan MP, [‘A Strong And Focused Team To Build Homes And Help Families’](#) (Webpage, 19 December 2024).
9. Yoorrook notes that at the time he gave evidence in June 2024, Tim Pallas was Treasurer of Victoria. As of December 2024, the Hon Jaclyn Symes is the Treasurer. See Premier of Victoria, Hon Jacinta Allan MP, [‘A Strong And Focused Team To Build Homes And Help Families’](#) (Webpage, 19 December 2024).

Appendix B: Glossary

A

Aboriginal Children in Aboriginal Care (ACAC)

An initiative enabled by Section 18 of the *Children, Youth and Families Act 2005 (Vic)* authorising certain Aboriginal organisations to undertake child protection investigations, case planning and case management.

Aboriginal Child Placement Principle (ACPP)

Principles contained in the *Children, Youth and Families Act 2005 (Vic)* that aim to ensure Aboriginal children have the right to be raised in their own family, culture and community and that removal of any Aboriginal child must be a last resort. Nationally these are referred to as Aboriginal and Torres Strait Islander Child Placement Principles.

Aboriginal Community Controlled Health Organisations (ACCHOs)

A service that delivers holistic, culturally safe and comprehensive primary health care, which is controlled by a Board comprised of First Peoples who are elected by the local community.

Aboriginal Community Controlled Organisations (ACCOs)

Incorporated, not-for-profit organisations that provide services and support to Aboriginal communities and that are Aboriginal controlled and governed.

Aboriginal Justice Agreement (AJA)

A long-term partnership between the Victorian Government and Aboriginal communities. It aims to address Aboriginal over-representation in the justice system, improve family and community safety and strengthen Aboriginal self-determination.

Aboriginal Protection Boards

A number of historical state-run institutions with the function of exercising near total control over the lives of First Peoples including regulation of residence, slavery as employment, marriage, social life, and other aspects of daily life.

Aboriginal Title

A limited form of property interest that grants public land to Traditional Owner corporations for the purpose of joint management with the State.

Acquired Brain Injury (ABI)

An injury to the brain that occurs after birth. There are different causes of acquired brain injuries, which can include physical injury (such as trauma to the head).

Administrative burden

The experience of a policy’s implementation as onerous, often involving high learning, compliance, and/or psychological costs, to the individual or organisation.

Aqua nullius

Meaning ‘nobody’s water’, the erroneous assumption that waters belonged to no one prior to colonisation. The doctrine denies the existence of First Peoples own water governance principles.

Assimilation policy

Government policy in place in states and territories across Australia until the 1960s proposing that Aboriginal and Torres Strait Islander peoples should die out or assimilate into the white community in order for the creation of a single, uniform white Australia. The forced removal of First Nations children was based on assimilation policies.

B

Bringing Them Home report

The 1997 report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families conducted by the Australian Human Rights and Equal Opportunity Commission.

C

Caring for Country

First Peoples approaches to land and water management based on laws/lores, customs and ways of life inherited from their ancestors and ancestral beings.

Charter of Human Rights and Responsibilities (Vic)

Enshrines civil, political and cultural rights into Victorian law that must be observed by public authorities and accounted for in the development of policies and legislation.

Cognitive disabilities

Includes intellectual disabilities and difficulties with memory, attention, problem-solving, and decision-making.

Colonial load (see also cultural load)

Colonial load encompasses historical and ongoing impacts of colonisation, including systemic racism, dispossession, cultural suppression, and socio-economic disadvantages that First Peoples face. Colonial load is the burden or responsibility placed on First Peoples to educate others about their culture or be the source of knowledge in an organisation, as well as the expectation of First Peoples to help address systemic injustices caused by colonisation.

Colonisation

Beginning with the arrival of the First Fleet in 1788, colonisation is the ongoing process of dispossessing First Peoples of their traditional lands and ways of life.

Commission for Children and Young People (CCYP)

An independent statutory body that promotes improvement in policies and practices affecting the safety and wellbeing of Victorian children and young people. Provides scrutiny and oversight of child protection and youth justice systems. The Commissioner for Aboriginal Children and Young People leads engagement with Aboriginal communities and work to address the over-representation of Aboriginal children and young people in the child protection and youth justice systems.

Community Service Organisations (CSOs)

Organisations contracted or funded by the Victorian Government to deliver services. This can include family services, residential care, community health, family violence and various justice related programs including, diversion, pre and post release services.

Community Understanding and Safety Training (CUST)

Professional learning for school staff in the Victorian Government schooling system, designed to increase their understanding of First Peoples culture, history and experiences. CUST provides an introduction to ongoing learning and engagement with First Peoples perspectives throughout the curriculum.

Connection

Encompasses a deep and holistic understanding of relationships, extending beyond mere physical ties to include spiritual, cultural, social, and environmental dimensions.

Country

Embraces various elements: the physical landscape of land, sky and waters; resources; animals; and the deep connection between First Peoples and land.

The connection of First Peoples to Country transcends geography; it embodies spirituality, identity, Peoplehood, wellbeing and cultural heritage.

Criminalisation

Process by which individuals or groups are treated as criminals or subjected to punitive measures by law enforcement and the criminal justice system.

Crisis and emergency housing

Temporary accommodation for families or persons experiencing, or at risk of, homelessness. Crisis housing supports people from overnight accommodation for up to six weeks (and longer). It includes housing through youth and family violence refuges and larger congregate crisis facilities.

Cultural competence

Ability to effectively interact and communicate with people from different cultures, demonstrating knowledge, understanding and skills to address their cultural needs and ensure their rights and well-being are respected.

Cultural economy

A range of productive activities based on First Peoples knowledge or custom, whether for domestic use or for market exchange.

Cultural heritage

First Peoples’ knowledge and lore/law, practices and people, objects, and places that are valued, culturally meaningful and connected to identity and Country.

Cultural identity

Derived from family, traditions and country, encompasses values and practices including art, dance, legends, rituals and customs, as well as language.

Cultural load (see also colonial load)

The additional and often unacknowledged emotional, physical and mental burden on First Peoples to represent culture and provide cultural education in a workplace, usually with no additional resources or recognition.

Cultural responsiveness

Cultural responsiveness describes how a system or organisation, and individual, responds to the person in front of them.

The Indigenous Allied Health Australia, states that cultural responsiveness is about the centrality of culture to Aboriginal and Torres Strait Islander peoples ‘identity, health and wellbeing; involves ongoing reflective practice; focusses on relationships and requires access to knowledge about Aboriginal and Torres Strait Islander peoples and cultures. It is a negotiated process of what constitutes a culturally safe service as decided by the recipient.’

Cultural safety (or culturally safe)

Where First Peoples feel safe, where there is no challenge or need for the denial of their identity, and where their needs are met. A culturally-responsive system is one in which non-Aboriginal people take responsibility to understand the importance of culture, Country and community to Aboriginal health, wellbeing and safety and work with Aboriginal communities to design and deliver culturally-responsive services. Cultural safety requires recognition of past and current harm perpetrated against First Peoples and the elimination of racist or discriminatory behaviours.

Cultural water

Water entitlements controlled or held by Traditional Owner Nations to benefit a range of outcomes as determined by each Traditional Owner group.

D

Decriminalisation

The process of stopping treating something as a criminal offence.

Department of Education (DE)

Responsible for the administration of the State’s early years education and schooling systems.

Department of Energy, Environment and Climate Action (DEECA)

Brings together Victoria’s energy, environment, water, agriculture, forestry, resources, climate action, and emergency management functions to improve Victoria’s liveability, while responsibly taking climate action and protecting the natural environment, infrastructure and heritage for future generations.

Department of Families, Fairness and Housing (DFFH)

Responsible for child protection, prevention of family violence, housing, disability, multicultural affairs, LGBTIQ+ equality, veterans, and includes the offices for Women and Youth.

Department of Government Services (DGS)

Brings together government services to continuously improve how government serves Victorians.

Department of Health (DH)

Responsible for supporting the Health and Ambulance Services, Mental Health and Ageing portfolios.

Department of Jobs, Skills, Industry and Regions (DJSIR)

Focused on growing Victoria’s prosperity, building the productive capacity of the economy and increasing economic participation.

Department of Justice and Community Safety (DJCS)

Has oversight and responsibility for justice and community safety matters, including the criminal justice system in Victoria.

Department of Premier and Cabinet (DPC)

Leads whole-of-government policy and performance, with a particular responsibility for improving outcomes and services for First Peoples.

Disparity

The condition of being unequal. A noticeable difference, particularly one that results from unfair treatment.

Doctrine of discovery

An international legal and religious concept that has been used by settler states to justify colonisation and legitimise dispossession. Based on notions of racial superiority, the doctrine of discovery used to declare lands occupied by Indigenous peoples to be ‘empty.’

E

Early intervention

Process of identifying and providing effective early support to at-risk people (including children and young people).

Early years education

Formal educational programs that guide the growth and development of children throughout their preschool years. In Victoria, early years education includes state-funded three and four-year-old kindergarten programs.

Elder or Respected Person

An Aboriginal Elder or Respected Person is someone who has gained recognition as a custodian of knowledge and lore and who has permission to disclose knowledge and beliefs. Often referred to as ‘Aunty’ or ‘Uncle’ they are highly respected and held in esteem by their communities for their wisdom, cultural knowledge and community service.

Eugenics

A continuance of European scientific racism in which human credibility and worth is defined by hereditary traits including race. The practice of eugenics aims to alter the composition of human populations over generations.

F

Family violence

Any violent, threatening, coercive or controlling behaviour that occurs in current or past family, domestic or intimate relationships. Includes physical, emotional, sexual, social, spiritual, cultural, psychological and economic abuse.

Family Violence Intervention Order

Order issued by a court to protect a person from violence by a family member or a family like person (e.g. carer).

First Peoples

Refers to the Indigenous peoples or Aboriginal and Torres Strait Islander peoples of Australia. In this report the term First Peoples is to refer to First Peoples in Victoria which includes the Traditional Owners of a place in Victoria, including family and clan groups, and their ancestors. It also includes all Aboriginal and Torres Strait Islander people living in Victoria or who previously lived in Victoria.

First Peoples’ Assembly of Victoria

The independent and democratically elected body to represent Traditional Owners and Aboriginal and Torres Strait Islander peoples in Victoria.

First Principles Review

A review of the principles and legislation underpinning the Traditional Owner Settlement Act agreements and policy jointly undertaken by Traditional Owners and the State. The review made 36 recommendations in 2022.

Freehold Title

The strongest form of private land ownership in Australian law. Freehold Title includes a right to exclusive possession of land.

G

Genocide

Acts committed with intent to destroy in whole or in part, a national, ethnical, racial or religious group. Genocide includes causing death or grievous bodily harm, inflicting conditions designed to achieve physical destruction, imposing measures intended to prevent birth, and forcibly transferring children from one group to another.

H

‘Half-Caste Act’ (Aborigines Protection Act 1886)

The Act changed the definition of ‘Aboriginal’ to exclude those who were ‘half-caste’ (only one parent was Aboriginal). This began the policy of forcing those who were ‘half-caste’ off the missions and stations, leading to many missions and stations being shut down.

Health equity

Health determinants, resources and outcomes are fairly distributed between population groups, enabling all individuals to be able to reach their highest level of health and wellbeing.

Health inequity

Unfair, avoidable or remediable differences in the distribution of health resources or outcomes between population groups, which are caused by the determinants of health.

Health and wellbeing

First Peoples’ concepts of health and wellbeing are holistic. For First Peoples, understandings of health and wellbeing encompass more than just physical health and recognises that connections to family, community, culture and land are linked with health and wellbeing.

Higher education

Various types of education provided by universities and usually affording, at the end of a course of study, a named degree, diploma, or certificate of higher studies.

Homelessness

Housing arrangements that are insecure, unstable, temporary or otherwise inadequate. Homelessness includes rough sleeping and couch surfing.

Home ownership

Owner-occupied housing, where households have either fully paid off a mortgage or are in the process of doing so.

Housing continuum

The range of housing types available in a community extending from emergency shelter on one end, all the way to homeownership on the other. In between lies an assortment of housing options and types, each critically important for different people at different times.

Housing First Approach

A strategic response to homelessness that prioritises permanent and stable housing. Once housing is secured, a multidisciplinary team of support workers can address complex needs. However, an individual’s engagement with these support services is not required for them to maintain accommodation.

Human rights

Rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status.

I

Indigenous cultural and intellectual property rights

First Peoples right to their cultural heritage, intangible and tangible knowledge, and cultural practice. This could include physical art works, language, song, music, dance, ecological and spiritual knowledge, literacy works, and other media.

Indigenous Data Governance

First Peoples right to autonomously decide what, how, and why Indigenous data are collected, accessed, and used. Indigenous Data Governance ensures that data on or about Indigenous peoples reflects First Peoples priorities, values, cultures, worldviews, and diversity.

Indigenous Data Sovereignty

The right of Indigenous Peoples to own, control, access and possess data that derive from them, and which pertain to their members, knowledge systems, customs, resources or territories. It is an Indigenous-led movement that seeks to change the way Indigenous data is understood and used through Indigenous data rights.

Indigenous Preferential Procurement Programs (IPPP)

Sets targets for the number and value of government contracts to be awarded to First Peoples enterprises. The primary purpose of an IPPP is to stimulate Indigenous entrepreneurship, business and economic development, providing Indigenous Australians with more opportunities to participate in the economy.

Inquest

A formal inquiry or investigation conducted by a coroner to determine the cause and circumstances of a person’s death.

Intergenerational poverty

The persistent economic disadvantage transmitted across generations within a family or community, often compounded by factors such as limited access to education, employment opportunities and essential resources.

Intergenerational trauma

The transmission of trauma or adverse experiences across generations, particularly within communities or groups that have faced historical and ongoing injustices.

International Covenant on Economic Social and Cultural rights (ICESCR)

Provides the legal framework to protect and preserve the most basic economic, social and cultural rights, including rights relating to work in just and favourable conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education and to enjoyment of the benefits of cultural freedom and scientific progress.

Intersectionality

Refers to the ways in which different aspects of a person’s identity can expose them to overlapping forms of discrimination and marginalisation. For example, race, age, sex, religion, sexuality, gender identity or disability status.

J

Joint management

A formal and ongoing arrangement between Traditional Owners and other holders of rights and interests in land to share responsibility for its management.

Justice Assurance Review Office (JARO)

The Justice Assurance Review Office, in the Department of Justice and Community Safety (DJCS) is responsible for reviewing deaths and serious incidents that occur in prisons and youth justice facilities in Victoria.

K

Key Performance Measures (KPM)

Measures that are used to assess the performance of an individual or organisation.

Kinship care

A type of out-of-home care (OOHC). Kinship carers can be family members or non-family members who are in the child or family’s social network.

Koori Education Coordinator (KEC)

Part of an area-based, multi-disciplinary team. KECs play a key intermediary role in advising schools and colleagues in their teams on strategies to support First Peoples students.

Koori Education Workforce (KEW)

Includes Koori Engagement Support Officers (KESOs) and Koorie Education Coordinators (KECs) and other First Peoples-specific Department of Education roles.

Koori Engagement Support Officer (KESO)

Members of their local community with an understanding of culture and the history of their community. KESOs support schools with First Peoples students to participate fully in education by providing advice and building capability within schools.

L

Lateral violence

Often described as ‘internalised colonialism’, lateral violence refers to the organised, harmful behaviours including bullying, as well as psychological or physical violence that First Peoples do to each other collectively as part of an oppressed group. Lateral violence can occur within families, organisations and communities.

Law Enforcement Assistance Program (LEAP)

Abbreviation for Law Enforcement Assistance Program, a database used by Victoria Police to store and share information.

M

Marginalisation

Also referred to as social exclusion, occurs when certain groups of people are denied access to power, opportunities, services and benefits in all areas of society. Marginalisation might be social, political and/or economic.

Market economy

An economic system in which production and prices are determined by unrestricted competition between privately owned business. The market economy incorporates much of the labour market in impacts wages, employment, and commercial enterprises.

Market exclusion

The practice by which individuals and communities are barred from the resources and opportunities provided by the market economy.

Medicare Benefits Schedule (MBS)

Lists the health services that are subsidised by the Australian Government.

Missions

Reserves of land under the control of churches and missionaries, with little or no government involvement, to which First Peoples were forcibly relocated. See also Reserves. See also Protection era/Protection policy.

N

Nation re-building

The process of First Peoples expanding jurisdictional foundations and building the institutional capacity necessary to achieve substantive decision-making control over their own lands and waters, resources, and governance mechanisms

National Agreement on Closing the Gap (or Closing the Gap)

Partnership between Australian governments and Aboriginal and Torres Strait Islander organisations, represented by the Coalition of Aboriginal and Torres Strait Islander Peak Organisations. It aims to improve outcomes for Aboriginal and Torres Strait Islander peoples in various areas, including justice, health, education, economic participation, early childhood development, housing, child protection, family safety, and culture. Each state and territory has their own Implementation Plan and must report annually on progress towards Closing the Gap targets.

National Disability Insurance Scheme (NDIS)

Provides individualised funding to eligible people with permanent and significant disability to support them to gain greater independence and improved economic and social participation.

National Preventive Mechanism (NPM)

States that have signed OPCAT (below) have agreed to establish an independent body to perform inspections of settings where people are detained to prevent torture and other cruel, inhuman and degrading treatment.

Native Title

The communal, group, or individual rights and interests of First Peoples in relation to land or waters, under the *Native Title Act 1993* (Cth). These rights and interests are possessed under the traditional laws and customs observed by First Peoples where they have a connection with the land or waters.

Natural resources

An evolving category of resources which includes forests and sea Country, earth, metals and minerals, fish, animal and plants.

O

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)

An international agreement that supports the implementation of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT). This agreement requires signatory States to set up a NPM (discussed above).

Out-of-home care (OOHC)

When a decision is made that a child cannot safely stay with their parents they may be placed in the following types of out of home care: kinship care, home-based care or residential care.

Over-representation

The disproportionate presence or higher representation of a particular group within a specific context or system, such as the criminal justice or child protection system.

P

Parity

The state or condition of being equal.

Parole

The conditional release of a person from prison to serve part of their sentence in the community under supervision, with conditions. The purpose of parole is to provide people with a supervised, structured and supported transition from prison to the community and reduce their risk of reoffending.

Pedagogy (in education)

The theory and practice of learning, and how this process influences, and is influenced by, the social, political, and psychological development of learners.

Peoplehood

The fact or state of being a community of people, sharing associate status and rights.

Population parity

Equal or proportional representation of different demographic groups in a particular context, such as employment or education. Population parity aims to ensure that individuals from various backgrounds have fair and equitable opportunities.

Pharmaceutical Benefits Scheme (PBS)

A program where the Australia Government subsidises medicines that are listed on the Pharmaceutical Benefits Schedule.

Primary care

A broad range of health services provided by health professionals in the community. Primary care healthcare providers include general practitioners, nurses, pharmacists and allied health providers such as dentists, who are often the first point of contact with the health system.

Private rental market

Comprised of residential properties owned by private individuals or companies, that are leased out at market rates to households for a fixed term or on an ongoing basis.

Protection era/Protection policy

From the 1880s to the 1950s, a tapestry of legislation and policies that provided government with absolute control over the lives of First Peoples under the guise of ‘protection.’ This era enforced a system of reserve confinement, institutionalisation, and forced child removals. See also Assimilation policy. See also Missions.

Public land

Includes ‘Crown land’ held by the King and land in national parks, forests, wildlife or conservation reserves, as wells marine or coastal parks.

Public Records Office Victoria (PROV)

Archive of State and Local Governments in Victoria. PROV also sets mandatory recordkeeping standards for state and local government agencies and provides advice on recordkeeping to government.

Public Accounts and Estimates Committee (PAEC)

Produces reports that promote public sector reform and accountability. PAEC is responsible for scrutinising public accounts and budget estimates. PAECs members represent the main political parties from both houses of parliament.

R

Racial profiling

Practice of police singling out, stopping, questioning, searching, or detaining individuals based on their race or ethnicity, rather than reasonable suspicion of criminal activity.

Racism

The process by which systems and policies, actions and attitudes create inequitable opportunities and outcomes for people based on race.

Reconciliation

The bringing together of First Peoples and non-First Peoples based on the recognition of rights, respect, and partnership.

Reconciliation Action Plans

A formal commitment to reconciliation by an organisation that outlines practical plans for action. Reconciliation Action Plans provide tangible and substantive benefits for Aboriginal and Torres Strait Islander peoples, increasing economic equity and supporting First Nations self-determination.

Registered Aboriginal Parties (RAPs)

Representative organisations inclusive of all Traditional Owners of an identified Country, that act as the primary source of advice and knowledge on matters relating to Aboriginal places or Aboriginal objects in their region.

Reserves

Land, generally run by the government, to which First Peoples were forcibly relocated. See also Missions.

Royal Commission into Aboriginal Deaths in Custody (RCIADIC)

Established in 1987 in response to a growing public concern that deaths in custody of Aboriginal people were too common and poorly explained, RCIADIC examined and reported on the underlying social, cultural and legal issues behind all deaths in custody in each state and territory which occurred between 1 January 1980 and 31 May 1989. 339 recommendations were made in the Final Report.

Royal Commission into Family Violence

Established in 2015 to identify approaches to the prevention of family violence, improve supports for persons affected by family violence, and increase the accountability mechanisms for persons who use violence. 227 recommendations were made in the Final Report.

Royal Commission into Institutional Responses to Child Sexual Abuse

Established in 2013 in response to reports of sexual abuse of children in institutional contexts that had been emerging in Australia for many years. The five-year inquiry examined the history of abuse in educational institutions, religious groups, sporting organisations, state institutions and youth organisations. The Commission made a total of 409 recommendations.

S

Schooling

Refers to primary school (Foundation through Grade 6) and secondary school (Year 7 through Year 12) in Victoria.

Segregation

The policy and practice of separating First Peoples from non-First Peoples. Segregation has been associated historically with protectionism.

Self-determination

The right of First Peoples to freely determine their political status, participate in decisions that affect their lives, and control their economic, social and cultural development.

Settler

A person who has moved to an inhabited area.

Settler-colonialism

The attempted elimination of First Peoples and subsequent replacement by settler society.

Social Housing

Short, medium and long-term housing for low-income Victorians, including those experiencing homelessness or those with other priority needs for housing. Long term social housing includes public housing (owned by Homes Victoria) and community housing (owned by Community Housing Providers or Homes Victoria).

Social Procurement Framework (SPF)

Establishes requirements that apply to Victorian Government departments and agencies when they procure goods, services, and construction.

Soldier Settlement Schemes

The process by which land, mostly Crown land including some land from Aboriginal reserves, was allocated to Australian returning soldiers after World Wars I and II. In order to buy or lease such a block, soldiers were required to be certified as qualified and to remain in residence on that land for five years.

Sovereignty

Encompasses various rights derived from First Peoples occupation and ownership of the land now known as Australia prior to colonisation through their continuing connection to Country.

Specialist Homeless Service (SHS)

Australian and Victorian Government funded services that supports people experiencing homelessness, and those who are in crisis situations or at risk of homelessness. The key goals of a SHS is to help people find and maintain housing. Case management to address underlying causes of homelessness is also provided.

Stolen Generations

The forcible removal of Aboriginal and Torres Strait Islander children from their families by Australian government authorities between the late 1800s and the 1970s. This policy aimed to assimilate Indigenous children into white society, resulting in immense trauma and loss of cultural identity.

Stolen wages

The practice of wage theft from First Peoples that was a frequent occurrence in Australia from the late 19th century through to the late 20th century. Employers frequently underpaid First Peoples or made illegal withholdings of their wages. Under the system of Aboriginal Protection Boards, First Peoples wages were paid into government-owned trust accounts that were difficult for workers to access. Governments often illegally expropriated these for other purposes.

Systemic injustice

Occurs when an unjust structure is maintained in a complex system that its self-reinforcing, adaptive, and creates subjects whose identity is shaped to conform to it.

Systemic racism

Racial discrimination that occurs through systems and institutions and goes beyond individual racist acts. It refers to laws, policies or practices that may, on their face, look neutral and applied equally, but which in practice unfairly disadvantage certain racial groups and advantage others.

T

Terra nullius

Meaning “land belonging to no one”, used as the basis for colonial settlement, as well as to justify and legitimise the dispossession, dispersal, and inhumane treatment of First Peoples. *Terra nullius* was overturned by the High Court in 1992, with the Mabo decision recognising First Peoples continuing connection and rights to land through Native Title.

Tertiary education

Formal education beyond secondary school.

Tertiary institution

In Victoria tertiary institutions include universities that provide higher education, and Technical and Further Education (TAFE), private colleges, and training institutes, that provide vocational education and training.

Traditional Owner

An Aboriginal or Torres Strait Islander person or group directly descended from the original inhabitants of a culturally defined area of land or Country, who has a cultural association with this Country that derives from the traditions, observances, customs, beliefs or history of the original inhabitants of the area.

Yoorrook acknowledges the diverse preferences with respect to this term held by First Peoples.

Traditional Owner Settlement Act 2010 (Vic) (‘TOSA’)

The Act that allows the State to recognise traditional owners and certain rights in Crown land.

Transitional housing

Providing temporary housing for up to 12 months, the program helps stabilise people and families who experience homelessness before they gained long-term housing.

Trauma-informed approach

Recognises the pervasiveness of trauma as well as its many personal and societal consequences. Trauma informed approaches anticipate how trauma survivors may respond to contexts, practices and behaviours, and seeks to minimise and avoid harm or traumatisation.

Treaty

The embodiment of self-determination. Treaty is legally binding agreement between the State and First Peoples that established mutually recognised rights and responsibilities. Treaty provides a path to negotiate the transfer of power and resources for First Peoples to control matters which impact their lives.

Treaty Authority

The independent body that oversees Treaty-making in Victoria. Membership consists solely of First Peoples, selected through an independent process.

Truth telling

Act of sharing and acknowledging the historical and current experiences, perspectives, and truths of marginalised or oppressed groups including First Peoples.

U

Under-representation

The disproportionately low or inadequate representation of a particular group within a specific context or system.

Universal Declaration on the Rights of Indigenous Peoples (UNDRIP)

A legally non-binding resolution passed by the United Nations in 2007. UNDRIP enshrines the rights of Indigenous peoples worldwide and consists of 46 articles that recognise their basic human rights and right to self-determination.

Universal services

Services that are targeted at the entire population, for example health, education, early childhood services.

V

Victorian Aboriginal Affairs Framework (VAAF)

The state’s overarching framework for working with First Peoples in Victoria, organisations and the wider community to provide a consistent guidance for the numerous existing strategies to embed self-determination and improve outcomes.

Victorian Auditor General’s Office (VAGO)

Integrity body supporting the Auditor-General who is an independent officer of the Victorian Parliament. It examines how effectively public sector agencies are providing services and using public money.

Victorian Civil and Administrative Tribunal (VCAT)

Resolves disputes and makes decisions about a wide range of matters including rental disputes, guardianship, equal opportunity and traditional ownership.

Victorian Government Aboriginal Affairs Report (VGAAR)

State produced annual report which is intended to monitor performance against Closing the Gap and the Victorian Aboriginal Affairs Framework.

Victorian Public Service (VPS)

The workforce employed by the Victorian Government across around 40 departments, agencies and administrative offices to provide services and support to the Victorian public.

Vocational Education and Training (VET)

Prepares learners for jobs that are based in manual or practical activities, traditionally non-academic and totally related to a specific trade, occupation or vocation.

Y

Youth detention

Imprisonment of children and young people either on remand or sentenced.

Appendix C: Land policy frameworks, oversight bodies and previous reviews

Table C.1: Key land policies and frameworks

Policy	Lead agency	Key focus	Accountability and governance
Joint Management Framework (2010) ¹	Department of Energy, Environment and Climate Action (DEECA)	The objective of joint management is to enable the knowledge and culture of the Traditional Owner group of the appointed land to be recognised in the management of that land. The State of Victoria currently has joint management arrangements with four Traditional Owner groups.	<p>The Traditional Owner Agreements Unit supports agreement making between Victoria's Traditional Owners and the State under the Traditional Owner Settlement Act 2010 and Native Title Act 1993.</p> <p>The Unit works 'to ensure Traditional Owner rights are recognised in the sustainable management of public land by leading and coordinating the implementation [of] commitments arising from native title determinations and agreements.'² The unit works in partnership with Traditional Owners, Traditional Owner Land Management Boards, DEECA regions, Parks Victoria and policy groups.³</p>
Victorian Aboriginal Fishing Strategy ⁴ (2012)	Department of Jobs, Skills, Industry and Regions (DJSIR)	Yoorrook notes that the current Victorian Aboriginal Fishing Strategy referred to by the State is a short document released in 2012 by a predecessor department and focused mainly on training, engagement and consultation: see Department of Primary Industries, Victorian Aboriginal Fishing Strategy (2012).	No accountability and governance information is publicly available.
Victorian Aboriginal Affairs Framework (2018–2023) (VAAF) ⁵ (extended to June 2025 ⁶)	Department of Premier and Cabinet (DPC)	<p>This is the Victorian Government's overarching framework for working with First Peoples individuals, organisations and the wider community to drive actions, with self-determination its guiding principle.⁷</p> <p>The VAAF includes goals, indicators and measures across six domains, including Domain 6: Culture and Country.⁸</p> <p>This domain commits to the promotion of the rights and responsibilities under section 19(2) of the Victorian Charter of Human Rights and Responsibilities Act 2006: 'Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community –</p> <ul style="list-style-type: none">a. to enjoy their identity and culture;b. to maintain and use their language;c. to maintain their kinship ties; andd. to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.'⁹ <p>It also commits government to advancing self-determination through systemic and structural transformation.¹⁰</p>	<p>Victoria reports progress against the VAAF annually through the Victorian Government Aboriginal Affairs Report (VGAAR). This is reviewed by the Aboriginal Executive Council and tabled in parliament annually.</p> <p>The VGAAR is an outcomes measurement and accountability tool that provides information about progress and challenges that still need to be addressed.</p>
Aboriginal Heritage Management Strategy 2018 and Action Plan ¹¹	DEECA	<p>The strategy has three themes: partnerships, organisational culture, and improved guidance and processes.</p> <p>The action plan provides 20 actions to drive implementation.</p> <p>Timeline for completion was 2020.</p>	The strategy and action plan are to be reviewed annually. It is unclear how many actions have been successfully implemented.

Policy	Lead agency	Key focus	Accountability and governance
Self-Determination Reform Framework ¹² (2019)	DPC (First Peoples – State Relations)	The Self-Determination Reform Framework guides public service action to enable self-determination in line with the VAAF. It also provides an architecture for government departments to report annually on progress towards transforming government systems and structures to enable self-determination. ¹³	All departments complete an annual report against this framework to assess their contributions to self-determination reform. The reporting mechanism allows departments to collate relevant actions that are occurring across existing strategies, as well as changes being made across internal operations and service delivery. This mechanism helps departments to identify areas of strength and gaps in strategy, as well as review whether departmental actions align with the self-determination enablers. ¹⁴
Traditional Owner and Aboriginal Community Engagement Framework (2019)	DEECA	‘The Traditional Owner and Aboriginal Community Engagement Framework (TOACEF), which was developed in 2019, provides DEECA’s (then DELWP’s) commitment to achieving best-practice engagement with Traditional Owners and Aboriginal Victorians. The TOACEF is both a primer in cultural awareness and a practical guide to engagement, based on principles of empowerment and self-determination.’ ¹⁵	‘TOACEF is currently undergoing review and revision, with the revised TOACEF undergoing engagement with non-formally recognised Traditional Owner groups in late 2023, and final endorsement to be considered by the TOC Caucus in early/mid 2024.’ ¹⁶ ‘The proposed updates to the TOACEF include: New 5-step process included which refers to 1) Prepare 2) Contextualise 3) Plan 4) Engage 5) Evaluation. Revised engagement principles, including two new principles (Principle 6: Resource Traditional Owners to participate in DEECA business and Principle 7: Engage early and talk to the community), A set of revised best practice considerations, and supporting documents including a Framework Summary, Implementation Action Plan, TOC Profiles, fact sheets and FAQs. The revised TOACEF scheduled to be released in mid-2024.’ ¹⁷
Victorian Traditional Owners Cultural Fire Strategy ¹⁸ (2020)	DEECA	‘The Cultural Fire Strategy was authored by Traditional Owners with support from FVTOC, DEECA (then DELWP), the Country Fire Authority (CFA) and Parks Victoria. The strategy provides a policy directive and framework across Victoria’s fire agencies to support Traditional Owners to undertake cultural burning for the range of cultural values realised by caring for Country. The strategy provides a set of principles, objectives and proposed actions that seek to reduce existing barriers to Traditional Owners being able to heal and manage country through fire across land tenures. The Victorian Government also supported Traditional Owner groups to develop an implementation plan for the strategy which articulates each groups’ priorities for their Country and supports the broader invigoration of cultural fire management in Victoria through Traditional Owner-led practices.’ ¹⁹	‘Enabling the implementation of the Cultural Fire Strategy requires: • more investment in Traditional Owner Corporations so they can build capacity and capability to deliver the cultural fire programs they want to deliver. • significantly more investment in DEECA and CFA enabling systems so that they can enable Traditional Owners to build capacity over time and so that programs are delivered safely for everyone. • reform in the way public land managers plan and deliver land management programs across tenure. • reform legislation and policy that create barriers for Traditional Owners participating in caring for country. DEECA is seeking to work in partnership with Traditional Owners to undertake a review of legislative and regulatory barriers to cultural fire. Reducing these barriers will support operational pathways that enable Traditional Owners to lead cultural burns on Country consistent with their cultural obligations.’ ²⁰

Policy	Lead agency	Key focus	Accountability and governance
Building strong Aboriginal Community Controlled sectors ²¹ (2020–2030)	Whole of Victorian Government (WVOG)	Priority Reform 2 of the National Agreement on Closing the Gap is Building the Aboriginal Community-Controlled Sector. The target is to ‘increase the amount of government funding for Aboriginal and Torres Strait Islander programs and services going through Aboriginal and Torres Strait Islander community-controlled organisations.’ ²²	The Productivity Commission found that overall, across the nation ‘current actions are not supporting ACCOs to thrive.’ ²³ Victoria conducted an Aboriginal Expenditure Review in 2023. ²⁴ ‘The Victorian Government has committed to working in partnership with Ngaweeyan Maar-oo to undertake a second Expenditure Review, building on lessons learned from the 2023 Expenditure Review. Findings of these reviews will help inform funding reprioritisation opportunities and build strong Aboriginal and Torres Strait Islander community-controlled sectors and organisations in line with commitments under the National Agreement’. ²⁵
The Victorian Closing the Gap Implementation Plan 2021–2023 ²⁶ (extended to June 2025 ²⁷)	DPC	The plan outlines actions Victoria will undertake to achieve the objectives of the National Agreement on Closing the Gap (the National Agreement). This includes ‘providing greater resourcing to ACCOs, addressing cultural safety in mainstream institutions, and investing in data and information sharing with First Peoples.’ ²⁸ Land is the focus of Outcome 15: Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters. The plan initially ran from 2021 to 2023. It has been extended until June 2025 ‘to allow time for ongoing consultation with First Peoples stakeholders to self-determine next steps in the development of a new implementation plan.’ ²⁹	Government reports annually through the pre-existing VAAF and VGAAR reporting mechanism. Ngaweeyan Maar-oo informs the design, implementation, oversight and monitoring of Victoria’s Implementation Plan. The Productivity Commission review of progress under the National Agreement raised significant concerns with its implementation, finding that ‘governments have failed to enact the transformative changes required to realise the National Agreement’s vision. The Review highlights significant structural issues in governments’ approaches to implementing the National Agreement, which have resulted in a lack of progress towards the Priority Reforms.’ ³⁰ The review recommended significant changes to government policies and implementation approaches at the national and jurisdictional level. It includes 16 essential actions, grouped under four recommendations: • power needs to be shared. • Indigenous Data Sovereignty needs to be recognised and supported. • mainstream government systems and culture need to be fundamentally rethought. • stronger accountability is needed to drive behaviour change. ³¹ The review found that ‘implementation plans should be drafted more strategically and in collaboration with First Peoples.’ ³²

Policy	Lead agency	Key focus	Accountability and governance
Victorian Traditional Owners Cultural Landscape Strategy ³³ (2021)	DEECA	The strategy helps guide Victorian land management strategies and policies, including the implementation of the Commonwealth and Victorian Government’s modernised Victorian Regional Forest Agreements and the development and implementation of Forest Management Plans (DEECA) and the Land Management Strategy and Land Management Plans (Parks Victoria). ³⁴	DEECA has partnered with the Federation of Victorian Traditional Owner Corporations (FVTOC) to re-establish and facilitate the Cultural Landscapes Knowledge Forum to support decision-making bodies. This group will be given the necessary resources to support monitoring and evaluation of the Cultural Landscapes Strategy over a period of two years (2023 to 2025). ³⁵ ‘Enabling the implementation of the Cultural Landscapes Strategy requires 1) significantly larger budget than currently available to be provided to Traditional Owners groups to build their capacity and capability to plan and deliver cultural land management – particularly dedicated to restoring the knowledge system including investment in Reading Country programs. 2) reform in the way public land management plan and manage public land across tenures. 3) reform in legislative and policy frameworks that create a myriad of barriers to Traditional Owners participating care for Country.’ ³⁶
Victorian Traditional Owner Native Food and Botanicals Strategy ³⁷ (2021)	DEECA	Traditional Owners partnered with Agriculture Victoria to develop the 2021 Victorian Traditional Owner Native Foods and Botanicals Strategy. ³⁸ The strategy notes the value of the Australian native foods and botanicals sector is around \$50 million per year with growth potential of more than \$250 million. ³⁹ The strategy identifies the need to: • reform legislation, regulation and policy to recognise Traditional Ownership • build investment and partnerships • protect Traditional Owner intellectual property. ⁴⁰	Yoorrook heard calls from FVTOC and DJAARA for the Victorian Government to fully resource and implement the strategy. ⁴¹

Policy	Lead agency	Key focus	Accountability and governance
Victorian Traditional Owner Game Management Strategy ⁴² and the Sustainable Hunting Action Plan 2021–2024 ⁴³	DJSIR	The government’s Sustainable Hunting Action Plan 2021–2024 (following the Sustainable Hunting Action Plan 2016–2020) commits to partnership with Traditional Owners through a co-governance group overseeing implementation of a Traditional Owner Game Management Strategy and establishment of four pilot projects that will build Traditional Owner participation in hunting, land management and conservation. ⁴⁴ The strategy sets out a pathway for increasing the participation of Traditional Owners in game and wildlife management in Victoria. ⁴⁵ FVTOC worked with Traditional Owners and the State to develop an implementation plan for the strategy. ⁴⁶ The key action areas in the strategy are: • collaborative management through a holistic partnership approach • employment and economic opportunities for Traditional Owners through active participation, contracting and Traditional Owner-led projects • recognition and respect for Country, species, cultural and natural heritage value. ⁴⁷	FVTOC submitted that there are still ‘significant barriers’ to Traditional Owners’ exercise of hunting rights and to remove these barriers the government must ensure ‘that all relevant agencies stick to the actions they have committed to’ in the Traditional Owner Game Management Strategy. ⁴⁸ The Victorian Government has not publicly released reporting or accountability measures on the actions in the strategy and Yoorrook has not been provided with information on this.
Self-Determination Fund Agreement ⁴⁹ (2022)	First Peoples’ Assembly of Victoria	This is an agreement between the First Peoples’ Assembly of Victoria and the State of Victoria. The Self-Determination Fund operates independently from government and is administered by the First Peoples’ Assembly of Victoria to support First Peoples to negotiate ‘on a level playing field with the State and build capacity, wealth and prosperity for future generations’. ⁵⁰	The establishment period has been completed, second state funding has been received, and the equal footing funding program phase 1 and 2 are up and running. ⁵¹ The First Peoples’ Assembly of Victoria administers the Self-Determination Fund in accordance with this Self Determination Fund Agreement, the Governing Documents and the <i>Advancing the Treaty Process with Aboriginal Victorians Act 2018</i> (Vic) (<i>‘Treaty Act’</i>). ⁵² In addition to the reporting requirements set out in the Governing Documents, the Aboriginal Representative Body will ensure that the following is publicly reported: • all distributions from the Self-Determination Fund • administration costs • annual reports prepared under the Trust Deed • the strategic plan prepared under the Trust Deed.
First Peoples’ Assembly of Victoria and the State of Victoria Treaty Negotiation Framework (2022)	DPC	The Treaty Negotiation Framework outlines the rules and processes for negotiating treaties between the State and First Peoples. It is required under the <i>Treaty Act</i> . The framework specifies who can enter treaty negotiations, how negotiations are conducted, and what subject matter treaty negotiations in Victoria can cover. ⁵³	The framework requires parties to report regularly on the progress of treaty negotiations and treaty implementation for the purpose of keeping First Peoples, and the broader Victorian community, informed about treaty-making in Victoria. ⁵⁴

Policy	Lead agency	Key focus	Accountability and governance
Treaty Authority Agreement (2022)	First Peoples' Assembly of Victoria	This establishes the Treaty Authority as an 'independent umpire' to oversee negotiations between the Victorian Government and First Peoples. The agreement gives the Treaty Authority the legal powers necessary to facilitate treaty negotiations and resolve any disputes between parties.	<p>The agreement requires the Treaty Authority to report annually.</p> <p>It also provides for the parties to review the effectiveness of the Treaty Authority within three years of its commencement. The review will take into account the views of the Treaty Authority, including in relation to adequate resourcing and the need for additional functions, including the implementation of treaties. Following the initial review, the parties will review the Treaty Authority every five years.⁵⁵</p> <p>The State will provide ongoing funding and, subject to a special appropriation passing through parliament, secure a capped special appropriation, sufficient to ensure that the Treaty Authority can effectively undertake its functions and duties and exercise its powers under this agreement, the framework, the <i>Treaty Act</i> and the <i>Treaty Authority Act</i>.⁵⁶</p> <p>The Treaty Authority will continue until dissolved by agreement of the parties.⁵⁷</p>
Water is Life: Traditional Owner Access to Water Roadmap (2022)	DEECA	<p>There are 12 targeted outcomes for the policy.</p> <p>Water is Life was announced in 2022, with an allocation of \$3.85 million over two years to 'help improve water access and ownership for First Peoples'.⁵⁸</p> <p>The 2024–25 budget allocated funding to support the roadmap 'to enable increased Traditional Owner access to water and decision making in water management. This initiative will be funded from the Environmental Contribution Levy'.⁵⁹</p>	<p>Outcomes are expected to be delivered in the short (1–3 years), medium (3–5 years), and long term (5+ years).</p> <p>All short-term outcomes are either in progress or planned.⁶⁰</p> <p>The return of water to Traditional Owners across Victoria through water entitlements for self-determined use is targeted outcome 7. In March 2022, Traditional Owners and Aboriginal Victorians held 4298 ML (4.298 GL) of water entitlements. When <i>Water is Life</i> was published in September 2022, the volume was 6797 ML (6.797 GL). Currently, the volume is 7592 ML (7.592GL).⁶¹</p>
Establishing the Partnership Forum on Closing the Gap ⁶² (2022–2025)	DPC	<p>Established in May 2022, the Forum is the formal body for shared decision-making between the Victorian Government and First Peoples on whole-of-government Closing the Gap implementation.⁶³</p> <p>The Forum's current term will operate until 30 June 2025, noting the long-term commitment to Closing the Gap implementation to 2031.⁶⁴</p>	<p>The Forum introduced quarterly departmental reporting on implementation of the four Priority Reforms, including action to improve shared decision-making and accountability.⁶⁵</p> <p>The Victorian Government reported that the Partnership Forum is currently:</p> <ul style="list-style-type: none">• progressing Victoria's Place-based Partnership and Community Data Project in Gippsland in partnership with the Victorian Aboriginal Child and Community Agency, local communities, key sector representatives and government.• allocating the remaining \$2.76 million sector funding across the priority sectors of health, disability, housing, early childhood care and development, and languages.• overseeing planning for a second Victorian Expenditure Review, building on lessons learned from Victoria's 2023 Expenditure Review.• strengthening whole-of-government accountability mechanisms for Closing the Gap implementation.⁶⁶

Policy	Lead agency	Key focus	Accountability and governance
Burndap Birrarung burndap umarkoo (Yarra Strategic Plan) (2022–2032)	DEECA	Developed under the <i>Yarra River Protection (Willip-gin Birrarung Murrn) Act 2017</i> (Vic), it recognises the Birrarung (Yarra River) as a living and integrated natural entity. It gives effect to the community's 50-year vision for the river and supports collaborative management of the river and its lands. ⁶⁷	<p>'The annual report provides an update on progress, demonstrates accountability and informs ongoing implementation of the Plan. It is supported by a monitoring, evaluation and reporting framework that considers the achievement, impact and legacy of the Plan, in relation to collaborative governance (and organisational commitment) and delivery of the Plan's four performance objectives.</p> <p>The 2023–24 Melbourne Water Annual Report stated: 'In the past year, Melbourne Water has successfully secured \$1.65 million in state government funding to progress transformative projects for the corridor. These are projects that set Traditional Owners up as decision-makers, will leave a long-lasting impact and build a stronger connection between the community and the river while addressing complex multi-agency gaps.'⁶⁸</p>
Pathway towards an Indigenous Data Sovereignty Policy ⁶⁹ (2023)	DEECA	<p>This sets out DEECA's commitment to establishing a policy, including the engagement that needs to occur with Traditional Owners to self-determine what data sovereignty looks like, and the necessary steps to ensure DEECA's organisational readiness to implement a policy.</p> <p>The pathway was developed in the context of a number of policies that outline the Victorian Government's commitment to First Peoples' self-determination.⁷⁰</p>	<p>The pathway was adopted by the DEECA Board in July 2023. Implementation has lagged, which may delay early milestones.</p> <p>Reporting for VAAF priority areas is done annually through the VGAAR.</p>
Place-Based Partnership and Community Data Project ⁷¹ (endorsed in 2023)	DPC	<p>'The purpose of a Place-Based Partnership is to implement the National Agreement through a long-term community development approach that responds to local priorities.'⁷²</p> <p>The National Agreement commits parties to establish six Community Data Projects across all jurisdictions by 2023.⁷³</p> <p>VACCA 'is leading the development of a detailed project proposal for consideration by the Partnership Forum in 2024, to inform a 2025–26 State Budget submission.'⁷⁴</p>	<p>In June 2023, Joint Council endorsed Victoria's nomination of Gippsland as the location for a Place-based Partnership to be combined with Community Data Project, which will enable First Peoples communities and organisations to access and use location-specific data on the Closing the Gap priority reforms and outcomes.⁷⁵</p>
Strategy for Aboriginal Community-led Recovery ⁷⁶ (2023)	Emergency Recovery Victoria (Department of Justice and Community Safety)	<p>This strategy 'describes how Emergency Recovery Victoria supports Victorian Aboriginal communities and Traditional Owners in their efforts to plan and deliver recovery in their communities. It provides an approach to realise culturally responsive Aboriginal community-led outcomes in recovery in coordination with government, councils and delivery partners.'⁷⁷</p> <p>It is supported by a strategic framework and template for annual implementation planning, under four domains.⁷⁸</p>	<p>The strategy requires annual reporting to the VGAAR.⁷⁹ As at December 2024 there were no public reports available.</p>

Policy	Lead agency	Key focus	Accountability and governance
Victorian Transmission Investment Framework ⁸⁰ (2023)	DEECA	The Victorian Transmission Investment Framework establishes a new approach to planning and developing major electricity transmission infrastructure and renewable energy zones (REZs) in Victoria, to ensure that cheaper, more reliable renewable energy can be delivered to homes and businesses across the state. ⁸¹ It will support planning for transmission and development of six REZs. ⁸² These zones are areas of the state that the government has identified as having abundant renewable energy resources and being appropriate for development. ⁸³	VicGrid is responsible for implementing the Victorian Transmission Investment Framework ⁸⁴ and is developing a comprehensive legislative and regulatory reform package do so. This involves consultation activities during 2023 and 2024 and developing the first Victorian transmission plan by mid-2025. ⁸⁵
Aboriginal Economic Development Fund (2023–24 to 2025–26)	DJSIR	This was established with the aim of '[s]upporting Traditional Owner Corporations, Aboriginal business and employment programs and supporting Aboriginal cultural tourism initiatives.' ⁸⁶	The 2023–24 funding allocation is \$7 million. ⁸⁷ No accountability and governance information is publicly available.
Transport and Planning Portfolio First Peoples Cultural Safety Framework ⁸⁸ (2024–2028)	Department of Transport and Planning (DTP)	The purpose of the framework 'is to increase safety for First Peoples who: <ul style="list-style-type: none">• use the Transport and Planning systems• work within the Transport and Planning Portfolio Traditional Owners and First Peoples Community who engage with the portfolio.' ⁸⁹	The First Peoples Cultural Safety Framework Action Plan 2024–2028 sets out 22 outcomes to be achieved over the course of the framework. ⁹⁰ Annual public progress reporting with the first report due by October 2026. ⁹¹ The framework runs until 2028.
Wurrek-al 'Talking with Purpose' First Peoples Engagement Framework ⁹² (launched 2024)	DTP	The framework 'sets out the transport and planning portfolio's expectations when engaging with Traditional Owners and the First Peoples Community. Wurrek-al aims to equip staff with the necessary skills to engage effectively and meaningfully with Traditional Owners and the First Peoples Community. It will provide them with an understanding of: <ul style="list-style-type: none">• the eight fundamental principles of engagement,• engagement process; and• best practice engagement case studies.'⁹³	No accountability and governance information is publicly available.
Strategic Aboriginal Heritage Assessment Project (announced in 2024)	DPC	This appears to be a pilot program that was announced in June 2024. ⁹⁴	No accountability and governance information is publicly available

Policy	Lead agency	Key focus	Accountability and governance
Aboriginal Cultural Capability Framework 'Our Culture is in our Country, and our Country is our Culture' (implementation plan was to be developed by June 2024)	DEECA	The purpose of this framework 'is to support and promote self-determination by building Aboriginal cultural capability across the organisation. It will do this by: <ul style="list-style-type: none">• investing appropriately in developing cultural capability of DEECA staff.• applying culturally informed approaches to daily work.• ensuring policy, programs and service delivery are reflective and appropriate of the needs of Traditional Owners and Aboriginal Victorians.• engaging effectively with Traditional Owners and Aboriginal Victorians on relevant issues; and• a workplace culture that respects and values the skills, experiences and perspectives of Traditional Owners, Aboriginal employees, and Aboriginal Victorians. The Framework draws upon the Victorian Aboriginal Affairs Framework 2018–2023 (VAAF); the Victorian Government Self Determination Reform Framework; Pupangarli Marnmarnepu; the DELWP Aboriginal Cultural Safety Framework; the Commonwealth Government's Aboriginal and Torres Strait Islander Cultural Capability Framework; the Victorian Public Service Capability Framework; and Aboriginal Cultural Capability in the Victorian Public Sector and the Commonwealth.'⁹⁵	Due to resourcing and government restructuring, the implementation of the Aboriginal Cultural Capability Framework was delayed. ⁹⁶ It was anticipated that an implementation plan for the delivery of the Aboriginal Cultural Capability Framework was to be developed by June 2024, outlining timing for delivery. ⁹⁷

Table C.2: Land regulation and oversight bodies in Victoria

Lead agency	Type of body	Role
Victorian Aboriginal Heritage Council	Independent statutory authority	<p>The Victorian Aboriginal Heritage Council protects and promotes Aboriginal cultural heritage in Victoria. It can:</p> <ul style="list-style-type: none">• make decisions on Registered Aboriginal Party applications• oversee Registered Aboriginal Party operations• protect Ancestors’ resting places and return Ancestors to Country• manage reporting of ancestral remains• manage reporting of secret or sacred objects• manage the Victorian Aboriginal Cultural Heritage Fund• promote awareness and understanding of Aboriginal Cultural Heritage• provide advice to the Minister for Aboriginal Affairs and Secretary.⁹⁸
First Peoples’ Assembly of Victoria	Independent body	<p>The Assembly represents Traditional Owners of Country and First Peoples in Victoria. It currently consists of 32 members, a majority of these elected by First Peoples and other positions reserved for each Traditional Owner group formally recognised under legislation.</p>
DEECA	State government department	<p>DEECA manages a vast amount of Crown land, which often includes areas of cultural heritage significant to First Peoples. They work in partnership with Traditional Owner groups to ensure that First Peoples’ rights are recognised and respected in the sustainable management of these land through joint management.⁹⁹ DEECA is also involved in implementing Recognition and Settlement Agreements with Traditional Owner groups.¹⁰⁰</p>
Treaty Authority	Independent third party for negotiations under the Treaty Negotiation Framework ¹⁰¹	<p>The Treaty Authority consists solely of First Nations people, whose membership was selected through an independent process.¹⁰²</p> <p>Under the Treaty Framework, which establishes the standards and rules to facilitate the negotiations, there will be both a state-wide treaty between the State and the Assembly, as well as local Traditional Owner treaties between the State of Victoria and Victorian Traditional Owner groups. The role of the Treaty Authority will be to oversee negotiations and mediate disputes between these parties.¹⁰³</p> <p>The Treaty Authority will also play a central role in the early stages of Traditional Owner treaties. To negotiate a treaty, the relevant Traditional Owner group/s must first form a First Nations Treaty Delegation in a process to be overseen by the Treaty Authority.¹⁰⁴</p>

Table C.3: Previous Royal Commissions, inquiries and reviews, since 2014

Year	Inquiry	Key focus	Key findings and recommendations
2020–2021	‘Taking Control of Our Heritage’ Victorian Aboriginal Heritage Council review of the <i>Aboriginal Heritage Act 2006</i> (Vic). ¹⁰⁵	The primary focus of the review was the <i>Aboriginal Heritage Act 2006</i> (Vic), but it also raised issues around the Act’s associated <i>Aboriginal Heritage Regulations 2018</i> (Vic) and the <i>Geographic Place Names Act 1998</i> (Vic).	In October 2021, the Council made formal recommendations for reform of the <i>Aboriginal Heritage Act 2006</i> to the Hon. Gabrielle Williams, Minister for Aboriginal Affairs. The Council recommended incorporating a benchmarked, national set of best practice standards into Victoria’s legislation, to enable Victoria’s Aboriginal cultural heritage legislation to set a benchmark at both national and international levels. ¹⁰⁶
2021	Independent review of the <i>Aboriginal Lands Act 1970</i> (Vic). ¹⁰⁷	The review focused on updating the Act to improve governance and enable greater self-determination for the trusts’ communities at Lake Tyers and Framlingham.	<p>The review included 42 recommendations to improve the <i>Aboriginal Lands Act 1970</i> (Vic) relating to the shareholding system, the governance and regulation of the trusts, dispute resolution, engagement with residents at Framlingham and Lake Tyers, and the sale of trust land and other opportunities for economic development.¹⁰⁸ The Victorian Government gave its support in full or in principle to all 42 of the recommendations.¹⁰⁹</p> <p>Minister Hutchins reaffirmed the Victorian Government’s commitment to reforming the <i>Aboriginal Lands Act 1970</i>, acknowledging that the legislation was ‘significantly outdated’ and ‘reform is overdue’.¹¹⁰</p> <p>The <i>Aboriginal Land Legislation Amendment Act 2024</i> (Vic) was passed in the Victorian Parliament in August 2024. The amending Act implements ‘phase one’ of the Victorian Government’s response to the review, improving processes for share transfers, governance, economic activity and ongoing review of the <i>Aboriginal Lands Act 1970</i>. The government has committed to implementation of the remaining 14 recommendations subject to further analysis and community engagement. The Victorian Government has not published a timeline for this to occur. Significantly, recommendations not yet implemented include restrictions on the sale or transfer of trust land and mining restrictions.¹¹¹</p>
2021	First Principles Review of the <i>Traditional Owner Settlement Act 2010</i> (Vic) ¹¹²	<p>The review was concerned with issues that relate to the principles and legislation that underpin agreements under the Act and the State’s settlement policy, including:</p> <ul style="list-style-type: none">• the Act and certain aspects of government policy which do not accommodate aspirations of Traditional Owner groups• changes sought to Act outcomes which require legislative change.¹¹³	<p>A joint report was produced by the First Principles Review Committee and the State with key recommendations relating to:</p> <ul style="list-style-type: none">• access to natural resources• commercial use of natural resources• recognition of Traditional Owner rights and interests in water• calculation of compensation amounts, considering the <i>Timber Creek</i> High Court judgment• development of Crown Land, and the leasing and sale of Crown Land• the treatment of hydraulic fracturing (fracking)• the capture of Existing Public Land Authorisations upon renewal.¹¹⁴
2021–ongoing	Victoria’s Public Land legislation review	The Victorian Government is proposing to replace three existing Crown Land Acts (<i>the Crown Land (Reserves) Act 1978</i> , <i>Forests Act 1958</i> and <i>Land Act 1958</i>) with a new Public Land Act. The new Public Land Act will operate alongside the <i>National Parks Act 1975</i> , which will continue to protect significant parts of Victoria’s diverse natural environment. ¹¹⁵	This review is underway. Consultation and engagement is complete and the legislation is currently being developed, including finalising the wording of objectives and principles for the new Public Land Act.

Year	Inquiry	Key focus	Key findings and recommendations
2024	Review of the National Agreement on Closing the Gap ¹¹⁶	A comprehensive review of the National Agreement is undertaken by the Productivity Commission every three years. ¹¹⁷ The purpose of the review is to 'provide an analysis of progress on Closing the Gap against the priority reforms, targets, indicators and trajectories, and examine the factors contributing to progress'. ¹¹⁸	<p>The report found that 'governments are not adequately delivering' on their commitment to mobilise 'all avenues available to them to achieve the objective of the Agreement'.¹¹⁹ The overachieving finding was that 'there has been no systematic approach to determining what strategies need to be implemented to disrupt business-as-usual of governments' and that '[f]undamental change is required'.¹²⁰</p> <p>This review contained 16 proposed actions that were grouped into the following four recommendations:¹²¹</p> <ul style="list-style-type: none">• Recommendation 1: 'Power needs to be shared'¹²²• Recommendation 2: 'Indigenous Data Sovereignty needs to be recognised and supported'¹²³• Recommendation 3: 'Mainstream systems and culture need to be fundamentally rethought'¹²⁴• Recommendation 4: 'Stronger accountability is needed to drive behaviour change'.¹²⁵

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Appendix D: Education policy frameworks, oversight bodies and previous reviews

Table D.1: Key education policies and frameworks

Policy	Lead agency	Key focus	Accountability and governance
Wurreker: The Koorie Community and TAFE in Victoria in Equal Partnership ¹ (2000)	Department of Education, Employment and Training (DEET)	<p>The Wurreker strategy formalised the partnership between Victorian Aboriginal Education Association Inc. (VAEAI) and the Victorian Education and Training (VET) sector.²</p> <p>It aimed to enhance the participation of Indigenous Australians in VET. Objectives included increasing participation of First Peoples students in VET programs, ensuring that programs are culturally appropriate and responsive to community needs, fostering partnerships between providers, First Peoples organisations and industry, and developing workforce skills of First Peoples trainers.</p>	Not specified.
Yalca Education and Training Partnership (Yalca) ³ (2001)	Department of Education, Employment and Training (DEET)	<p>A partnership agreement between the Victorian Government and VAEAI, this was the first partnership agreement committing to improved education outcomes for First Peoples students. It placed First Peoples students at the centre of education policy and decision making and acknowledged that local communities are best able to determine local education and training needs. Yalca, in its design, required partnership at all levels between communities and the education system.</p>	No targets, measures or governance structures for reporting progress towards goals were outlined in Yalca.
Wannik: Learning Together – Journey to our Future ⁴ (2008)	Department of Education and Early Childhood Development (DEECD), VAEAI	<p>Wannik was launched in 2008 as DEECD’s strategy to overcome poor educational outcomes for First Peoples students. It was developed in close partnership VAEAI. It aimed to improve education outcomes for First Peoples students by changing the culture and mindset of the government school system, implementing structural reforms and making better use of mainstream efforts and programs.⁵</p>	It includes high-level aspirational goals not specifying targets and measures or accountability and governance. ⁶ However, future action was proposed that included working within ‘existing accountability frameworks to ensure principals, teachers and departmental officers are directly responsible for the achievement of improved targets for each Koorie student and for Koorie students overall through strategic plans, Annual Implementation Plans and performance plans.’ ⁷
Marrung: Aboriginal Education Plan 2016–2026 ⁸	Department of Education and Training (DET), VAEAI	<p>Marrung⁹ is a 10-year plan developed by VAEAI and (then) DET.¹⁰ It aims to improve educational outcomes for First Peoples in Victoria through 36 actions.</p>	<p>Actions are monitored and reported on through the Marrung governance structure.¹¹ The Marrung Central Governance Committee (CGC) is the governing body overseeing Marrung and is led by the Department of Education and VAEAI. Membership includes representatives from across government and Aboriginal Community Controlled Organisations (ACCOs).</p> <p>The CGC meets three times per year, with one Marrung Ministerial Roundtable per year to monitor progress against key targets and measures, and to identify and respond to emerging issues and priorities.¹²</p>

Policy	Lead agency	Key focus	Accountability and governance
Wungurilwil Gappgapduir: Aboriginal Children and Families Agreement ¹³ (2018) Wungurilwil Gappgapduir Strategic Action Plan ¹⁴ (2018)	Department of Families, Fairness and Housing (DFFH)	<p>This is a tripartite agreement between the Victorian Government, First Peoples communities (as represented by the Victorian Aboriginal Children and Young People’s Alliance (VACYPA) and the Victorian Aboriginal Child and Community Agency (VACCA)) and the child and families services sector that outlines strategic directions to reduce the number of First Peoples children in out-of-home care. It commits to better outcomes for First Peoples children and young people by building their connection to culture, Country and community.¹⁵</p> <p>The agreement focuses on five objectives stated to be based on the overarching principle of self-determination. Objectives aim to strengthen culture, resource and support First Peoples organisations, increase culturally safe services, build and share First Peoples-led knowledge and solutions, and prioritise First Peoples workforce capability.</p>	<p>‘The parties to the Aboriginal children and families agreement monitor and assess the effectiveness of the actions detailed in the agreement and strategic action plan. The Aboriginal Children’s Forum will provide oversight of the agreement and the ongoing monitoring and evaluation of progress against the objectives.’¹⁶</p> <p>A departmental Aboriginal governance and accountability framework underpinning Korin Korin Balit-Djak, as well as specific key performance measures identified by the Aboriginal Children’s Forum, monitors progress against the Wungurilwil Gappgapduir: Aboriginal children and families strategic action plan on a quarterly basis. The forum will review progress against the agreement, and the department will incorporate an annual summary of progress as part of the department’s annual report tabled in parliament.¹⁷</p>
Dhelk Dja: Safe Our way – Strong Culture, Strong Peoples, Strong Families 2018–2028 ¹⁸	Family Safety Victoria, Department of Health and Human Services	<p>Dhelk Dja commits the Victorian Government and First Peoples communities and services ‘to work together and be accountable for ensuring that First Peoples, families and communities are stronger, safer, thriving and living free from family violence.’¹⁹ The agreement recognises ‘the systemic response required across ... housing, homelessness and out-of-home-care systems’ to prevent family violence.²⁰</p>	<p>There is a three-year rolling action plan. The Dhelk Dja Safe our Way 3–Year Action Plan describes a series of activities across the following five strategic priorities:</p> <ul style="list-style-type: none">• Aboriginal culture and leadership• Aboriginal-led prevention• self-determining Aboriginal family violence support and services• system transformation based on self-determination• Aboriginal-led and informed innovation, data and research. <p>Dhelk Dja Partnership Forum meets three times per year to monitor progress against the agreement. VAEAI is a signatory to the Agreement.²¹</p>
Victorian Aboriginal Affairs Framework 2018–2023 (VAAF) ²² Extended to June 2025 ²³	Department of Premier and Cabinet (DPC)	<p>The VAAF is the Victorian Government’s overarching framework for working with First Peoples, organisations and the wider community to drive actions, with self-determination its guiding principle.²⁴</p> <p>The VAAF includes goals, indicators and measures across six domains, with education captured under Domain 2: Learning and Skills.²⁵</p> <p>Domain 2 recognises that ‘culturally-supportive and responsive learning spaces are vital for creating an environment where Aboriginal students feel supported to achieve their learning aspirations and excel’.²⁶ This domain makes the commitment that ‘Every Koorie person achieves their potential, succeeds in life, and feels strong in their cultural identity’.²⁷</p> <p>It also commits government to advancing self-determination through systemic and structural transformation.²⁸</p>	<p>Victoria reports progress against the VAAF annually through the Victorian Government Aboriginal Affairs Report (VGAAR). This is reviewed by the Aboriginal Executive Council and tabled in parliament annually.</p> <p>The VGAAR is an outcomes measurement and accountability tool that provides information about progress and challenges that still need to be addressed.</p> <p>The VAAF data dashboard provides data on how the government has tracked against its commitment to improving outcomes for First Peoples.</p>

Policy	Lead agency	Key focus	Accountability and governance
Self-Determination Reform Framework (2019)	DPC (First Peoples–State Relations)	The Self-Determination Reform Framework guides public service action to enable self-determination in line with the VAAF. It also provides an architecture for government departments to report annually on progress towards transforming government systems and structures to enable self-determination. ²⁹	All departments complete an annual report against this framework to assess their contributions to self-determination reform. The reporting mechanism allows departments to collate relevant actions that are occurring across existing strategies, as well as changes being made across internal operations and service delivery. This mechanism helps departments to identify areas of strength and gaps in strategy, as well as review whether departmental actions align with the self-determination enablers. ³⁰
Protocols for Koorie Education in Victorian Primary & Secondary Schools	VAEAI	VAEAI produced this guide for schools to follow when seeking to provide a welcoming school environment for First Peoples communities, and for working respectfully with First Peoples communities to enrich school curricula. ³¹	These protocols are authorised by VAEAI and representatives from VAEAI’s Local Aboriginal Education Consultative Groups – the vehicle through which Koorie parents, carers and community members can contribute to and have a say about any matter relating to education. Use of the protocols is good practice only. ³²
The Victorian Closing the Gap Implementation Plan 2021–2023 ³³ (extended to June 2025) ³⁴	DPC	<p>This is an Implementation Plan made under the National Agreement on Closing the Gap (the National Agreement).</p> <p>It includes education among its 16 key national socioeconomic targets to improve life outcomes for Aboriginal and Torres Strait Islander people:</p> <ul style="list-style-type: none">• outcome 3: Aboriginal and Torres Strait Islander children are engaged in high quality, culturally appropriate early childhood education in their early years.• outcome 5: Aboriginal and Torres Strait Islander students achieve their full learning potential.• outcome 6: Aboriginal and Torres Strait Islander students reach their full potential through further education pathways.• outcome 7: Aboriginal and Torres Strait Islander youth are engaged in employment or education.³⁵	<p>Closing the Gap Partnership Forum is a group that oversees Victoria’s action on the National Agreement.</p> <p>The Implementation Plan commits to a set of ‘priority enablers’ that will drive Closing the Gap progress.</p> <p>Outcomes are reported annually in the VGAAR.</p>

Table D.2: Schooling and tertiary education regulation and oversight bodies in Victoria

Agency	Type of body	Role
Department of Education	Government department	The main government oversight body of all schools (government, Catholic, independent). It sets the curriculum framework, registers teachers, allocates funding and ensures compliance with education policies. It also provides resources and support to schools, including the Victorian Curriculum and Assessment Authority, for developing curriculum and assessments. ³⁶
Victorian Institute of Teaching	Independent statutory authority	Registers and regulates members of the teaching profession to ensure quality teaching and provide for the safety and wellbeing of children. ³⁷
Victorian Registration and Qualifications Authority ³⁸	Independent statutory authority established under the <i>Education and Training Reform Act 2006</i> (Vic), responsible to the Minister for Education, the Minister for Skills and TAFE and the Minister for Economic Growth	Registers and regulates schools on quality standards in curriculum, staffing and student wellbeing. All schools must be registered with the Authority and must comply with the Minimum Standards and other requirements for school registration (including the Child Safe Standards) to obtain and maintain their registration. ³⁹
School councils	Council of majority parent representatives in each school	Responsible for school governance and decision making. ⁴⁰
Victorian Curriculum and Assessment Authority	Statutory body established under the repealed <i>Victorian Curriculum and Assessment Authority Act 2000</i> (Vic) which continues to operate under the <i>Education and Training Reform Act 2006</i>	‘[D]eveloping high quality early learning and development frameworks, curriculum for school aged students and assessment products and services.’ ⁴¹
Merit Protection Boards	Independent statutory body established under the <i>Education and Training Reform Act 2006</i> .	Hears grievances for matters that occur in the Department of Education and: <ul style="list-style-type: none">• advises the Minister and Secretary of the Department of Education about principles of merit and equity to be applied in the teaching service• hears reviews and appeals in relation to decisions made under the <i>Education and Training Reform Act 2006</i> and any decision where there is a right of review or appeal to a Merit Protection Board.⁴²
Tertiary Education Quality and Standards Agency	Independent national quality assurance and regulatory agency	National higher education regulator which oversees the Higher Education Standards Framework (Thresholds Standards). This is a national framework which ensures that higher education institutions in Victoria meet quality standards. ⁴³

Table D.3: Previous Royal Commissions, inquiries and reviews, since 2014

Year	Inquiry	Key focus	Key findings and recommendations
2015	The Royal Commission into Family Violence ⁴⁴	This Royal Commission was established after several family violence-related deaths, most notably the death of Luke Batty, ⁴⁵ to investigate and evaluate policies and services for family violence prevention, victim survivor support, accountability for perpetrators and systemic responses to family violence. ⁴⁶	<p>The Commission found that Victoria’s existing approach failed to adequately respond to the scale and impact of the harm caused by family violence, including that services were not equipped to identify family violence, victim survivor support services were fragmented, a lack of information sharing between agencies compromised victim survivor safety and that there was inadequate investment in prevention, and early intervention.⁴⁷</p> <p>The Commission made 227 recommendations, including calling for reform of risk assessment and management frameworks⁴⁸ and the introduction of Support and Safety Hubs.⁴⁹ Specific to First Peoples, recommendations were made to increase investment in ACCOs and to improve cultural safety of services.⁵⁰</p> <p>The Victorian Government announced that it had fully implemented all 227 recommendations on 28 January 2023.⁵¹ This includes the development of the Family Violence Multi-Agency Risk Assessment and Management Framework⁵² and the establishment of The Orange Door network.⁵³</p>
2016	Always Was, Always Will Be Koori Children	This systemic inquiry by the Commission for Children and Young People investigated services provided to First Peoples children and young people in out-of-home care. It sought to address issues of cultural safety, equity, and the wellbeing of First Peoples children, with a focus on improving the support and outcomes for those in out-of-home care settings.	<p>It found that the Department of Health and Human Services and DET were not fully complying with policy requirements relating to First Peoples children in the out-of-home care system, negatively impacting First Peoples children’s education, cultural safety and wellbeing.⁵⁴ Among 77 recommendations, 13 directly related to school and education under the theme ‘Aboriginal children in out-of-home care deserve optimal health, education and wellbeing outcomes.’⁵⁵</p>
2021	The Royal Commission into Victoria’s Mental Health System ⁵⁶	This Royal Commission investigated prevention of mental illness and suicide, support of people recovering from mental illness and their carers and families, service delivery and accessibility, and intersectionality between mental illness and alcohol and drug use. ⁵⁷	<p>The Commission found that Victoria’s existing mental health system had ‘catastrophically failed to live up to expectations and was underprepared for current and future challenges’.⁵⁸</p> <p>It also found that promotion of good mental health and wellbeing and prevention of mental illness was inadequate across clinical and community settings, and that the mental health system compounded intersectional barriers, including by a lack of cultural safety for First Peoples seeking treatment.⁵⁹</p> <p>The Commission made nine interim report recommendations and 65 recommendations in the final report. Recommendations included Recommendation 17: Supporting social and emotional wellbeing in schools.⁶⁰</p> <p>The Victorian Government announced its commitment to implement all 65 final report recommendations on 2 March 2021.⁶¹ Since then, the <i>Mental Health Act 2014</i> has been repealed and replaced by the <i>Mental Health and Wellbeing Act 2022</i> (Vic)⁶² and the Balit Durn Durn Centre for Excellence in Social and Emotional Wellbeing was launched in May 2022.⁶³</p>
2023	The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability ⁶⁴	The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability was established in April 2019 in response to community concern about widespread reports of violence against, and the neglect, abuse and exploitation of, people with disability. ⁶⁵	<p>After being established in 2019, the final report was published in 2023. It made 222 recommendations, including those themed under education and under First Peoples, on how to improve laws, policies, structures and practices to ensure a more inclusive and just society that supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation.⁶⁶ All education recommendations have been accepted in full, in principle or in part, except recommendation 7.14, to phase out and close specialist schools.⁶⁷</p>

Year	Inquiry	Key focus	Key findings and recommendations
2023	<i>Let Us Learn: Systemic Inquiry into the Educational Experiences of Children and Young People Living in out-of-Home Care</i> ⁶⁸	This Commission for Children and Young People inquiry examined the educational experiences of children and young people in out-of-home care, including the factors that affect their educational outcomes and ability to stay engaged in education. ⁶⁹	<p>The inquiry found:</p> <ul style="list-style-type: none">• First Peoples children and young people in care experience barriers, including racism, that prevent them from achieving the same outcomes as other students• Department of Education data shows substantial disparities in educational outcomes for First Peoples students in care compared to both First Peoples children and young people not in care, and non-First Peoples children in care• for First Peoples children and young people, low expectations and racism can lead to educational disengagement. For those living in care, these experiences are exacerbated because of their removal from family, kin and Country• there is a continuation of the exclusion from education that began with colonisation. <p>It recommended the Department of Education:</p> <ul style="list-style-type: none">• develop a distinct policy that addresses racism in Victorian Government education settings to be accompanied by youth friendly resources for First Peoples children and young people• provide better supports for First Peoples children and young people in care• conduct an audit of the Report Racism Hotline to improve its effectiveness. <p>Of the 47 recommendations, the Victorian Government has accepted in full or in principle all except:</p> <ul style="list-style-type: none">• Recommendation 7: Increase carer payments (further consider)• Recommendation 16: Training for school leadership teams to increase understanding of out-of-home care (accept in part)• Recommendation 20: Audit the effectiveness of the Report Racism Hotline (accept in part).⁷⁰

Year	Inquiry	Key focus	Key findings and recommendations
2023	<i>The Australian Universities Accord</i>	<p>The Australian Universities Accord was established to build a long-term plan for Australia's higher education system in response to relatively low graduate rates, as well as ensuring Australia has the required skills to respond to changes in the economy.</p> <p><i>The Australian Universities Accord Final Report 2023</i> was the result of a comprehensive 12-month review of Australia's higher education system aimed at improving its quality, accessibility and affordability.⁷¹</p>	<p>In relation to First Peoples' higher education, the Universities Accord found participation, retention and completion challenges.⁷²</p> <p>The report recommended that the Australian Government implement the following:</p> <ul style="list-style-type: none">• Recommendation 10(a)(i): aspire to equal participation, including to grow the population of First Peoples undergraduate university students from 2.1 per cent to 3.3 per cent in 2035.⁷³• Recommendation 10(e): 'to deliver the current Closing the Gap Target 6, which aims for 70 per cent of First Nations people aged between 25 and 34 years to have completed a tertiary qualification... by 2031.'⁷⁴• Recommendation 13: to 'adopt a needs-based funding model' including per-student funding for First Nations students.⁷⁵• Recommendation 26(d): provide PhD scholarships and postdoctoral fellowships for First Peoples researchers.⁷⁶• Recommendation 27: 'elevate First Nations knowledge, knowledge systems and Closing the Gap through First Nations Leadership to the National Science and Research Priorities, implementing a framework that ensures First Nations-led research, First Nations leadership and capacity building, self-determination, and impactful, transformative outcomes.'⁷⁷• Recommendation 30: establish an Australian Tertiary Education Commission with a First Nations Commissioner and advisory Council.⁷⁸• Recommendation 33: establish a study on the prevalence and impact of racism within tertiary education systems.⁷⁹• Recommendation 34: 'commission a First Nations-led review of higher education... with terms of reference that include national system changes' and 'strengthening First Nations knowledge and research.'⁸⁰• Recommendation 35: 'examine the representation of First Nations people in university governance and leadership positions' and to increase their representation.⁸¹
2024	<i>Strengthening Aboriginal Self-Determination in Education Campfire Conversations: reflections and directions 2022–2023</i>	<p>This report is informed by a statewide consultation and codesign process to develop options to progress First Peoples' self-determination in the education system. The process, 'Campfire Conversations', involved over 3000 people across the state, including First Peoples students, young people, families and carers, Elders, organisations and school and education staff.⁸²</p>	<p>The report echoed the consistent concerns about lack of cultural safety, racism and systemic injustice that First Peoples have long raised.⁸³ Campfire Conversations outlined the way forward for the education system to enable strengthened self-determination for First Peoples learners in Victoria in line with the VAAF and the Victorian whole-of-government Self-Determination Reform Framework 2019.⁸⁴</p>

Year	Inquiry	Key focus	Key findings and recommendations
2024	Parliamentary Inquiry into the state education system in Victoria ⁸⁵	<p>The Legislative Council Legal and Social Issues Committee inquiry looked into:</p> <ul style="list-style-type: none">• trends in student learning outcomes• disparities associated with geography and socioeconomic disadvantage• the state of the teaching profession, including the administrative burden on teachers• student wellbeing• measures to address poor mental health of students• school refusal• student disengagement.⁸⁶	<p>The report of the inquiry made 25 findings and 54 recommendations around learning outcomes, targeted supports, teaching workforce, student wellbeing and school funding.⁸⁷ Several of these are directly relevant to First Peoples including:</p> <ul style="list-style-type: none">• Finding 13: All school students benefit from being taught about Aboriginal language, culture and history⁸⁸• Recommendation 41: the Department of Education increase the number of Koorie Engagement Support Officers to more consistently support Koorie students.⁸⁹• Recommendation 28 calls for the Victorian Government to ‘accept in full all 47 recommendations from the Commission for Children and Young People’s <i>Let Us Learn</i> report’.⁹⁰ <p>Other related but not First Peoples–targeted findings and recommendations include those around:</p> <ul style="list-style-type: none">• school zoning policies (Recommendations 15, 16)⁹¹• implementation of Individual Education Plans (Finding 12).⁹²
2024	Review of the National Agreement on Closing the Gap ⁹³	<p>A comprehensive review of the National Agreement is undertaken by the Productivity Commission every three years.⁹⁴ The purpose of the review is to ‘provide an analysis of progress on Closing the Gap against the priority reforms, targets, indicators and trajectories, and examine the factors contributing to progress’.⁹⁵</p>	<p>The report found that ‘governments are not adequately delivering’ on their commitment to mobilise ‘all avenues available to them to achieve the objective of the Agreement.’⁹⁶ The overachieving finding was that ‘there has been no systematic approach to determining what strategies need to be implemented to disrupt business-as-usual of governments’ and that ‘[f]undamental change is required.’⁹⁷</p> <p>This review contained 16 proposed actions that were grouped into the following four recommendations:⁹⁸</p> <ul style="list-style-type: none">• Recommendation 1: ‘Power needs to be shared’⁹⁹• Recommendation 2: ‘Indigenous Data Sovereignty needs to be recognised and supported’¹⁰⁰• Recommendation 3: ‘Mainstream systems and culture need to be fundamentally rethought’¹⁰¹• Recommendation 4: ‘Stronger accountability is needed to drive behaviour change’¹⁰²

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Appendix E: Health policy frameworks, oversight bodies and previous reviews

Table E.1: Key health policies and frameworks

Policy	Lead agency	Key focus	Accountability and governance
Balit Murrup Aboriginal social and emotional wellbeing framework 2017–2027	Department of Health (DH)	<p>This framework aims to improve the social and emotional, mental health and resilience of First Peoples in Victoria. There are multiple activities identified across four domains:</p> <ul style="list-style-type: none">• improving access to culturally responsive services• supporting resilience, healing and trauma recovery• building a strong, skilled and supported workforce• integrated and seamless service delivery. <p>Of the identified activities, there were 28 immediate actions identified that were to be completed in the first four years of the framework. There were also a series of longer-term activities.¹</p>	<p>Of the 28 immediate actions, ‘approximately half’ were funded and they are ‘either completed or part way through’.² ‘A number’ of the remaining activities will be included as part of the implementation of the Royal Commission into Victoria’s Mental Health System.³</p> <p>The framework has not been adequately resourced to monitor and evaluate it.⁴</p> <p>An internal evaluation was conducted for demonstration projects in 2020–21.⁵</p> <p>In 2025–26, an evaluation of Balit Murrup will be conducted.⁶</p>
Korin Korin Balit Djak: Aboriginal health, wellbeing and safety strategic plan 2017–2027	Department of Families, Fairness and Housing (DFFH)	<p>This plan sets out how the Victorian Government ‘will work with First Peoples communities, community organisations, other government departments and mainstream service providers to improve the health, wellbeing and safety of First Peoples in Victoria.’⁷</p>	<p>The plan promises that ‘[a] detailed evaluation approach will be developed with key Aboriginal research, evaluation and service delivery organisations in consultation with Aboriginal communities’.⁸ However, there is no publicly available reporting of this monitoring or evaluation. There is also no public identification of outcomes against the strategic directions of the two frameworks, including in the three most recent DFFH annual reports.</p>
Koorie Maternity Services guidelines ⁹ (2017)	DH	<p>These guidelines describe the requirements of services and the workforce for the delivery of the Koorie Maternity Services program.¹⁰</p>	<p>The guidelines form the basis of annual local and statewide program review and monitoring.¹¹</p>
Aboriginal Strategic Governance Forum Strategy (2017)	DFFH	<p>‘Established in 2017 as an advisory and decision-making forum used to set DFFH’s strategic direction on relevant portfolios.’¹²</p>	<p>Unknown.</p>

Policy	Lead agency	Key focus	Accountability and governance
Victorian Aboriginal Affairs Framework 2018–2023 (VAAF) ¹³ (extended to June 2025) ¹⁴	Department of Premier and Cabinet (DPC)	<p>The Victorian Government’s overarching framework for improving outcomes for First Peoples in Victoria. Sets out whole-of-government self-determination enablers and principles, and commits government to significant structural and systemic transformation.</p> <p>The VAAF links portfolio-specific policies and strategies and maps them to domains under the VAAF.</p> <p>It sets out 20 goals across 6 domains:</p> <ul style="list-style-type: none">• children, family & home• learning & skills• opportunity & prosperity• health & wellbeing• justice & safety• culture & country. <p>It includes 111 measures, 11 key outcomes and 4 self-determination enablers:</p> <ul style="list-style-type: none">• prioritise culture• address racism and promote cultural safety• address trauma and support healing• transfer power and resources to communities.	<p>The VAAF requires government to report on its efforts to enable self-determination through the Victorian Government Aboriginal Affairs Report (VGAAR) since 2020.</p> <p>Annual reports – 2019, 2020, 2021, 2022 and 2023.</p> <p>VAAF committed to establishing an independent Aboriginal-led evaluation and review mechanism to monitor the government’s progress. In 2019, community engagement was undertaken with Aboriginal Victorians on the development of a mechanism. In October 2019, DPC published ‘Establishing an Aboriginal-led evaluation and review mechanism in Victoria’.¹⁵ According to DPC, ‘[t]he project was put on hold in 2020–2021 due to COVID-19, and the current approach is to align the accountability mechanism with Victoria’s Treaty process’.¹⁶</p>
Aboriginal and Torres Strait Islander cultural safety framework for the Victorian health, human and community services sector ¹⁷ (2019)	DH	The framework was developed ‘to assist the department and mainstream Victorian health, human and community services to create culturally safe environments, services and workplaces’. ¹⁸	No implementation monitoring or reporting.
The Nargneit Birrang (‘to see the river’) Aboriginal holistic healing framework for family violence (2019)	DFFH	<p>This is a framework ‘to guide the flexible design, funding, implementation and evaluation of Aboriginal-lead holistic healing programs for family violence in Victoria’.¹⁹</p> <p>It was ‘developed to enhance effective long-term responses to Aboriginal people who have experienced – directly or indirectly – family violence, to break the cycle of violence and to promote healing and resilience within the Aboriginal community. It also outlines that healing those who use violence is critical in creating safe communities’.²⁰</p>	‘A detailed work plan is required to implement the changes outlined within Nargeit Birrang. This needs to be developed and led by the Aboriginal community with government as an integral partner’. ²¹

Policy	Lead agency	Key focus	Accountability and governance
Building strong Aboriginal Community Controlled sectors ²² (2020–2030)	Whole of Victorian Government (WOVG)	<p>Priority Reform 2 of the National Agreement on Closing the Gap (the National Agreement) is Building the Aboriginal Community-Controlled Sector.</p> <p>The target is to ‘[i]ncrease the amount of government funding for Aboriginal and Torres Strait Islander programs and services going through Aboriginal and Torres Strait Islander community-controlled organisations’.²³</p>	<p>The Productivity Commission found that overall across the nation ‘current actions are not supporting [Aboriginal Community Controlled Organisations (ACCOs)] to thrive’.²⁴</p> <p>Victoria conducted an Aboriginal Expenditure Review in 2023.²⁵</p> <p>‘The Victorian Government has committed to working in partnership with Ngaweeyan Maar-oo to undertake a second Expenditure Review, building on lessons learned from the 2023 Expenditure Review. Findings of these reviews will help inform funding reprioritisation opportunities and build strong Aboriginal and Torres Strait Islander community-controlled sectors and organisations in line with commitments under the National Agreement’.²⁶</p>
The Victorian Closing the Gap Implementation Plan 2021–2023 ²⁷ (extended to June 2025) ²⁸	DPC	<p>The plan outlines actions Victoria will undertake to achieve the objectives of the National Agreement. This includes ‘providing greater resourcing to ACCOs, addressing cultural safety in mainstream institutions, and investing in data and information sharing with First Peoples’.²⁹</p> <p>Many of the outcomes relate to health including:</p> <ul style="list-style-type: none">• outcome 1: Aboriginal and Torres Strait Islander people enjoy long and healthy lives• outcome 2: Aboriginal and Torres Strait Islander children are born healthy and strong• outcome 4: Aboriginal and Torres Strait Islander children thrive in their early years• outcomes 10: Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system• outcome 11: Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system• outcome 12: Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system• outcome 13: Aboriginal and Torres Strait Islander families and households are safe• outcome 14: Aboriginal and Torres Strait Islander people enjoy high levels of social and emotional wellbeing <p>The plan initially ran from 2021 to 2023. It has been extended until June 2025 ‘to allow time for ongoing consultation with First Peoples stakeholders to self-determine next steps in the development of a new implementation plan’.³⁰</p>	<p>Government reports annually within the pre-existing VAAF and VGAAR reporting mechanism.</p> <p>Ngaweeyan Maar-oo informs the design, implementation, oversight and monitoring of Victoria’s Implementation Plan.</p> <p>The Productivity Commission review of progress under the National Agreement raised significant concerns with the implementation of the National Agreement, finding that ‘governments have failed to enact the transformative changes required to realise the National Agreement’s vision.</p> <p>While noting the significant progress made towards self-determination in Victoria through the Treaty process, the Review highlights significant structural issues in governments’ approaches to implementing the National Agreement, which have resulted in a lack of progress towards the Priority Reforms’.³¹</p>

Policy	Lead agency	Key focus	Accountability and governance
Aboriginal Inclusion Action Plan for The Orange Door (2021–2024)	DFFH	The plan sets out actions to ‘improve access and equity’ to the family violence system for First Peoples. ³² There are a series of actions identified across four priority areas: <ul style="list-style-type: none">the family violence system is accessible, and services and programs are available and equitablethe family violence system is person-centred and responsivethe family violence system is integratedthe family violence and broader workforce are skilled, capable and reflects the community they serve.³³	Implementation of the plan will occur via a staged approach across three years. ³⁴
Victorian Aboriginal sexual and reproductive health plan 2022–30 ³⁵	DH	The Victorian sexual and reproductive health and viral hepatitis strategy 2022–30 is comprised of seven plans, one of which is the Victorian Aboriginal sexual and reproductive health plan. ³⁶	A mid-point review will be performed in 2025–26. ³⁷
Establishing the Partnership Forum on Closing the Gap ³⁸ (2022–2025)	DPC	Established in May 2022, the Forum is the formal body for shared decision-making between the Victorian Government and First Peoples on whole-of-government Closing the Gap implementation. ³⁹ The Forum’s current term will operate until 30 June 2025. ⁴⁰	As of May 2024, the Forum had met a total of five times. ⁴¹ The Forum introduced quarterly departmental reporting on implementation of the four Priority Reforms, including action to improve shared decision-making and accountability. ⁴² The Victorian Government reported that the Partnership Forum is currently: <ul style="list-style-type: none">progressing Victoria’s Place-based Partnership and Community Data Project in Gippsland in partnership with the Victorian Aboriginal Child and Community Agency, local communities, key sector representatives and government.allocating the remaining \$2.76 million sector funding across the priority sectors of health, disability, housing, early childhood care and development, and languages.overseeing planning for a second Victorian Expenditure Review, building on lessons learned from Victoria’s 2023 Expenditure Review.strengthening whole-of-government accountability mechanisms for Closing the Gap implementation.⁴³

Policy	Lead agency	Key focus	Accountability and governance
Dhelk Dja: Safe Our way – Strong Culture, Strong Peoples, Strong Families 2018–2028 ⁴⁴	Family Safety Victoria, DFFH	<i>Dhelk Dja: Safe Our Way – Strong Culture, Strong Peoples, Strong Families 2018–2028</i> commits the Victorian Government and First Peoples communities and services ‘to work together and be accountable for ensuring that First Peoples, families and communities are stronger, safer, thriving and living free from family violence.’ ⁴⁵ The agreement recognises ‘the systemic response required across ... housing, homelessness and out-of-home-care systems’ to prevent family violence. ⁴⁶ The <i>Dhelk Dja Safe our Way 3-Year Action Plan</i> describes a series of activities across the following five strategic priorities: <ul style="list-style-type: none">Aboriginal culture and leadershipAboriginal-led preventionself-determining Aboriginal family violence support and servicessystem transformation based on self-determinationAboriginal-led and informed innovation, data and research.	Governance and reporting is overseen by the Dhelk Dja Partnership Forum which meets three times a year. Members are from the Dhelk Dja Action Groups representing First Peoples communities, First Peoples services and representatives from government. Regular progress reports are to be tabled in parliament via the annual VGAAR. The Dhelk Dja Partnership Forum developed the Dhelk Dja Monitoring, Evaluation and Accountability Plan. ⁴⁷ This plan will be used to track progress against the Dhelk Dja Safe our Way 3-Year Action Plan. ⁴⁸
Aboriginal Health and Wellbeing Partnership Agreement Strategic Action Plan 2023–2025 ⁴⁹	DH	This plan describes the actions that members of the Aboriginal Health and Wellbeing Partnership Forum will perform in 2023–2025. ⁵⁰ There are a series of activities that have been identified across five domains: <ul style="list-style-type: none">prevention and early intervention are central to healthculturally safe healthcarea self-determined health systemworking from a shared evidence basebuilding a sustainable health sector.⁵¹	Members have not yet been requested to report on the agreement’s activities and outcomes for 2023. ⁵²
marra ngarrgoo, marra goorri: the Victorian Aboriginal Health, Medical and Wellbeing Research Accord ⁵³ (2023)	Victorian Aboriginal Community Controlled Health Organisation (VACCHO), supported by the Department of Jobs, Skills, Industry and Regions	This is a key action under the Aboriginal Health and Wellbeing Partnership Agreement between VACCHO and the Victorian Government. ⁵⁴ The Accord endeavours to improve the ethical standards of health, medical and wellbeing research that impacts Aboriginal and Torres Strait Islander peoples. ⁵⁵	The Accord states that it will be reviewed annually in the last month of the financial year in the first five years of implementation and once every three years thereafter, or as needed (as determined by a quorum). ⁵⁶
‘The Nest’ Aboriginal family Wellbeing Service Model Framework ⁵⁷ (2023)	DH	‘Established through the Balit Durn Durn Centre and the Royal Commission into Victoria’s Mental Health System, “The Nest” framework provides essential guidance to health services, ensuring the delivery of high-quality, consistent care for Aboriginal and Torres Strait Islander children and families in need of intensive social and emotional support.’ ⁵⁸	This information is not publicly available.

Policy	Lead agency	Key focus	Accountability and governance
Place-Based Partnership and Community Data Project ⁵⁹ (endorsed in 2023)	DPC	‘The purpose of a Place-Based Partnership is to implement the National Agreement through a long-term community development approach that responds to local priorities.’ ⁶⁰	‘In June 2023, Joint Council endorsed Victoria’s nomination of Gippsland as the location for a Place-based Partnership to be combined with Community Data Project, which will enable First Peoples communities and organisations to access and use location-specific data on the Closing the Gap priority reforms and outcomes.’ ⁶¹
Aboriginal Cultural Safety Workplace Monitoring Framework	DH, DFFH	This framework was developed to ‘support the implementation of cultural safety activities aimed to improve, build capability and monitor, cultural safety across both Departments.’ ⁶²	Yoorrook was only provided with a template for reporting, no implementation reports or progress data. ⁶³

Table E.2: Health regulation and oversight bodies

Agency ⁶⁴	Type of body	Role
Victorian Department of Health	Government department	The Department of Health is ‘responsible for developing, proposing and overseeing the health policy established by the Victorian Government’, ‘designing, funding, and regulating the Victorian health system’ and ‘in some areas, it is also an agent for delivering services and capacity building in the health sector.’ ⁶⁵
Safer Care Victoria	An administrative office within the Victorian Department of Health established under the <i>Public Administration Act 2004</i> ⁶⁶	Safer Care Victoria supports Victorian health services to deliver improvements and prevent harm within services. ⁶⁷
Australian Commission on Safety and Quality in Healthcare	Independent statutory authority ⁶⁸	The Commission is responsible for coordinating and leading healthcare safety and quality improvements. ⁶⁹ This includes the development of national safety and quality healthcare standards. ⁷⁰
Aged Care Quality and Safety Commission	National regulator ⁷¹	The Commission is responsible for ‘accrediting residential aged care services’, ‘regulating aged care workers, volunteers and governing persons’, ‘approving providers to deliver (Commonwealth-subsidised) aged care services’ and ‘resolving complaints about aged care services.’ ⁷²
Social Services Regulator	An independent statutory authority established under the <i>Social Services Regulation Act 2021</i> ⁷³	The Regulator is responsible for supporting, monitoring and enforcing providers’ compliance with the Social Service Standards. ⁷⁴
NDIS Quality and Safeguards Commission	National regulator ⁷⁵	The Commission is responsible for a series of functions to improve the quality of National Disability Insurance Scheme (NDIS) services and supports. It ‘regulates and registers NDIS providers’, responds to complaints and concerns, and ‘coordinates nationally consistent NDIS worker screening with states and territories.’ ⁷⁶
Australian Health Practitioner Regulation Agency and National Boards	National regulator ⁷⁷	The Australian Health Practitioner Regulation Agency and National Boards work together ‘to implement the National Registration and Accreditation Scheme (the National Scheme). The National Scheme regulates 16 health professions, helping to protect the public by setting standards and policies that all registered health practitioners must meet.’ ⁷⁸
Health Complaints Commissioner	An independent statutory body established under the <i>Health Complaints Act 2016</i> ⁷⁹	The functions of the Commissioner include receiving and managing complaints and providing information and education to the public and health service providers about the complaints process and health service responsibilities. ⁸⁰

Agency ⁶⁴	Type of body	Role
Victorian Mental Health and Wellbeing Commission	An independent statutory body established under the <i>Mental Health and Wellbeing Act 2022</i> ⁸¹	The functions of the Commission include ‘dealing with complaints, initiating investigations, conducting inquiries, sharing data, reporting on the performance, quality, and safety of Victoria’s mental health and wellbeing system, and making recommendations to the Premier, Minister, and heads of public service bodies.’ ⁸²
Victorian Auditor-General’s Office	An ‘independent officer within of the Victorian Parliament’ ⁸³	The Auditor-General’s Office performs ‘an annual program of financial and performance audits of state and local government public sector entities’ to assess ‘how effectively public sector agencies are providing services and using public money.’ ⁸⁴
Victorian Ombudsman	An ‘independent officer of the Victorian Parliament’ ⁸⁵	The Victorian Ombudsman is ‘an independent officer of the Victorian Parliament whose principal functions are to resolve complaints about, enquire into and investigate administrative actions taken in or by Victorian state government and public organisations, including departments, statutory bodies and local councils.’ ⁸⁶
Independent Broad-based Anti-corruption Commission (IBAC)	An ‘independent statutory authority’ ⁸⁷	IBAC ‘is responsible for preventing and exposing public sector corruption and police misconduct in Victoria.’ ⁸⁸
Coroners Court of Victoria	A statutory authority ⁸⁹	The Victorian Coroners Court is responsible for ‘[i]ndependently investigating deaths and fires’, ‘[r]educing preventable deaths’ and ‘[p]romoting public health and safety and the administration of justice’. ⁹⁰

Table E.3: Previous Royal Commissions, inquiries and reviews, since 2014

Year	Inquiry	Key focus	Key findings and recommendations
2014	Accessibility of Mainstream Services for Aboriginal Victorians ⁹¹	This audit assessed the accessibility of mainstream services for First Peoples in Victoria and if improved access will improve health outcomes. ⁹²	<p>The audit found that ‘[d]espite departments developing programs aimed at closing the gap between the Aboriginal population and the non-Aboriginal population, there has been little improvement in outcomes, and in some cases the gap has worsened.’⁹³ The audit did report that some programs have led to improved access to services.⁹⁴</p> <p>There were eight recommendations made that were directed towards departments and DPC.⁹⁵ These included that departments improve processes relating to data collection, find and pursue opportunities to share data with service providers, evaluate programs and plans routinely.⁹⁶</p>
2015	The Royal Commission into Family Violence ⁹⁷	In 2015, the Royal Commission into Family Violence was established to investigate and evaluate policies and services for family violence prevention, victim survivor support, accountability for perpetrators and systemic responses to family violence. ⁹⁸	<p>The Commission found that Victoria’s existing approach failed to adequately respond to the scale and impact of the harm caused by family violence, including that services were not equipped to identify family violence, victim survivor support services were fragmented, a lack of information sharing between agencies compromised victim survivor safety and that there was inadequate investment in prevention and early intervention.⁹⁹</p> <p>The Commission made 227 recommendations, including calling for reform of risk assessment and management frameworks¹⁰⁰ and the introduction of Support and Safety Hubs.¹⁰¹ Specific to the health system, recommendations were made to improve responses by the health sector, including better screening, workforce training and information-sharing.¹⁰² Specific to First Peoples, recommendations were made to increase investment in ACCOs and to improve cultural safety of services.¹⁰³</p> <p>The Victorian Government announced that it had fully implemented all 227 recommendations on 28 January 2023.¹⁰⁴ This includes the development of the Family Violence Multi-Agency Risk Assessment and Management Framework¹⁰⁵ and the establishment of The Orange Door network.¹⁰⁶</p>

Year	Inquiry	Key focus	Key findings and recommendations
2015	Rehabilitation and reintegration of prisoners in Victoria ¹⁰⁷	This report investigated the rehabilitation and transitional services for prisoners in Victoria. ¹⁰⁸	<p>The investigation found that the system is not able to ‘deliver consistent and effective rehabilitation or reintegration’ for people in prisons¹⁰⁹ and that ‘[a] whole-of-government approach is needed to shift the focus: to reduce offending and recidivism and to promote the rehabilitation of offenders.’¹¹⁰</p> <p>The report provided 25 recommendations, including a review of screening practices for people living with cognitive disability¹¹¹, ensuring that ‘alcohol and drug treatment programs are available in all Victorian prisons’¹¹² and improving transition and post-release services.¹¹³ There were three recommendations specific to First Peoples, which included reviewing the Aboriginal Liaison Officer/Aboriginal Wellbeing Officer positions to assess if an increase in the number of positions is required,¹¹⁴ reviewing the cultural programs delivered to First Peoples in prisons¹¹⁵ and continued funding for a First Peoples’ art program.¹¹⁶</p>
2016	Patient Safety in Victorian Public Hospitals ¹¹⁷	This was the third audit ¹¹⁸ on patient safety by the Victorian Auditor-General’s Office that aimed to ‘determine whether patient safety outcomes have improved in Victorian public hospitals.’ ¹¹⁹	<p>The audit found that ‘[d]espite indications that certain risks to patient safety have reduced over time, neither [Department of Health and Human Services] nor health services can demonstrate whether overall patient safety outcomes have improved. Systemic failures by [Department of Health and Human Services] —some of which were identified over a decade ago in our 2005 audit—collectively indicate that [Department of Health and Human Services] is not effectively providing leadership or oversight of patient safety.’¹²⁰</p> <p>The audit provided 13 recommendations to the Department of Health and Human Services and health services.¹²¹ Recommendations included the implementation of a ‘statewide clinical incident reporting system’,¹²² aggregating, integrating and systematically analysing clinical incident data,¹²³ and disseminating ‘lessons learnt from sentinel events to health services.’¹²⁴</p>
2016	Targeting zero: supporting the Victorian hospital system to eliminate avoidable harm and strengthen quality of care: report of the review of hospital safety and quality assurance in Victoria ¹²⁵	This report was commissioned to review the Department of Health’s ‘current systems for governance and assurance of quality and safety in hospitals.’ ¹²⁶ This occurred in the context ‘of a cluster of perinatal deaths that had occurred at Djerriwarrh Health Services (‘Djerriwarrh’) during 2013 and 2014.’ ¹²⁷	<p>The report found that ‘[a]cross all modern health systems, and despite concerted efforts, avoidable patient harm and variability in care occurs that no one should be prepared to accept.’¹²⁸ It also stated that ‘the department’s oversight of hospitals is inadequate. It does not have the information it needs to assure the Minister and the public that all hospitals are providing consistently safe and high-quality care.’¹²⁹</p> <p>The report made many recommendations across 10 major themes.¹³⁰ The themes of recommendations included ‘[a]ll hospitals should be held to account for improving safety and quality of care, regardless of their size or sector’,¹³¹ ‘[m]ental health services must be adequately funded’¹³² and the health system ‘must have a stronger focus on improving patients’ experience of care.’¹³³</p> <p>The report ‘found that while our hospitals provide world-class care, the Department of Health and Human Services has failed to provide adequate oversight of quality and safety across our health services.’¹³⁴</p> <p>The report also states that the Victorian Government accepted all the recommendations of the review in principle.¹³⁵</p>
2020	Mental Health Inquiry ¹³⁶	The inquiry examined ‘the role of improving mental health to support economic participation and enhancing productivity and economic growth.’ ¹³⁷	The report made 21 recommendations with 103 associated actions. ¹³⁸ Recommendations included that governments should ‘create a person-centred mental health system’, ¹³⁹ address the gap in access to community mental healthcare, ¹⁴⁰ ‘improve the experience of mental healthcare for people in crisis’, ¹⁴¹ ‘improve mental health outcomes for people in the justice system’ ¹⁴² and ‘drive continuous improvement and promote accountability’. ¹⁴³
2020	Implementing OPCAT in Australia ¹⁴⁴	This report outlines a process of how the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) can be implemented in Australia. ¹⁴⁵	<p>This report made 17 recommendations to support the implementation of OPCAT in Australia, including establishing a network of inspection bodies, referred to as the National Preventive Mechanism (NPM).¹⁴⁶ Recommendations also included developing national principles to guide detention inspections,¹⁴⁷ ensuring appropriates powers and resourcing for NPM bodies¹⁴⁸ and public reporting on OPCAT activities by NPMs.¹⁴⁹</p> <p>The Victorian Government has not yet nominated an NPM.¹⁵⁰</p>

Year	Inquiry	Key focus	Key findings and recommendations
2021	The Royal Commission into Victoria’s Mental Health System ¹⁵¹	This Royal Commission was established in 2019 to investigate prevention of mental illness and suicide, support of people recovering from mental illness and their carers and families, service delivery and accessibility, and intersectionality between mental illness and alcohol and drug use. ¹⁵²	<p>The Commission found that Victoria’s existing mental health system had ‘catastrophically failed to live up to expectations and was underprepared for current and future challenges’.¹⁵³</p> <p>The Commission made nine interim report recommendations, followed by 65 recommendations in the final report. Recommendations included replacing the <i>Mental Health Act 2014</i> (Vic),¹⁵⁴ improving responses to mental health crises,¹⁵⁵ actions to eliminate seclusion and restraint¹⁵⁶ and actions to ensure compulsory treatment is only used as a last resort.¹⁵⁷ There were three recommendations specific to First Peoples including increased investment to expand social and emotional wellbeing teams and establish an Aboriginal Social and Emotional Wellbeing Centre,¹⁵⁸ establishing two co-designed healing centres and resource organisations to deliver culturally appropriate services,¹⁵⁹ and enabling First Peoples to design community gatekeeper training.¹⁶⁰</p> <p>The Victorian Government announced its commitment to implement all 65 final report recommendations on 2 March 2021.¹⁶¹ Since then, the <i>Mental Health Act 2014</i> has been repealed and replaced by the <i>Mental Health and Wellbeing Act 2022</i> (Vic)¹⁶² and the Balit Durn Durn Centre for Excellence in Social and Emotional Wellbeing was launched in May 2022.¹⁶³</p>
2021	The Royal Commission into Aged Care Quality and Safety ¹⁶⁴	In 2018, the Royal Commission was established to examine the quality of Australian aged care services, if consumer needs were being met, further opportunities and challenges, and how services could be improved to ensure they are high quality, person-centred and sustainable. ¹⁶⁵	In March 2021, the final report was published, which set out 148 recommendations. ¹⁶⁶ These included the development of a new aged care Act, ¹⁶⁷ reforming the governance of the aged care system ¹⁶⁸ and reviewing of the Aged Care Quality Standards. ¹⁶⁹ There were seven recommendations that were specific to First Peoples, ¹⁷⁰ which included prioritising First Peoples-led organisations as aged care providers, ¹⁷¹ ensuring aged care providers receive cultural safety training ¹⁷² and establishing an Aboriginal and Torres Strait Islander Commissioner role. ¹⁷³
2022	Inquiry into Victoria’s Criminal Justice System ¹⁷⁴	This inquiry analysed all aspects of the criminal justice system, including crime prevention and early intervention, policing, the prison system and conditions, and the experience of victims of crime. ¹⁷⁵	<p>The inquiry made 73 findings, including that the repeated failure of society to ‘provide the social, mental health, economic or legal supports’ for people experiencing disadvantage can culminate in contact with the criminal justice system,¹⁷⁶ ‘[g]reater self-determination is the only approach which can overcome the entrenched disadvantage experienced by some Aboriginal Victorias’,¹⁷⁷ ‘Victorian prisons are harming vulnerable people by exacerbating existing mental health conditions’¹⁷⁸ and that the ‘current punitive approach to criminal behaviour is not reducing crime or improving community safety.’¹⁷⁹</p> <p>The inquiry made 100 recommendations to reform the criminal justice system in Victoria.¹⁸⁰ These included recommendations for government to address the social determinants of health,¹⁸¹ invest in community-based health and social service,¹⁸² work with the Commonwealth Government to explore expanding access to the Medical Benefits Scheme and the Pharmaceutical Benefits Scheme to people who are in prison¹⁸³ and creating long-term funding arrangements to support the expansion of ACCO leadership and service provision in the justice sector.¹⁸⁴</p>
2022	Inquiry into children affected by parental incarceration ¹⁸⁵	This inquiry examined the ‘adequacy of policies and services’ in supporting children affected by parental incarceration. ¹⁸⁶	<p>The inquiry made 69 findings, which included ‘[p]arental incarceration is an adverse childhood experience’, ‘[c]hildren exposed to parental incarceration have a greater risk of experiencing adverse mental and physical health outcomes’ and that ‘[b]eing pregnant while incarcerated risks various poor maternal and neonatal outcomes’.¹⁸⁷</p> <p>The inquiry made 29 recommendations aimed at better supporting children affected by parental incarceration and reducing the harms they experience, including ensuring that antenatal, postnatal and neonatal care is delivered to the same level as in the community and ensuring prisons are complying with relevant guidelines on the use of restraints on pregnant women.¹⁸⁸</p>

Year	Inquiry	Key focus	Key findings and recommendations
2022	Cultural Review of the Adult Custodial Corrections System ¹⁸⁹	In 2021, an expert panel was established by the Minister of Corrections to undertake a Cultural Review of the Adult Custodial Corrections System. ¹⁹⁰ The review examined the ‘historical, social, attitudinal and systems influences that shape the way in which things get done in the adult custodial corrections system.’ ¹⁹¹ It looked at the cultural safety and quality of healthcare delivered to First Peoples in custody. ¹⁹²	<p>The final report ‘Safer Prisons, Safer People, Safer Communities’ was published in December 2022.¹⁹³ The report highlighted that ‘the system is not working and that it is having devastating, intergenerational impacts on Aboriginal people and communities.’¹⁹⁴ In relation to health services, the review found that ‘the healthcare system within the adult custodial correction system requires an overhaul – with particular attention to the needs of Aboriginal people.’¹⁹⁵</p> <p>The review made 86 recommendations¹⁹⁶ to reform the adult corrections system including safer health services and continuity of care, taking a public health approach to healthcare, developing a model of care for custodial healthcare, increasing the number of First Peoples staff in leadership positions and improved accountability for the delivery of culturally responsive services.¹⁹⁷</p>
2023	Working together to deliver the NDIS – Independent Review into the National Disability Insurance Scheme ¹⁹⁸	The review examined ‘the design, operations and sustainability of the NDIS’ and ‘ways to build a more responsive, supportive and sustainable market and workforce.’ ¹⁹⁹	<p>The final report was published in 2023,²⁰⁰ which set out 26 recommendations with 139 actions to reform the NDIS.²⁰¹ The key themes of the recommendations included developing ‘a unified system of support for people with disability’, empowering people with disability with markets and support systems, ensuring ‘[s]tewardship of the united ecosystem’ and ensuring the relevant policy and legislative frameworks to enable reforms to be implemented.²⁰² There was one recommendation and three actions specific to First Peoples. These included that a national strategy should be developed to improve the disability system,²⁰³ alternative commissioning arrangements are delivered to increase access to supports²⁰⁴ and a First Nations Disability Forum and accountability mechanism is incorporated into a new Disability Intergovernmental Agreement.²⁰⁵</p>
2023	The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability ²⁰⁶	The Royal Commission examined violence against, and abuse, neglect and exploitation of people with disability across all contexts and settings. ²⁰⁷	<p>The Commission found that ‘people with disability continue to experience high rates of violence and abuse, multiple forms of neglect, and sexual and financial exploitation’, which are ‘occurring across settings and contexts and throughout different stages of people’s lives’.²⁰⁸ The final report outlined that people with disability are excluded from participating in many dimensions of life based on their disability.²⁰⁹ It also found that ‘First Nations people with disability are uniquely marginalised in Australia’.²¹⁰</p> <p>The Commission made 222 recommendations, of which 13 related to the experiences of First Peoples with disability.²¹¹ These 13 recommendations included NDIS block funding for the Community Controlled sector,²¹² developing disability-inclusive cultural safety standards²¹³ and amending the <i>National Disability Insurance Scheme Act 2013</i> (Cth) to include participation in cultural life.²¹⁴</p>
2023	Victorian Government Aboriginal Affairs Report ²¹⁵	This report is produced yearly to monitor the government’s progress against the VAAF, the National Agreement and the Self-Determination Reform Framework. ²¹⁶	<p>In the 2023 report, many of the measures across the health and wellbeing domain have worsened.²¹⁷ The report outlines that the measures under goal 12 (Aboriginal Victorians access the services they need) have improved.²¹⁸ However, measures under goal 11 (Aboriginal Victorians enjoy health and longevity),²¹⁹ goal 13 (Health and community services are culturally safe and responsive)²²⁰ and goal 14 (Aboriginal Victorians enjoy social and emotional wellbeing) have worsened.²²¹</p>

Year	Inquiry	Key focus	Key findings and recommendations
2024	Ombudsman’s Investigation into healthcare provision for Aboriginal people in Victorian prisons	This investigation examined the healthcare delivered to First Peoples in Victorian prisons. ²²² It assessed the extent to which First Peoples’ needs are being met, healthcare is ‘adequate to ensure the best health outcomes’ and ‘[w]hat is needed to ensure healthcare is culturally safe, continuous and of an equivalence standard and quality’ as in the community. ²²³	<p>The Ombudsman’s report was published in March 2024.²²⁴ The report found that the healthcare system in Victorian prisons ‘is failing to meet the needs of Aboriginal people and is not ensuring their best health outcomes.’²²⁵ While the report acknowledged that some changes have been made in the way prison healthcare is provided,²²⁶ it outlined that these reforms have not achieved the change called for by previous inquiries.²²⁷</p> <p>The report made five recommendations, which aimed to:</p> <ul style="list-style-type: none">• ‘involve Aboriginal Community-Controlled Organisations in designing and delivering holistic custodial health services’• ‘increase Justice Health’s capacity to oversight healthcare provision to Aboriginal people ‘• ‘find ways to vary the current custodial primary health contracts to provide oversight that is more culturally safe and responsive to Aboriginal people’• ‘develop an audit framework to regularly assess the clinical effectiveness and cultural responsiveness of healthcare delivery to Aboriginal people across all Victorian prisons’• ‘increase the number of Aboriginal health professionals in Victoria and better support their career development’.²²⁸
2024	Review of the National Agreement on Closing the Gap ²²⁹	A comprehensive review of the National Agreement is undertaken by the Productivity Commission every three years. ²³⁰ The purpose of the review is to ‘provide an analysis of progress on Closing the Gap against the priority reforms, targets, indicators and trajectories, and examine the factors contributing to progress’. ²³¹	<p>The report found that ‘governments are not adequately delivering’ on their commitment to mobilise ‘all avenues available to them to achieve the objective of the Agreement’.²³² The overarching finding was that ‘there has been no systematic approach to determining what strategies need to be implemented to disrupt business-as-usual of governments’ and that ‘[f]undamental change is required’.²³³</p> <p>This review contained 16 proposed actions that were grouped into the following four recommendations:²³⁴</p> <ul style="list-style-type: none">• Recommendation 1: ‘Power needs to be shared’²³⁵• Recommendation 2: ‘Indigenous Data Sovereignty needs to be recognised and supported’²³⁶• Recommendation 3: ‘Mainstream systems and culture need to be fundamentally rethought’²³⁷• Recommendation 4: ‘Stronger accountability is needed to drive behaviour change’.²³⁸ <p>The Joint Council on Closing the Gap, who ‘oversees the implementation of the Agreement’,²³⁹ has ‘agreed to the four key recommendations of the Review and to 15 of the 16 recommended actions. Joint Council agreed to do further work before deciding how to progress Action 2.2 on Indigenous Data, including establishing a data policy partnership to accelerate progress on data and report back to Joint Council’.²⁴⁰</p>
2024	Missing and murdered First Nations women and children ²⁴¹	This inquiry aimed to review the number of missing and murdered First Nations women and children, the practices and resourcing surrounding investigations and the causes of violence. ²⁴² It also sought to identify effective policies and practice, and future actions that could address the causes of violence and improve First Peoples women and children safety. ²⁴³	<p>The final report was published in 2024.²⁴⁴ It outlined that ‘[f] or many First Nations women and children who have been murdered or disappeared, there has been little, if any, justice.’²⁴⁵ The Committee highlighted that there has been many inquiries examining the violence and abuse experienced by First Peoples and First Peoples women and children, which have already identified the problems and solutions.²⁴⁶ One of the key themes that arose during the inquiry was that greater support is required for mainstream services and, more critically, ACCOs to design and deliver local responses tailored to the community’s needs.²⁴⁷ Oversight and accountability was also discussed. The Committee reported that despite many commitments by governments, First Peoples communities are witnessing little progress towards eradicating violence.²⁴⁸</p> <p>There were 10 recommendations outlined in the report.²⁴⁹ These included the development of a ‘sustainable funding mechanism’ to deliver supports for First Peoples experiencing family, domestic and sexual violence.²⁵⁰ It was outlined that this funding mechanism ‘must prioritise service and program delivery by Aboriginal community-controlled organisations who demonstrate evidence-based primary prevention initiatives that are independently evaluated for efficacy, including for delivery in regional and remote areas’.²⁵¹</p>

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Appendix F: Housing policy frameworks, oversight bodies and previous reviews

Table F.1: Key housing policies and frameworks

Policy	Lead agency	Key focus	Accountability and governance
Public Housing Renewal Program (2017 – present)	Department of Health and Human Services (DHHS), Department of Families, Fairness and Housing (DFFH)	Announced in 2017 to redevelop 11 of Melbourne's highrise public housing estates. ¹ An inquiry into the program in 2018 made 28 recommendations to refine the program. ² The metrics of the program continue to be refined.	This information is not publicly available.
Plan Melbourne 2017–2050 ³	Department of Energy, Environment and Climate Action (DEECA)	Released in 2017 and updated in 2019 ⁴ to provide a framework for residential development, including a 70/30 principle, dictating 70 per cent of new residential building to occur in established areas and the remainder on the city fringe. ⁵	A monitoring and reporting framework has been developed to track the progress of the implementation of Plan Melbourne. Plan Melbourne and its implementation plan will be formally reviewed every five years. ⁶ The last publicly available progress report was published in 2020. ⁷
Korin Korin Balit-Djak, Aboriginal health, wellbeing and safety strategic plan 2017–2027 ⁸	DFFH	The plan sets out how the Victorian Government 'will work with First Peoples communities, community organisations, other government departments and mainstream service providers to improve the health, wellbeing and safety of First Peoples in Victoria.' ⁹ This includes 'a priority focus on stable, secure and appropriate housing through First Peoples self-determination in housing and homelessness, and improving access to suitable, stable and supported housing.' ¹⁰	Korin Korin Balit-Djak and Balit Murrup both promise that '[a] detailed evaluation approach will be developed with key Aboriginal research, evaluation and service delivery organisations in consultation with Aboriginal communities'. ¹¹ However, there is no publicly available reporting of this monitoring or evaluation. There is no public identification of outcomes against the strategic directions of the two frameworks, including in the three most recent DFFH annual reports .
Balit Murrup: Aboriginal social emotional wellbeing framework 2017–2027 ¹²	DFFH	'The <i>Balit Murrup: Aboriginal social emotional wellbeing framework 2017–2027</i> is a companion document to Korin Korin Balit-Djak. The objective of the framework is to reduce the health gap attributed to suicide, mental illness and psychological distress between First Peoples and non-First Peoples Victorians.' ¹³ The framework recognises that safe and secure housing supports resilience, healing and trauma recovery. ¹⁴	

Policy	Lead agency	Key focus	Accountability and governance
Dhelk Dja: Safe Our Way – Strong Culture, Strong Peoples, Strong Families 2018–2028 ¹⁵	Family Safety Victoria, DFFH	<p><i>Dhelk Dja: Safe Our Way – Strong Culture, Strong Peoples, Strong Families 2018–2028</i> commits the Victorian Government and First Peoples communities and services ‘to work together and be accountable for ensuring that First Peoples, families and communities are stronger, safer, thriving and living free from family violence.’¹⁶ The agreement recognises ‘the systemic response required across ... housing, homelessness and out-of-home-care systems’ to prevent family violence.¹⁷</p> <p>The Dhelk Dja Safe our Way 3-Year Action Plan describes a series of activities across the following five strategic priorities:</p> <ul style="list-style-type: none">• Aboriginal culture and leadership• Aboriginal-led prevention• self-determining Aboriginal family violence support and services• system transformation based on self-determination• Aboriginal-led and informed innovation, data and research.	<p>Governance and reporting are overseen by the Dhelk Dja Partnership Forum which meets three times a year. Members are from the Dhelk Dja Action Groups representing First Peoples communities, First Peoples services and representatives from government. Regular progress reports are to be tabled in parliament via the annual Victorian Government Aboriginal Affairs Report (VGAAR).</p> <p>The Dhelk Dja Partnership Forum developed the Dhelk Dja Monitoring, Evaluation and Accountability Plan.¹⁸ This plan will be used to track progress against the Dhelk Dja Safe our Way 3-Year Action Plan.¹⁹</p> <p>Public reporting of progress up to 2020 is provided on the strategy webpage.²⁰ Planned actions between 2020 and 2023 are set out in the Family Violence Reform Rolling Action Plan,²¹ but no current update is available. There is no publicly available reporting on housing-specific objectives.</p>
Victorian Aboriginal Affairs Framework 2018–2023 (VAAF) ²² (extended to 2025) ²³	First Peoples–State Relations, Department of Premier and Cabinet (DPC)	<p>The VAAF is the ‘Victorian Government’s overarching framework for working with First Peoples Victorians, organisation and the wider community to drive action and improve outcomes’²⁴</p> <p>There are no specific goals to improve housing, rather, ‘objectives to improve housing and homelessness are weaved into other goals.’²⁵ Goals and objectives relating to First Peoples’ housing include:</p> <ul style="list-style-type: none">• goal 3: Aboriginal families and households thrive, Objective 3.2: Increase income and housing security for Aboriginal households• goal 8: Aboriginal workers achieve wealth equality, Objective 8.2: Increase Aboriginal home ownership in line with the Victorian average.²⁶	<p>The VAAF requires government to report on its efforts to enable self-determination through the VGAAR since 2020.</p> <p>Annual reports – 2019, 2020, 2021, 2022 and 2023.</p> <p>VAAF committed to establishing an independent Aboriginal-led evaluation and review mechanism to monitor the government’s progress. In 2019, community engagement was undertaken with First Peoples on the development of a mechanism. In October 2019, DPC published ‘Establishing an Aboriginal-led evaluation and review mechanism in Victoria’.²⁷ According to DPC, ‘[t]he project was put on hold in 2020–2021 due to COVID-19, and the current approach is to align the accountability mechanism with Victoria’s Treaty process’.²⁸</p>
Blueprint for an Aboriginal-specific homelessness system in Victoria ²⁹ (2019–2031)	Aboriginal Housing Victoria Ltd (AHV), DFFH	<p>The Blueprint is the guiding document for the development of a culturally safe homelessness service system. It was developed by AHV and the Victorian Aboriginal Housing and Homelessness Forum (AHHF) after extensive consultation with First Peoples ‘service users and Aboriginal and mainstream service providers’.³⁰</p> <p>The Blueprint describes ‘service arrangements and enablers for an Aboriginal-specific homelessness system’³¹ that is Aboriginal-controlled and underpinned by self-determination. The Blueprint maps three stages from 2022 to 2031.³²</p>	<p>The Blueprint has been endorsed by the Victorian Government and implementation is being led by AHV and the AHHF in partnership with Homes Victoria.³³</p> <p>The government has established the Blueprint Steering Committee to oversee implementation of the Blueprint.³⁴</p>

Policy	Lead agency	Key focus	Accountability and governance
Big Housing Build ³⁵ (2020–2027)	Homes Victoria, DFFH	<p>Announced by the Victorian Government in 2020, the Big Housing Build committed \$5.3 billion to build 12,000 new homes (9300 social housing and 2700 affordable housing) by 2027.³⁶ This included ‘a commitment that 10 per cent of all new social housing will be built for First Peoples [and] over 200 homes funded to be managed by the First Peoples housing sector.’³⁷</p>	<p>Of the 400 homes allocated for First Peoples-specific housing, so far Homes Victoria has only delivered 109.³⁸ The Big Housing Build targets are insufficient to meet need.³⁹ Further, funding is limited to registered housing providers,⁴⁰ which is a major barrier to participation for Aboriginal Community Controlled Organisations (ACCOs).⁴¹</p>
National Agreement on Closing the Gap ⁴² (2020–2030)	Whole of Government	<p>The 2020 National Agreement on Closing the Gap (the National Agreement) includes an outcome that First Peoples have access to ‘secure appropriate, affordable housing that is aligned with their priorities and needs. This includes a target [Outcome 9] to increase the proportion of [First Peoples] living in appropriately sized housing to 88 per cent...by 2031.’⁴³</p> <p>Priority Reform 2 of the National Agreement is Building the Aboriginal Community-Controlled Sector.</p> <p>The target is to ‘increase the amount of government funding for Aboriginal and Torres Strait Islander programs and services going through Aboriginal and Torres Strait Islander community-controlled organisations.’</p>	<p>Homes Victoria has established a dedicated Aboriginal Housing and Homelessness Branch with an intention to increase First Peoples senior leadership and support the delivery of the Closing the Gap priority reform agenda.⁴⁴</p> <p>The Productivity Commission found that overall across the nation ‘current actions are not supporting ACCOs to thrive.’⁴⁵</p> <p>Victoria conducted an Aboriginal Expenditure Review in 2023.⁴⁶</p>
Mana-na woorn-tyeen maar-takoort maar-takoort – Every Aboriginal Person Has a Home: The Victorian Aboriginal Homelessness and Housing Framework ⁴⁷ (2020–2040)	AHV, DFFH	<p>Mana-na woorn-tyeen maar-takoort provides a 20-year roadmap to creating an ‘Aboriginal specific housing and homelessness sector’ and achieving quality housing outcomes for First Peoples in Victoria ‘within a generation’.⁴⁸</p> <p>It is underpinned by principles including self-determination,⁴⁹ rights-based and outcome driven approaches, and cultural safety.⁵⁰ It has five key strategic goals:</p> <ul style="list-style-type: none">• secure housing improves life outcomes• build supply to meet the needs of a growing First Peoples population• open doors to home ownership and private rental• a First Peoples focused homeless system• a capable system that delivers First Peoples’ housing needs.	<p>Implementation of the framework is led by the AHHF, which is convened by AHV with support from the Victorian Government.⁵¹</p> <p>‘The delivery of the VAHFF is monitored through the VAHFF Annual Report Card. The Annual Report Card provides a status update of the VAHFF yearly work plan and a report against 20 outcome measures that align with specific strategic directions outlined in the VAHFF.’⁵² Annual Report Cards have been published for 2021 and 2022.⁵³ ‘It is intended that the 2023 & 2024 Annual Report Cards will be combined and released together.’⁵⁴</p> <p>A VAHFF five-year implementation plan is currently being developed by the sector.⁵⁵</p> <p>The latest Annual Report Card reveals that while a number of critical projects and activities have been delivered,⁵⁶ further investment is required across a range of outcomes. These include the provision of tailored support to those at risk of homelessness, increasing the supply of transitional housing and opening doors to home ownership and private rental.⁵⁷</p>

Policy	Lead agency	Key focus	Accountability and governance
Aboriginal Private Rental Assistance Program ⁵⁸ (2020 – present)	Homes Victoria, DFFH	<p>The program is funded by Homes Victoria and delivered by ACCOs to support Aboriginal people who are experiencing or at risk of homelessness to either maintain their existing private rental tenancy or to secure a new private rental tenancy.</p> <p>Initially a two-year program funded from 1 December 2020 to 30 November 2022 to support 950 First Peoples households over two years to maintain existing tenancies or establish new tenancies in the private rental market.</p> <p>The program was expanded to four additional areas in May 2023.⁵⁹</p>	This information is not publicly available.
National Housing Accord ⁶⁰ (2022)	Treasury, Australian Government	<p>The Accord sets a national target of 11 million new homes in the five years from 2024, including states and territories delivering 10,000 affordable homes and expediting zoning, planning and land release for social and affordable housing.⁶¹</p>	<p>The Commonwealth and all states and territories have developed implementation schedules that detail the actions each jurisdiction will take to help achieve the commitments made under the Accord.⁶²</p> <p>Victoria’s schedule commenced in 2024 and will expire on 30 June 2029.⁶³</p>
Social Housing Accelerator (2023)	Treasury, Australian Government	<p>This program distributes funding to states to deliver social housing across all States and Territories. Victoria has received \$469 million to build 769 homes.⁶⁴</p>	<p>State and territory implementation plans outline how the states and territories will spend their share of the Social Housing Accelerator funds.⁶⁵</p> <p>Victoria’s Implementation Plan states that: ‘10 per cent of Accelerator funded dwellings funds will be delivered in accordance with Aboriginal Housing Delivery Management Approach. This includes a 10 per cent Aboriginal housing Accelerator commitment prioritising transferred dwellings to Aboriginal Community Controlled Organisations that are registered [Community Housing Providers] to support a self-determination approach for housing outcomes for Aboriginal Victorians.’⁶⁶</p>
National Cabinet Housing Plan (2023)	Department of Social Services (DSS), Australian Government	<p>The plan lifted the national housing target to 1.2 million new homes in the five years from July 2024, including a \$500 million Housing Support Program for local and state governments to ‘kickstart’ supply and a national blueprint for reforming renter protections.⁶⁷</p>	<p>There is no publicly available reporting on the progress of this commitment.</p>
The National Agreement on Social Housing and Homelessness ⁶⁸ (2024)	DSS, Australian Government	<p>Provides funding to states and territories to improve access to secure and affordable housing.</p> <p>The Agreement recognises the need to address the disproportionate housing inequality that affects Aboriginal and Torres Strait Islander people.⁶⁹</p>	<p>The Agreement provides that ‘[a]chieving improved housing and homelessness outcomes for Aboriginal and Torres Strait Islander people (including National Agreement on Closing the Gap targets) and implementing Priority Reforms will be the subject of a formal evaluation.’⁷⁰</p>
Victoria’s Housing Statement: The decade ahead 2024–2034 ⁷¹	DPC	<p>Strategy document outlining proposals to increase housing supply (and increase renters’ rights) in Victoria between 2024 and 2034.⁷² It aims to provide 800,000 homes in Victoria over the next decade.⁷³</p>	<p>A progress update made public in September 2024 states that in the preceding year:</p> <ul style="list-style-type: none">• 52,854 homes have been approved.• almost 10,000 social and affordable homes are under construction or completed through the Big Housing Build.• almost 10,000 homes have been fast-tracked for development and more development is planned in 10 built-up areas to support 60,000 more homes.• there have been more than 130 reforms to strengthen renters’ rights.⁷⁴

Table F.2: Housing regulation and oversight bodies

Agency ⁷⁵	Type of body	Role
Victorian Department of Families, Fairness and Housing	Government department	DFFH comprises eight divisions ⁷⁶ to enable work across many areas including ‘Housing and homelessness’, ‘Family Violence prevention and response’, ‘Children and families’ and ‘Disability’. ⁷⁷
Homes Victoria	Division within DFFH ⁷⁸	Homes Victoria is responsible for managing the social housing portfolio in Victoria and providing essential support services. ⁷⁹ The portfolio includes ‘public housing, community housing, crisis accommodation, transitional accommodation and affordable housing’. ⁸⁰
Housing Register	State register ⁸¹	The Victoria Housing Register is an online service where individuals can apply for social housing. ⁸² The register has two categories of priority: ‘priority access’ and ‘register of interest’. ⁸³ The ‘priority access’ category is for people ‘[w]ho are homeless and receiving support’, ‘[a]re escaping or have escaped family violence’, ‘[w]ith a disability or significant support needs’ or ‘[w]ho need to move for health reasons’. ⁸⁴ The second category, ‘register of interest’, is available for individuals who would like to access social housing, but do not the meet the criteria for priority access. ⁸⁵
Victorian Building Authority	State regulator ⁸⁶	The Authority is a key regulator for the plumbing and building industries. ⁸⁷ The Authority provides ‘oversight of practitioner capability’, monitoring ‘industry compliance with building and plumbing standards’, using evidence to inform its regulatory approach and strategy, and utilising technical expertise and knowledge to enable improvements in the regulatory system. ⁸⁸

Table F.3: Previous inquiries and reviews since 2014

Year	Inquiry	Key focus	Key findings and recommendations
2017	Housing Affordability in Victoria	This report examined housing stress and housing affordability in Victoria and across Australia. ⁸⁹	<p>The report discusses the housing context, factors that have contributed to high housing prices and the current strategies that are being used in Australian states and territories to address this issue.⁹⁰</p> <p>The report outlines that ‘[t]he present housing situation is the result of several interconnected factors, including historically low interest rates and rising household debt, as well as rapid house price growth that has outstripped wage growth. Population growth and current taxation settings have also contributed to current housing affordability conditions.’⁹¹</p>
2017	Managing Victoria’s Public Housing	This audit by the Victorian Auditor General aimed to assess whether the measures related to public housing in the Victorian Government’s housing strategy, Homes for Victorians, were ‘supported by sound advice’. ⁹²	<p>The audit examined whether the public housing portfolio was being effectively managed by DHHS.⁹³ Recommendations from an Auditor General audit in 2012 were also followed up.⁹⁴</p> <p>The report found that DHHS undertook a number of activities to respond to the 2012 audit but ‘action on each recommendation remains incomplete.’⁹⁵</p> <p>There were six recommendations outlined in the report.⁹⁶ These included agreement on the ‘long-term strategic direction for public housing’,⁹⁷ ‘monitor, evaluate and report on the delivery of measures related to public housing in Homes for Victorians’⁹⁸ and ‘identify and implement strategies to improve the financial sustainability of the public housing rental operating model over the long term.’⁹⁹</p> <p>In response to the report, ‘The Department of Health and Human Services, the Department of Premier and Cabinet and the Department of Treasury and Finance responded, accepting the recommendations, and providing a detailed action plan on how they will address them.’¹⁰⁰</p>
2018	Homelessness in Victoria: Clients of specialist homelessness services 2016–2018	This Parliament of Victoria paper unpacked the stereotypical image of the rough sleeper as representative of the homeless population. ¹⁰¹	<p>The paper contextualises experiences of homelessness in recent data.¹⁰² While this paper outlines the three most common reasons given by people who received assistance from specialist homelessness services in Victoria were family violence, lack of affordable housing and financial difficulties, it makes no mention of First Peoples.¹⁰³</p>

Year	Inquiry	Key focus	Key findings and recommendations
2019	United Nations Office of the High Commissioner of Human Rights – Report on the right to adequate housing of Indigenous Peoples	Issued by the Special Rapporteur on the rights of Indigenous Peoples,	The report found that housing conditions for Indigenous Peoples around the world are ‘overwhelmingly abhorrent and too often violate the right to adequate housing, depriving them of their right to live in security and dignity’. ¹⁰⁴ The report outlined nine key barriers that Indigenous Peoples are more likely to face to their enjoyment of the right to housing. It also identified eight guiding principles necessary to the realisation of the right to housing of Indigenous Peoples. ¹⁰⁵
2020	Keep caring: Systemic inquiry into services for young people transitioning from out-of-home care	The report identifies the housing needs and other supports required by care leavers.	<p>The report found that in 2019, there were more than 2500 people who left care who were eligible for leaving care supports, but only a little over 300 funded places become available each year.¹⁰⁶</p> <p>The report also identified that there is a significant cohort of care leavers with complex needs, who require supported housing options to make a gradual transition to independence.¹⁰⁷</p> <p>There is a shortage of such accommodation.¹⁰⁸</p>
2020	Victoria’s Homelessness Response	The Victorian Auditor-General audited DHHS and three homelessness services who were funded by DHHS to assess if the Homelessness and Rough Sleeping Action Plan (HRSAP) has ‘reduced the incidence and impacts of rough sleeping’ in Victoria. ¹⁰⁹	<p>The audit found that ‘some positive outcomes for clients’ had been achieved, but the department ‘does not know whether HRSAP programs are reducing the incidence and impacts of rough sleeping in Victoria.’¹¹⁰ The report continued that ‘[p]oor planning, a lack of agreed goals and limited performance monitoring mean that some people who could have been housed may still be sleeping rough.’¹¹¹ The audit highlighted that one of the audited organisations had one First Peoples staff member and another organisation has no First Peoples staff.¹¹²</p> <p>There were 13 recommendations outlined in the report.¹¹³ These included improvements across planning and implementation,¹¹⁴ service delivery¹¹⁵ and performance monitoring.¹¹⁶ There were no recommendation specifically relating to First Peoples. The department accepted all 13 recommendations.¹¹⁷</p>
2021	Parliamentary Inquiry into Homelessness in Victoria	The inquiry examined the changing scale and nature of homelessness across Victoria. It investigated the many social, economic and policy factors that impact homelessness and identified policies and practices from all levels of government that have a bearing on delivering services to the homeless.	<p>The Legal and Social Issues Standing Committee of Parliament released its final report on the inquiry into homelessness in Victoria on 4 March 2021.¹¹⁸ The report noted:</p> <ul style="list-style-type: none">• the rates of First Peoples over-representation in homelessness• widespread racial discrimination and socioeconomic disadvantage impacting access to private housing• the impact past government policies have had on First Peoples and how it relates to homelessness.¹¹⁹ <p>The report includes 51 recommendations and called for additional investment across the homelessness, housing and related service systems. The inquiry made no recommendations specifically relating to First Peoples.¹²⁰</p>
2021	Inquiry into homelessness in Australia	The Commonwealth Parliament House of Representatives Standing Committee on Social Policy and Legal Affairs conducted an inquiry into homelessness in Australia. ¹²¹	The report makes 35 recommendations, including an overarching recommendation for the establishment of a 10-year national strategy on homelessness, favouring a national approach to ensuring more cohesive policy and greater accountability in regard to Australian Government funding. ¹²²

Year	Inquiry	Key focus	Key findings and recommendations
2021	Social Housing Regulation Review	The Victorian Government commissioned an independent Social Housing Regulation Review as part of the Big Housing Build to identify future regulatory arrangements that will support the long-term interests of social housing residents and communities.	The independent review delivered an interim report for consultation in December 2021. The final report was delivered in May 2022 and made 44 recommendations. ¹²³
2021	Our Youth Our Way: Inquiry into the Over Representation of Aboriginal Children and Young People in the Victorian Youth Justice System	The inquiry sought to understand the lived experiences of Aboriginal children and young people in Victoria and the factors contributing to their over-representation in the youth justice system.	<p>This report found:</p> <ul style="list-style-type: none">• 62 per cent of children and young people who were the subject of a Taskforce case planning session were experiencing homelessness or housing instability.• from July 2015 to February 2020, transitional housing was only available to 31 per cent of Aboriginal people in Victoria requiring it, and emergency housing was not accessible to 30 per cent of those with an urgent need.• young people (aged under 25) make up more than half of the Aboriginal people using homeless support services.¹²⁴ <p>This report details the links between youth housing insecurity and involvement in the youth criminal justice system.¹²⁵ Further, it notes that a lack of stable or sure housing is often considered by the courts or the Youth Parole Board when determining whether to release a young person on bail or parole.¹²⁶</p>
2021	The Royal Commission into Victoria’s Mental Health System	This was a Royal Commission across the entirety of Victoria’s mental health and related systems.	The Royal Commission recommended the Victorian Government prioritise people living with mental illness in Victoria’s 10-year strategy for social and affordable housing. ¹²⁷
2021	Aboriginal private rental access in Victoria: ‘Excluded from the start’	This report looked at research into discrimination and other barriers faced by First Peoples in Victoria trying to access the private rental market. ¹²⁸	This report stemmed from recommendations in Mana-na woorn-tyeen maar-takoort. It found First Peoples were excluded at each stage of the private rental process. Racism and discrimination are prominent barriers to private rental access for First Peoples. ¹²⁹
2021	Recommendations arising from Aboriginal Private Rental Access in Victoria: ‘Excluded from the Start’	Recommendations from the above report.	<p>This report outlines a set of recommendations to address the barriers First Peoples experience when trying to access the private rental market.¹³⁰ These barriers were discussed in the ‘Excluded from the Start’ report outlined above.¹³¹</p> <p>This report contains 14 recommendations.¹³² Recommendations were provided across the following areas: ‘values and goals’, ‘searching for a home’, ‘applying for a property’, ‘securing a property’, ‘living in private rental’ and ‘system level interventions’.¹³³</p>

Year	Inquiry	Key focus	Key findings and recommendations
2021–22	Australian Institute of Health and Welfare – Specialist homelessness services annual report 2021–2022	This is an annual report on metrics and client data gathered by specialist homelessness services across Australia.	<p>A summary of specialist homeless services (SHS) offered throughout 2021–22, including the characteristics of clients receiving support, services requested, outcomes achieved and unmet requests for services.¹³⁴</p> <p>It made the following observations regarding First Peoples SHS clients Australia-wide for 2021–22:</p> <ul style="list-style-type: none">• 28 per cent of all clients in 2021–22 were First Peoples clients• the proportion of First Peoples clients that were homeless at the start of support was 46 per cent, compared to 37 per cent at the end of support• the proportion of First Peoples clients that experienced family and domestic violence was 36 per cent, had mental health issues was 31 per cent and had alcohol or drug issues was 13 per cent• half of First Peoples clients were under the age of 25• 21 per cent of all First Peoples clients were in other housing at the start of support compared to 45 per cent of mainstream clients• 70 per cent of First Peoples clients were returning clients compared to 61 per cent of mainstream clients.¹³⁵
2022	Aboriginal Housing and Homelessness Summit Report	This report provides a summary of findings that emerged from the 2022 Aboriginal Housing and Homelessness Summit. ¹³⁶	<p>The report sets out ‘the path to advance the goals of Mana-Na Woorn-Tyeen Maar-Takoort and to move beyond crisis management of Aboriginal housing.’¹³⁷ This will create a system where Aboriginal community housing agencies becoming ‘self-determining, financially viable, independent organisations that deliver high-quality affordable housing to low-income Aboriginal Victorians’ over the next two decades.¹³⁸</p> <p>Recommendations outlined in the report included the following themes, housing as a base for life, social housing supply, private rental, treaty outcomes and housing, housing sector capacity building, homelessness, home ownership, family violence, housing people in contact with the justice system, Elders, the National Disability Insurance Scheme, housing and young people at risk.¹³⁹</p>
2022	In need of repair: The National Housing and Homelessness Agreement	The Productivity Commission conducted a review of progress against the National Housing and Homelessness Agreement (NHHA). ¹⁴⁰	The review examines how well the Australian, state and territory governments have achieved the objectives, outcomes and outputs set out in the NHHA, and the suitability of the agreement for the future. The review highlights poorer housing outcomes for First Peoples nationally. ¹⁴¹ Despite this, it is identified that the NHHA only contains one indicator with respect to First Peoples specifically. ¹⁴² Acknowledging that housing is essential to breaking cycles of disadvantage, ¹⁴³ the report recommended that the NHHA needs to better incorporate the distinct needs of First Peoples, ¹⁴⁴ and that a new National Committee on Aboriginal and Torres Strait Islander Housing be established to develop a schedule on Aboriginal and Torres Strait Islander Housing. ¹⁴⁵ The report further recommended that states and territories develop their own standalone strategies, ¹⁴⁶ and various measures to strengthen the Aboriginal and Torres Strait Islander community-controlled housing sector. ¹⁴⁷
2023	Parliamentary inquiry into the rental and housing affordability crisis in Victoria	The Legislative Council’s Legal and Social Issues Committee conducted an inquiry into the rental and housing affordability crisis in Victoria.	The inquiry explored the challenges faced by Victorian renters and identified the factors contributing to the low availability and high costs of rental properties. It also examined barriers to first home ownership and the impact this has on rental stock. The report makes a range of recommendations aimed at better regulating the rental market, increasing housing supply and protecting the rights of renters, landlords, property owners and aspiring homeowners. ¹⁴⁸
2024	Aboriginal Housing Victoria Annual Report	This is an annual report produced by AHV.	In 2023–24, the report highlighted achievements and discussions over the previous 12 months to progress the Victorian Aboriginal Housing and Homelessness Framework, Mana-na woorn-tyeen maar-takoort. ¹⁴⁹

Year	Inquiry	Key focus	Key findings and recommendations
2023	Victorian Government Aboriginal Affairs Report	This report is produced yearly to monitor the Victorian Government’s progress against the National Agreement, VAAF and the Self-Determination Reform Framework. ¹⁵⁰	The 2023 report outlined there has been an increase in First Peoples accessing homelessness services between 2011–12 and 2022–23 while access rates by non-First Peoples has remained steady. ¹⁵¹ The report also outlined the programs, pilots, roles, and other investments made by the State to facilitate housing for First Peoples. ¹⁵²
2024	Review of the National Agreement on Closing the Gap	A comprehensive review of the National Agreement is undertaken by the Productivity Commission every three years.	<p>The purpose of the review is to ‘provide an analysis of progress on Closing the Gap against the priority reforms, targets, indicators and trajectories, and examine the factors contributing to progress’.¹⁵³</p> <p>The report found that ‘governments are not adequately delivering’ on their commitment to mobilise ‘all avenues available to them to achieve the objective of the Agreement.’¹⁵⁴ The overarching finding was that ‘there has been no systematic approach to determining what strategies need to be implemented to disrupt business-as-usual of governments’ and that ‘[f]undamental change is required’.¹⁵⁵</p> <p>This review contained 16 proposed actions that were grouped into the following four recommendations:¹⁵⁶</p> <ul style="list-style-type: none">• Recommendation 1: ‘Power needs to be shared’¹⁵⁷• Recommendation 2: ‘Indigenous Data Sovereignty needs to be recognised and supported’¹⁵⁸• Recommendation 3: ‘Mainstream systems and culture need to be fundamentally rethought’¹⁵⁹• Recommendation 4: ‘Stronger accountability is needed to drive behaviour change’.¹⁶⁰ <p>The Joint Council on Closing the Gap, who ‘oversees the implementation of the Agreement’,¹⁶¹ has ‘agreed to the four key recommendations of the Review and to 15 of the 16 recommended actions. Joint Council agreed to do further work before deciding how to progress Action 2.2 on Indigenous Data, including establishing a data policy partnership to accelerate progress on data and report back to Joint Council.’¹⁶²</p>

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