

Notification of the State's Compliance with the Minimum Standards and Fulfilment of Additional Preparations

Through the submission of this notification of the State's compliance with the Minimum Standards and fulfilment of Additional Preparations for Statewide Treaty under clause 20 of the Treaty Negotiation Framework (**Framework**), the State demonstrates its commitment to progressing the Treaty process in partnership with Victoria's First Peoples.

Having accepted the invitation issued by the Treaty Authority to begin Statewide Treaty negotiations with the First Peoples' Representative Body (**Body**), the State is committed to conducting negotiations in accordance with the Framework. The State acknowledges the significance of the commencement of Statewide Treaty negotiations and recognises the establishment of a new relationship.

The State is committed to the Treaty process, having been on the Truth and Treaty path for more than eight years. The State has made agreements and passed legislation to prepare to negotiate Treaties.

Between 2016-2019, the State:

- Established the Aboriginal Treaty Working Group to consult with Aboriginal communities and, following that, the Victorian Treaty Advancement Commission to continue the Group's work.
- Passed the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) (**Treaty Act 2018**) setting out the Treaty elements required to support fair and effective Treaty negotiations in Victoria and providing for a community elected Aboriginal Representative Body (established as the First Peoples' Assembly of Victoria).

Between 2020-2022 the State:

- Negotiated and established by agreement with the First Peoples' Assembly of Victoria, the Treaty elements, being: the Treaty Negotiation Framework; the Treaty Authority; the Self Determination Fund; and a Dispute Resolution Process.
- Established, with the First Peoples' Assembly of Victoria, the Yoorrook Justice Commission, to advance truth-telling.
- Passed the *Treaty Authority and Other Treaty Elements Act 2022* (Vic).

Minimum Standards

20.2 Minimum Standards for the State

The State must comply with the following Minimum Standards to enter into Treaty negotiations:

- (a) In relation to **Land and Waters**, demonstrate its preparedness to negotiate a Treaty in relation to land and waters that constitute what is now known as the State of Victoria and all other land and waters vested in the State;
- (b) In relation to **Community**, identify that it represents the people of the State of Victoria;
- (c) In relation to **Leadership**:
 - (i) identify the persons and/or agencies that have been authorised to undertake the Treaty negotiations (**Negotiators**); and
 - (ii) identify the decision-making processes in place to authorise decisions within the Treaty negotiations;
- (d) In relation to **Inclusivity**, identify the processes in place to:
 - (i) educate and inform departments and State entities about the Treaty negotiations; and
 - (ii) educate the people of the State about the progress of the Treaty negotiations.

Extract – Treaty Negotiation Framework

Land and Waters

- The State declares that it is prepared to negotiate Statewide Treaty in relation to the land and waters that constitute what is now known as the State of Victoria and all other land and waters vested in the State.
- As set out in the introduction to this notification, the State has passed Treaty-related legislation and entered into Treaty-related agreements to support its Treaty preparedness since 2016.
- The executive power of the State authorises the Government to negotiate and enter Statewide Treaty.
- The State acknowledges that there are limitations on its jurisdiction with respect to the land and waters that constitute what is now known as the State of Victoria and other land and waters vested in the State – for instance, the Commonwealth may have enacted legislation over land and waters, which prevails over State laws to the extent of any inconsistency, or the Commonwealth may have rights and interests in relation to the relevant land and waters. The State is willing to engage with those limitations, and to invite potential Additional Negotiating Parties, such as the Commonwealth, or other State and Territory Governments, or Local Governments, to join negotiations in accordance with the Framework and Negotiation Protocols as appropriate.

Community

- The State represents the people of the State of Victoria through the system of representative and responsible government prescribed by the *Constitution Act 1975 (Vic)*.

Leadership

Identity of the State's Negotiators

- At the time of this notification, the persons who have been authorised to undertake Statewide Treaty negotiations on behalf of the State (**the State's Negotiators**) are as follows:
 - the Premier
 - the Minister for Treaty and First Peoples
 - the Secretary, Department of Premier and Cabinet (**DPC**)
 - the Deputy Secretary, DPC First Peoples-State Relations Group

- the State Lead - Treaty, DPC Treaty Negotiations and Strategy Division
- the Lead Negotiator, DPC Treaty Negotiations and Strategy Division
- the Negotiator Supports, DPC Treaty Negotiations and Strategy Division
- *[The official contact details for the State's Negotiators are contained in Appendix A to this notification.]*
- Should other persons or agencies be authorised to undertake Statewide Treaty negotiations, the State will notify the Treaty Authority and the Body.

Decision-making processes to authorise decisions within Statewide Treaty negotiations

- Cabinet is the principal decision-making body for the Victorian Government and comprises all Ministers of the Crown. Cabinet considers questions of policy, administration and legislation. Cabinet is the principal decision-making body for decisions within Statewide Treaty negotiations, with the support of a Treaty Cabinet Sub-Committee.
- Cabinet may also authorise the Premier, the Treasurer and/or the Minister for Treaty and First Peoples to make decisions within Statewide Treaty negotiations.
- The Minister for Treaty and First Peoples is responsible for the administration of the Treaty and First Peoples portfolio. This includes responsibility for the administration of the Treaty Act 2018 and the agreements made pursuant to that Act.
- The Department of Premier and Cabinet is the lead department in relation to Statewide Treaty and the principal source of advice to the Minister for Treaty and First Peoples and to the Premier in relation to Treaty. All members of the State Negotiating Team apart from the Premier and the Minister for Treaty and First Peoples are DPC employees.

Inclusivity

Departments and State entities

- Cabinet's role as the principal decision-making body for decisions within Statewide Treaty negotiations assists in ensuring departments and relevant State entities are informed of Statewide Treaty negotiations, within the convention of Cabinet confidentiality. This occurs through the process of Cabinet coordination submissions.
- Cabinet coordination submissions regarding Statewide Treaty negotiations are submissions distributed for formal comment from all departments prior to Cabinet or Committee consideration. This provides departments with an opportunity to liaise with the Department of Premier and Cabinet, as the lead department, about issues arising from the submission regarding Statewide Treaty negotiations and to provide feedback on potential changes.
- Ministers and their departmental Secretaries are responsible, within their portfolios, for the communication and implementation of Cabinet decisions made in relation to Statewide Treaty negotiations.
- The State has established internal processes associated with Treaty negotiations that are efficient and ensure all departments are informed, engaged and prepared to respond to Treaty negotiations, including a Treaty Interdepartmental Committee and Executive Treaty Coordinators within each Department. Executive Treaty Coordinator positions and their functions were endorsed by government as a formal network to support communication, information, training and awareness across all areas of the Victorian Government.
- These processes and networks further ensure the Treaty process is informed by information from departments. This two-way information flow is designed to ensure the whole of the Victorian Government (**WOVG**) is well informed about Treaty and that Treaty negotiation positions include departmental expertise.

- Members of the Treaty Interdepartmental Committee and Executive Treaty Coordinators are authoritative sources of Treaty information within their respective Departments. They deliver presentations and key communications on the Treaty process to ensure a deeper comprehension of Treaty and upcoming negotiations.
- DPC has continued to engage across all Departments to discuss the Treaty process with strategic and targeted communications. A series of presentations and learning development sessions have been delivered at all-staff forums, departmental executive forums, Ministerial briefings and other occasions to increase awareness and understanding of Treaty across WOVG.
- The State has established and delivered Treaty education opportunities, which are available across WOVG, to embed a strong understanding of the principles underpinning the Treaty process.
- The State will also educate and inform departments and State entities about Statewide Treaty negotiations through a range of additional processes, including the following:
 - dedicated Treaty resources within all departments and Victoria Police to support Treaty education, preparedness and support for Cabinet and Ministerial decision-making, including multiple Treaty-specific roles in each department and Victoria Police to:
 - a. support timely engagement, inputs and information dissemination on Treaty, within the convention of Cabinet confidentiality; and
 - b. develop Treaty policy and enable the State to consider its policies and positions with respect to the subject matters for negotiation in a timely fashion;
 - the dissemination of information and updates about Statewide Treaty negotiations by Ministers or the Secretaries of their departments to departments and State entities, including public servants and other public officials; and
 - the dissemination of Treaty information and updates across government through existing WOVG networks, such as the Treaty Interdepartmental Committee and regularly scheduled engagement by DPC's Treaty team with the network of Executive Treaty Coordinators and other non-executive Treaty officers across WOVG.

The people of Victoria

- The State will educate the people of Victoria about the progress of Statewide Treaty negotiations through a range of processes, including the following:
 - regular publishing of information about the background and progress of Statewide Treaty negotiations through communications channels from which the Victorian community is known to seek and receive government information, such as public media, Departmental websites and social media channels, in particular the DPC website;
 - community meetings, speaking engagements, meetings with stakeholders and peak bodies; and
 - tabling a report in Parliament each year outlining the progress of Treaty negotiations, as required under ss 41 and 43 of the Treaty Act 2018 and clause 34.1 of the Framework. This report will also be made available on the DPC website.
- The State has held community forums across Victoria to discuss the Treaty process with community members and stakeholders. In these forums, the State discussed the progress towards Treaty and community feedback. This approach has been designed with a view to fostering direct engagement and is intended to be the start of a wider engagement program across the State. Following commencement of negotiations and agreement of subject matters for negotiation with the Assembly, further direct community engagement is intended to be accompanied by public communications.
- The types of information that the State will provide to the people of Victoria about the progress of Statewide Treaty negotiations will include, where appropriate, notification:
 - of the commencement of negotiations;
 - of agreed subject matters for negotiation; and
 - that Statewide Treaty has been agreed.

- The State has established an internal Treaty communications team, responsible for public communications relating to Treaty. To avoid prejudicing or in any way limiting potential subject matters for Statewide Treaty, additional types and forms of public communications will be finalised once subject matters are agreed pursuant to clause 25.2 of the Framework. Public engagement on Statewide Treaty will include the engagement strategies outlined above, adapted according to the agreed subject matters for negotiation and enacted at key points of the Statewide Treaty process.

Additional Preparations

20.3 Additional Preparations for the State

- (a) While not Minimum Standards, the State should also make the following Additional Preparations to assist it to enter into negotiations for a Treaty:
- (i) In relation to **Land and Waters**, demonstrate good faith preparations to provide the Body with meaningful access to information on the relevant land and waters in the State's possession, custody or control, consistent with the State's other legal obligations with respect to that information;
 - (ii) In relation to **Community**, as appropriate and achievable in light of the importance of avoiding delays in beginning Treaty negotiations, identify processes in place to allow engagement of key stakeholders in relation to the land and waters over which the Treaty will be negotiated;
 - (iii) In relation to **Leadership**, demonstrate its Negotiators have the appropriate expertise and cultural competency to negotiate Treaties compatibly with this Framework's requirements; and
 - (iv) In relation to **Inclusivity**, identify processes in place to enable potential Additional Negotiating Parties, such as the Commonwealth, other State and Territory Governments, or Local Governments, to be invited to join negotiations, where appropriate and agreed to by the other Primary Negotiating Party in accordance with clause 22.

Extract – Treaty Negotiation Framework

Land and Waters

- The State has assessed the Body's potential requirements with respect to access to information on land and waters that is within the State's possession, custody, or control and has engaged in the following preparations:
 - Identifying publicly accessible and in-house government resources and tools capturing information held by the State that:
 - (a) Relate to the land and waters that constitute what is now known as the State of Victoria and other land and waters vested in the State; and
 - (b) are or may be relevant to Statewide Treaty negotiations, including maps of the State's boundaries and coastal waters.
 - Identifying government-owned tools and data relating to land and waters, including (but not limited to) the *Victorian Register of Land*, *VicMap Crown Land Tenure*, *GovMap*, *Aboriginal Cultural Heritage Register*, the *Victorian Water Accounts*,¹ and data on coastal Crown land.
 - Establishing relationships between the Department of Premier and Cabinet, on the one hand, and the Department of Transport and Planning and the Department of Energy, Environment and Climate Action, on the other, to:
 - (i) Assess and screen resources and tools described above at (a) and (b) to ensure that providing access to the Body is consistent with the State's legal obligations with respect to that information.

¹ Please note this publicly available information is available in digital format from the *Victorian Water Accounts* website at <https://accounts.water.vic.gov.au/>

- (ii) Facilitate a process for the Body to have access to publicly available tools relating to land on a no cost basis so that all information at (a) and (b) is made available to them.
 - (iii) Provide technical support, training, and assistance so the Body can effectively use those tools.
 - (iv) Enable the Body to be aware of and request information relevant to Treaty negotiations that it cannot access through publicly available tools from the DPC.
 - (v) Facilitate cross-department access to all relevant information described at (a) and (b) for Treaty purposes.
- The State proposes to engage with the Body on information-sharing arrangements regarding relevant land and waters as part of the process of agreeing the subject matter for negotiations and agreeing the Negotiation Protocols.

Community

- The State has put in place a number of processes to allow the engagement of stakeholders in the Statewide Treaty process (both internal and external to government), including the following:
 - Ministers, who are members of Cabinet, regularly engage within their respective portfolios with a number of individuals and entities who will be stakeholders (both internal and external to government) in the Statewide Treaty process. During Statewide Treaty negotiations, that engagement will extend to matters relevant to Statewide Treaty. In that way, key stakeholders will be engaged in the Statewide Treaty process through the Cabinet process.
 - WOVG governance and communication pathways have been established to support Cabinet's role as the principal decision-maker for Statewide Treaty negotiations. These pathways will support the identification and engagement of internal and external stakeholders across all portfolios by facilitating interdepartmental information sharing and assisting with timely decision-making throughout negotiations.
 - The engagement of internal and external stakeholders will also be supported by the work of dedicated staff in each department, with specific types of engagement undertaken by departmental staff being tailored to meet the needs of stakeholders. Types of engagement may include information-sharing meetings with internal and external entities and forums.
 - A bespoke Treaty Cabinet submission template has been created, which will ensure that Treaty negotiation positions are informed by departmental collaboration and expertise, as well as the views of external stakeholders.
- The processes outlined above engage and identify stakeholders through varying means. The dedicated Treaty staff in each department identify and lead engagement with key teams and individuals within their respective portfolios. This enables dissemination of information about Treaty to departments, and from departments into the State's Treaty team. Further, stakeholders external to government – such as those engaged in the recent community engagement meetings – will be able to disseminate information relating to Treaty to their networks. By seeking feedback in these meetings, the State has also sought to ensure community views are engaged in the Treaty process.
- Once subject matters for negotiations are agreed, the State will use these processes to identify and engage relevant stakeholders in relation to those subject matters.

Leadership

- The State's Negotiators have been selected on the basis that they have appropriate expertise and cultural competency to negotiate Treaties compatibly with the requirements of the Framework.
- [*The expertise and cultural competency of each of the State's DPC Negotiators is set out in Appendixes A and B to this notification.*]
- The State acknowledges that the maintenance of its Negotiators' cultural competency requires ongoing attention and will require its Negotiators to undertake regular cultural competency training.

Inclusivity

- The State has a number of processes in place to enable potential Additional Negotiating Parties in respect of Statewide Treaty to be invited to join negotiations where appropriate and agreed to by the Body in accordance with clause 22 of the Framework, including the following:
 - Where the State and the Body agree that another government, or another level of the Victorian government, should be invited as an Additional Negotiating Party in accordance with clause 22 of the Framework and the Negotiation Protocols, the State's established channels of communication can be used to facilitate inviting them to join negotiations. To formally raise matters with another government, or another level of the Victorian Government, the Premier and the Minister for Treaty and First Peoples will send formal correspondence.
 - If Treaty negotiations raise a matter that requires or would benefit from the participation of a non-government entity or an individual, the State can use information within its possession to locate and approach that entity or individual to invite them to participate in negotiations, subject to applicable privacy laws and the agreement of the Body.