

Advancing the Treaty Process with Aboriginal Victorians Bill 2018

Overview

To download a copy of the Bill, go to www.legislation.vic.gov.au and click Parliamentary Documents> Bills>Advancing the Treaty Process with Aboriginal Victorians Bill 2018.

Preamble

- Outlines the context, background and reasons for undertaking the treaty process.
- Recognises the intrinsic connection of traditional owners to Country and the diversity of Victoria's Aboriginal communities and cultures.
- Emphasises the Bill's role as a foundational piece of legislation, which sets the groundwork for how Aboriginal communities and the State will work together to achieve treaty.

Part 1 – Preliminary

- The purposes of the Bill and definitions of terms used throughout are set out.
- The Bill does not affect rights Aboriginal Victorians have under any other act, e.g. native title.

Part 2 – Aboriginal Representative Body

- The Minister must declare an entity to be the Aboriginal Representative Body, as the State's counterpart for the purposes of the Bill, on the recommendation of the Victorian Treaty Advancement Commissioner.
- If the Aboriginal Representative Body is not established by 1 July 2019, the Minister is to develop a plan to support Aboriginal Victorians to establish one.
- There are limited and exceptional circumstances under which the Minister may revoke an Aboriginal Representative Body declaration – this doesn't mean that the Aboriginal Representative Body ceases to exist, just that the State can't work with it for the purposes under the Bill.
- If an Aboriginal Representative Body declaration is revoked, the Minister must develop a plan with Aboriginal Victorians to make a subsequent declaration, so the treaty process can proceed.

Part 3 – Guiding principles for the treaty process

- All participants in the treaty process must act in accordance with the guiding principles, including the Aboriginal Representative Body and the State.
- The guiding principles of the treaty process are:
 - self-determination and empowerment
 - fairness and equality
 - partnership and good faith
 - mutual benefit and sustainability
 - transparency and accountability.

Part 4 – Treaty Authority

- The Aboriginal Representative Body and the State must work together to establish the Treaty Authority.
- The minimum functions of the Treaty Authority are to oversee and facilitate negotiations, administer the treaty negotiation framework, provide dispute resolution services, and undertake research to support the treaty process.
- The Aboriginal Representative Body and the State may agree to additional functions when establishing the Treaty Authority.

Part 5 – Treaty negotiation framework

- The Aboriginal Representative Body and the State must work together to establish the treaty negotiation framework.
- Contents of the treaty negotiation framework must address matters of process and scope of negotiations.
- The Aboriginal Representative Body and the State may agree to vary and/or include further matters when establishing the treaty negotiation framework.

Part 6 – Self-determination fund

- The Aboriginal Representative Body and the State to work together to establish the self-determination fund.
- The purposes of the fund are to:
 - support Aboriginal Victorians to participate in treaty negotiations on an equal footing with the State
 - provide an independent resource base for Aboriginal Victorians to build capacity, wealth and prosperity.
- The Aboriginal Representative Body and the State may agree to vary and/or include further purposes when establishing the self-determination fund.
- The self-determination fund will be administered by the Aboriginal Representative Body.

Part 7 – Dispute Resolution

- The Aboriginal Representative Body and the State must enter into an agreement on the process for resolving any disputes that may arise when working together under the Bill.

Part 8 – Reporting

- The Minister must table in Parliament an annual standalone report on progress towards treaty.
- The Aboriginal Representative Body must prepare an annual report on its work to advance the treaty process and must provide it to the Minister for tabling in Parliament.