

# **PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE**

## **Inquiry into the 2022-23 Budget Estimates**

Melbourne—Monday, 6 June 2022

### **MEMBERS**

Ms Lizzie Blandthorn—Chair

Mr Danny O'Brien—Deputy Chair

Mr Rodney Barton

Mr Sam Hibbins

Mr Gary Maas

Mrs Beverley McArthur

Mr James Newbury

Ms Pauline Richards

Mr Tim Richardson

Ms Nina Taylor



**WITNESSES**

Ms Gabrielle Williams MP, Minister for Aboriginal Affairs,

Ms Elly Patira, Deputy Secretary, First Peoples–State Relations Group,

Ms Brontë Spiteri, Acting Executive Director, First Peoples–State Relations Group, and

Ms Ruth Barson, Executive Director, First Peoples–State Relations Group, Department of Premier and Cabinet.

**The CHAIR:** I declare open this hearing of the Public Accounts and Estimates Committee.

I ask that mobile telephones please be turned to silent.

I begin by acknowledging the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their elders past, present and emerging as well as elders from other communities who may be with us today.

On behalf of the Parliament, the committee is conducting this Inquiry into the 2022–23 Budget Estimates. The committee's aim is to scrutinise public administration and finance to improve outcomes for the Victorian community.

I advise that all evidence taken by the committee is protected by parliamentary privilege. However, comments repeated outside this hearing may not be protected by this privilege.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

We again welcome Minister Williams, this time for the Indigenous affairs portfolio. We invite you to make an opening statement, which will be followed by questions from the committee.

**Ms WILLIAMS:** Thank you again, Chair. Before I begin, please let me acknowledge the traditional owners of the land on which we are currently gathered, the Wurundjeri people, and pay my respects to their elders past and present and also acknowledge my DPC colleagues who will be here with me and assisting today and who are obviously available for questions. On my far left is Brontë Spiteri, Elly Patira is to my left and Ruth Barson is to my right.

**Visual presentation.**

**Ms WILLIAMS:** The Andrews Labor government continues to empower Aboriginal communities through self-determination. Victoria is leading the nation in advancing Aboriginal self-determination by ensuring Aboriginal Victorians are at the heart of decision-making on the matters that affect their lives. Fully embedding Aboriginal self-determination in policies, programs, services and practices across government is a really significant endeavour, and a difficult one. This budget progresses the Victorian government's significant commitment to the progression of the treaty process in partnership of course with the First Peoples' Assembly of Victoria. It also ensures that where traditional owners are given self-determining power, such as within Victoria's nation-leading Aboriginal cultural heritage system, they are adequately and sustainably resourced to successfully fulfil these responsibilities. This investment truly embodies the Victorian Aboriginal affairs framework and its commitment to transferring power and resources to communities as a key enabler of self-determination, with these major investments that directly empower First Peoples to progress their role. This investment truly embodies the Victorian Aboriginal affairs framework's commitment to transferring power and resources to—sorry, I am just repeating myself there with what was written in my statement. We will just flick to number 2 if we can—apologies.

As the minister responsible for Aboriginal affairs, I also have the unique role of ensuring better outcomes for Aboriginal Victorians across government, noting it is a whole-of-government responsibility and our investments in this space usually do span many portfolios. That is why the Andrews government is once again backing Aboriginal communities with a really significant investment and whole-of-government investment in Aboriginal affairs of more than \$400 million over four years. Including this budget, this government has

announced almost \$1.6 billion in Aboriginal affairs initiatives since we came to office. This significant investment will go to strengthening self-determination by delivering the vital investments needed to achieve that long-lasting change. The investment will go to improving justice outcomes for Aboriginal Victorians, supporting Victorian Aboriginal people and learners, funding Aboriginal family services and child protection and improving outcomes across many aspects of life. We will just move to the next one.

Victoria is without a doubt leading the nation with our commitments to treaty. The Victorian government is working in partnership with the First Peoples' Assembly of Victoria to establish the elements necessary to support treaty negotiations. The significant investment of \$151.4 million in new funding will support the establishment of the key treaty elements required under Victoria's *Advancing the Treaty Process with Aboriginal Victorians Act 2018*, otherwise better known as just the treaty Act. This funding is a critical component to ensuring First Peoples have ownership of the next phase of the treaty process. Once the treaty elements, specifically the self-determination fund, the treaty authority and the treaty negotiation framework, are agreed and also established, negotiation of a treaty or treaties can commence—that is, the substantive negotiation of a treaty or treaties, which will mark a very significant step forward in what is a very important process. We will flick to the next.

The budget provides significant investment to boost our world-class Aboriginal cultural heritage system. Victoria's world-class cultural heritage system puts traditional owners at the centre of decision-making on what is culturally significant and also how it should be protected. \$35.7 million over two years has been provided to meet critical demand and improve efficiencies in Victoria's Aboriginal cultural heritage system as well as to boost support for traditional owners to respond to increasing demand and to continue to fulfil their statutory requirements. The investment for registered Aboriginal parties ensures the government is filling its obligations to transfer both power and resources to the community by ensuring TOs are appropriately resourced so they can exercise their rights under self-determination in their cultural heritage management. Federation of Victorian Traditional Owners CEO Paul Paton has welcomed the state budget investments and the positive impact that they will have on Victorian traditional owners, which we are very pleased about. This investment will also ensure the system is operating more efficiently and effectively to respond to increasing demand and ensure we are prioritising resourcing for improvements to the Aboriginal heritage register and also enforcement of and compliance with the *Aboriginal Heritage Act*, which is critical. Are we up?

**The CHAIR:** Yes, the time has expired.

**Ms WILLIAMS:** No worries.

**The CHAIR:** Thank you, Minister. Deputy Chair.

**Mr D O'BRIEN:** Thank you, Chair. Welcome again, Minister. Can I begin by putting forward an apology for my colleagues. Mrs McArthur is ill, and Mr Newbury has had to leave for a personal appointment.

**Ms WILLIAMS:** No problem.

**Mr D O'BRIEN:** There is no disrespect intended for either this portfolio or the next one. Minister, to begin, budget paper 3, page 153, has the figures for average days lost due to absence for Aboriginal students in years 7 to 12, and the actual figures or expected outcomes for both this year and last year are above target at 41.3 days and 37 days—well above, indeed mostly double, the general cohort in the school system. The question is: what is the government doing to close the gap in terms of educational outcomes for Aboriginal children?

**Ms WILLIAMS:** Thank you, Mr O'Brien. As that reference in the budget paper refers to what is fundamentally the responsibility of the Minister for Education, you are best placed to direct that question to him, and maybe you did when he was before the committee. What I will say is that those sorts of disparities that we see in education and indeed across a whole range of our systems are the very reason we have embarked upon a process of both truth telling and treaty, which are obviously central parts of our reform agenda here in Victoria. That is over and above what has been done at portfolio levels, which again you are best to direct to the Minister for Education. But to talk to the bit that does actually go to my portfolios, we know that the truth-telling commission has within its terms of reference a specific focus on education. We know that it forms part of our commitments under Closing the Gap and will continue to, and that ultimately, through the process of treaty, the very heart of that process is around achieving better outcomes for Aboriginal Victorians by giving Aboriginal Victorians more control over their own affairs.

**Mr D O'BRIEN:** Well, can I put it another way: what conversations have you had with the education minister or the department to actually improve these outcomes?

**Ms WILLIAMS:** The education portfolio—and this might be something that my colleague Ms Patira might like to talk to in perhaps greater depth—has its own framework which governs these challenges. I think it is called the Marrung framework, which is the education framework which looks to improve outcomes for Aboriginal people in the education space. That is broadly considered to be very successful. I do not know if Ms Patira would like to add any sort of overarching comments, also noting of course that I am supported by DPC here, not the department of education, so ultimately you would be best placed to direct any questions about that strategy to the Minister for Education. But if you would like some overarching comments, I am sure Ms Patira would be happy to give you some Closing the Gap reflections.

**Mr D O'BRIEN:** I think we have just had 2 minutes of overarching comments. Unless Ms Patira has a specific—

**Ms PATIRA:** Only to refer specifically to the \$5.8 million over two years that is included in this budget for the education system around self-determination reforms to support Aboriginal-led educational outcomes.

**Mr D O'BRIEN:** Funnily enough, that is exactly where I was going next, so thank you. That is on page 6 of budget paper 3, the funding for self-determination. When do you expect the co-design of that program or that process will be finalised?

**Ms WILLIAMS:** This is in relation to, sorry, particularly the education program again or—

**Mr D O'BRIEN:** Preparing the education system for self-determination.

**Ms WILLIAMS:** Again, Mr O'Brien, apologies, but I cannot be straying beyond my portfolio confines, and while I play a significant advocacy role with my colleagues, when you are asking questions that relate directly to another system within government that I do not have portfolio responsibility over, I am going to be very limited in what I can say. But by all means you had an opportunity to direct those questions to the Minister for Education, who I am certain is—

**Mr D O'BRIEN:** It is literally in the whole-of-government section.

**Ms WILLIAMS:** Despite the fact that it is a whole-of-government commitment—and this goes to all of my portfolios in fact—there is the advocacy role that I play, but then there are the programs that fall directly within my responsibility, and there are a raft of areas that fall directly within my responsibility as Minister for Aboriginal Affairs. You are more than welcome to go to any of those. You have just chosen one that is in fact the responsibility of the Minister for Education.

**Mr D O'BRIEN:** Can I go to another one? I suspect I know the answer, but I might ask the department. With respect to housing for Aboriginal Victorians, there is data on pages 215 and 216, under the housing portfolio, but what I wanted to know is if the department can provide information. For example, firstly, there are 49 000 Victorians getting refuge accommodation as victims of family violence per night in the budget papers. I am wanting to know, if you can tell me, how many of those identify as Aboriginal victims.

**Ms WILLIAMS:** Sorry, before Ms Patira seeks to answer, Mr O'Brien, I have pointed out that I am supported by public sector colleagues from the Department of Premier and Cabinet, and again your question is going directly to matters that would actually fall within the responsibility of the Department of Families, Fairness and Housing. I am really keen to talk about a myriad of issues that do sit within my portfolio responsibility. You have had the opportunity to speak to both the Minister for Housing and the Minister for Education to have these particular questions.

**Mr D O'BRIEN:** Yes, and we talked to them about general housing matters and general education matters. I mean, if education and housing are two of the biggest issues facing Aboriginal Victorians, then surely the department is keeping data and tabs on this information.

**Ms WILLIAMS:** Of course they are very significant issues, but they also fall within the portfolio responsibilities of different ministers. I would hope that you of course put these questions to my ministerial colleagues and their departments, who have carriage of that work.

**Mr D O'BRIEN:** No, I do not get the chance, I am sorry, Minister. The whole point of having a whole-of-government approach to Aboriginal affairs, I would have thought, is that someone is keeping tabs on this data. Do you not have it?

**The CHAIR:** Mr O'Brien, it has been made quite clear that your question needed to be directed to the previous portfolios.

**Ms WILLIAMS:** And had they been directed as such, you certainly would have got a comprehensive answer, as those ministers take a very deep sense of responsibility in this area, because it is a whole-of-government responsibility, which means it is a shared responsibility across every portfolio of government.

**Mr D O'BRIEN:** But is this data available? Because surely the Aboriginal affairs portfolio would be looking at social housing as an issue. Is it something you can take on notice at least?

**Ms WILLIAMS:** Well, that would be a question to ask the department with the responsibility for housing.

**The CHAIR:** Mr O'Brien, it has been—

**Mr D O'BRIEN:** No, well, I cannot, because you are the last minister, Minister.

**Ms WILLIAMS:** But you could have, Mr O'Brien.

**The CHAIR:** Mr O'Brien. Sorry, Minister. Mr O'Brien, it has been made perfectly clear that your questions are outside the portfolio we have before us today. They are not unreasonable questions, but it would be appreciated if they could have been directed to the relevant departments.

**Mr D O'BRIEN:** Oh, yes, because I had heaps of time to ask them questions.

**The CHAIR:** Mr O'Brien. Deputy Chair, your time has expired. I will pass the call to Ms Taylor.

**Ms TAYLOR:** Yes. Could I please take you to budget paper 3, page 3, where it outlines an investment of \$151.4 million over four years to support the establishment of key treaty elements required under Victoria's treaty Act. We know the state is currently working in partnership with the First Peoples' Assembly of Victoria to establish the elements necessary to support future treaty negotiations. Can you please tell us or provide the committee with an update on these nation-leading negotiations?

**Ms WILLIAMS:** Thank you, Ms Taylor. I am sure I could talk your legs off on treaty negotiations. It is something that does squarely fall within my remit as Minister for Aboriginal Affairs, and it is something that is a central part of our nation-leading reform agenda, as you have rightly pointed out. We lead the nation in supporting true self-determination for Aboriginal communities, and we are the first and only jurisdiction to have actioned both the treaty and truth elements of the *Uluru Statement from the Heart*. The state is working in partnership with the First Peoples' Assembly of Victoria, which for those who may not be aware, is the first statewide democratically elected representative body for First Peoples in Victoria, to establish the treaty elements as required under the treaty Act. We are currently negotiating a treaty negotiation framework as well as a treaty authority and the self-determination fund—three parts of phase 2 of the treaty negotiations. These are three critical elements that will need to be agreed between the parties before we can then move to the next phase of negotiations, which is effectively where we substantively negotiate treaty or treaties.

I should note that the treaty process is not yet at a stage where we are negotiating specific proposals or potential outcomes, but we have been clear from the outset as we prepare for that phase of things, which should commence next year, that we are not taking anything off the table. And it is really important that we do that so we enter these negotiations in good faith and have a genuine discussion with our negotiating partners about what is needed and what we can work through as a part of that process. We have committed to doing things differently as a part of this process, and it is really important that we do.

The \$151.4 million in funding that you have mentioned will prepare the state to meet future obligations expected to arise out of the negotiations and support the establishment of those treaty elements that effectively are pending the outcomes of those negotiations with the assembly. This will most likely include supporting the establishment of both the treaty authority and the self-determination fund. These parts of the negotiations, we are expecting, will be finalised later this year, which is why we have been keen to ensure that we can resource

those once that is finalised. That additional \$151.4 million investment will be held in contingency pending those outcomes.

This means that the Andrews Labor government has so far invested over \$220 million in Victoria's treaty process as well as \$58 million in Australia's first formal truth-telling process, one that you might better know as the Yoorrook Justice Commission. This includes \$16.9 million over two years in the 2021–22 budget; \$20.2 million over three years in the 2020–21 budget; and \$30.4 million over two years allocated in the 2019–20 budget. That investment included support for the Victorian Treaty Advancement Commission, including successfully holding a statewide election for Aboriginal Victorians, a remarkable achievement; support for traditional owners to engage in the treaty process and undertake that pre-readiness work; the establishment and operation of the assembly, including broad-based engagement with traditional owners and Aboriginal Victorians on all aspects of treaty; the establishment of a state negotiating team to work across all government departments and portfolios in furthering that negotiation process; joint development of the terms of reference to establish the Yoorrook Justice Commission; and a public communications strategy, including—hopefully—two campaigns that you are broadly aware of, Deadly Questions and Deadly and Proud, to build understanding between Aboriginal Victorians and also non-Aboriginal Victorians and increase that public understanding and engagement with treaty, because we know the core to treaty's success will be not only the work of the Aboriginal community but also the investment and engagement of the non-Aboriginal community in understanding why this is important and in doing their part to make sure that it delivers the outcomes that we all collectively hope it does.

**Ms TAYLOR:** Thank you. If we can stay on budget paper 3, page 3, noting that you mentioned the elements required under Victoria's *Advancing the Treaty Process with Aboriginal Victorians Act 2018*, can you please expand on the purpose of the treaty negotiation framework?

**Ms WILLIAMS:** Sure. The treaty framework is one of the treaty elements that the state and the assembly must establish by agreement in this space—phase 2 of the treaty process—and that is set out under the treaty Act. The treaty negotiation framework will set out the rules and processes for treaty making and gives us, effectively, the shape, if you like, of future treaties. The purpose of the framework is to set the ground rules for the conduct of treaty negotiations, consistent with the treaty Act, to achieve a few different objectives. To go through some of those, they are to realise to the full extent the minimum standards provided by the UN Declaration on the Rights of Indigenous Peoples, otherwise known as UNDRIP, to claim, define and exercise self-determination; to be a recognition space for First Peoples' rights and responsibilities and acknowledgement of truth and healing, as guided by the recommendations of the Yoorrook Justice Commission, which is a really important part of this broader landscape; and to deliver better self-determined outcomes for all First Peoples in Victoria.

**Ms TAYLOR:** Thank you. Again, if I could refer to budget paper 3, page 3, what is the role of the treaty authority in progressing this nation-leading work?

**Ms WILLIAMS:** The treaty authority will effectively be the independent umpire for future treaty negotiations and will guide the journey towards reconciliation and First Peoples' self-determination and empowerment. We are committing to establishing a treaty authority that is an independent body—that is incredibly important—and a body with the ability to deliver an innovative approach to treaty negotiations in Victoria based on Aboriginal lore and cultural authority. It will facilitate and oversee treaty negotiations between the state and the First Peoples. It will also administer the treaty negotiation framework and provide for dispute resolution in negotiations, and that is an incredibly important and difficult function it has. Negotiations between the state and assembly on the form and the function of the treaty authority will continue, and I note that the assembly has advocated very hard for a treaty authority that is Aboriginal led, that is culturally strong, that is underpinned by the principles of Aboriginal self-determination and that ensures timely progress towards fair and just treaties by providing effective and independent oversight of the treaty process and of negotiating parties as well. This is really, really unique, nation-leading work without precedent, it should be said, and we expect to have more to say on it shortly as we move towards that phase of finalising those negotiations with the First Peoples' Assembly. I think it is going to be an incredibly exciting step for Victorians to be a part of, and hopefully it will show something that now informs the national process which our new federal government has committed to embarking upon.

**Ms TAYLOR:** Indeed. Staying on the same budget paper 3, page 3, I think it would be helpful for the committee if you could detail how the self-determination fund will support traditional owners and Aboriginal Victorians in the treaty process.

**Ms WILLIAMS:** Sure. The self-determination fund really embodies the importance of Aboriginal control of Aboriginal affairs and will form the economic base, if you like, for both negotiation of treaty but also the realisation of treaty outcomes. So the self-determination fund—and I will refer to it as the SDF, as it is more comfortable and a bit easier to get off the tongue—will have a few different purposes. One is to support traditional owners and Aboriginal Victorians to have equal standing with the state in treaty negotiations, and second and key is to provide that independent financial resource to empower traditional owners to build capacity, wealth and prosperity. The self-determination fund responds to growing evidence that better outcomes are achieved when First Peoples are able to identify and pursue their own social and economic priorities. We see this borne out across many different work streams across government.

The principle of self-determination is embodied in the treaty Act's requirement that the self-determination fund be administered by the Aboriginal representative body and that the fund's second purpose be a financial resource independent from the state, and that independence is something that the assembly would emphasise is really important, particularly in encouraging confidence from the Aboriginal community in Victoria in the process. This acknowledges that Victoria's First Peoples hold the expertise to make the best decisions for their families and their communities. We know that is the case, and the establishment of a self-determination fund will enable Aboriginal Victorians to pursue economic freedom, cultural empowerment and treaty readiness both on an individual and also at a community level.

**Ms TAYLOR:** Thank you.

**The CHAIR:** Thank you, Ms Taylor. Mr Hibbins.

**Mr HIBBINS:** Thank you, Chair. Minister, I want to ask about the First Peoples' Assembly. Obviously this is a very critical time for the work of the members of the First Peoples' Assembly consulting with and representing their communities in regard to treaty. Currently I understand they are part-time roles and paid accordingly part time. But do you envision that role as a part-time role, and is that adequate given the responsibilities that they have?

**Ms WILLIAMS:** It is probably worth noting that the First Peoples' Assembly's role to date has been to negotiate the architecture, if you like, of treaty to get us through to phase 2 of treaty negotiations. The role that moves us forward into phase 3 from next year is potentially different and is currently subject to negotiation. So there is quite a leap, and Ms Patira might like to add to this with far more eloquence than I can. But when we move to the end of this year and the finalisation of the treaty authority, the self-determination fund and the negotiation framework, which progress is going well on, I can report, we will be looking at potentially a very different set of arrangements from next year when we move into substantive treaty negotiations. So there are many things that will form part of those discussions about how those arrangements are in practice from that point on, once we have finalised those key points of the architecture.

**Ms PATIRA:** I would just add to that to say the assembly is adequately funded if they want to put all of their assembly members on full time. It is a matter under their constituent documents to make that determination around how they fund and support their members.

**Mr HIBBINS:** If they were to increase that funding, though, wouldn't that be taking funding away from other work that they would do?

**Ms PATIRA:** No.

**Mr HIBBINS:** Okay. All right. Thank you. Can I ask now in terms of support and funding for unrecognised nations and whether there is any funding within this budget to support the work that they do so they can fully participate in the assembly or the treaty process?

**Ms WILLIAMS:** Sure. Bear with me. I think what you are probably alluding to is the nation-building funding that we may have discussed in last year's PAEC, if memory serves. I cannot remember if it was with you, Mr Hibbins, or with others, but our nation-building package supports both formally and non-formally

recognised traditional owner groups across Victoria so that they can participate in the treaty process and also to deliver on statutory and cultural responsibilities. What we saw in the 2021–22 budget—so last year’s budget—was a pretty significant investment and boost there of \$11.12 million over two years, so we are still in that funding cycle and nation-building support for traditional owners. This funding built on a previous allocation of \$13.58 million that was allocated over two years back in 2019–20. \$5.57 million is allocated for expenditure in this financial year. I am just sort of giving you the picture of how that funding has flowed. There is \$1.65 million in flexible funding to support the emerging needs of traditional owners in the regions without formal recognition, to go to your point. There is \$1.55 million for the Strong Roots for Our Futures program to resource some of those foundational activities that build relationships but also governance structures towards establishing strong groups to engage in formal recognition processes if they wish to. There is \$750 000 for a nation-building resource pool for grants for formally recognised TO groups, with each group eligible to receive up to \$530 000 for nation-building and treaty readiness projects over the lifetime of the pool, including cultural heritage projects. There is another allocation of that same amount for the Federation of Victorian Traditional Owner Corporations to support core operations and ongoing advocacy, engagement and policy development. There is another \$200 000 for First Nations legal and research services to provide formal recognition services directly to TOs in the regions, including legal and research expertise that is necessary for formal recognition, and another allocation of \$670 000 for administration of that package to ensure that that support is there.

I could talk you through how access to support under that package has gone over recent years, if that was something that interested you, but our commitment to work with both recognised and unrecognised groups remains, and I know it will continue to also be a feature of the treaty process going forward as well.

**Mr HIBBINS:** Thank you, Minister.

**The CHAIR:** Thank you, Mr Hibbins. Thank you, Minister. And that concludes the time we have set aside for consideration of the Indigenous affairs portfolio. We thank you very much for appearing before the committee in this capacity today. The committee will follow up on any questions taken on notice in writing, and responses will be required within five working days of the committee’s request.

The committee will take a short break and resume consideration with you of the women’s portfolio at 5.20. I declare this hearing adjourned.

**Witnesses withdrew.**