



CONSTITUTIONAL REFORM AND TREATY:

Approach and Considerations for Victorian Local Reconciliation Groups

This document was developed to provide Local Reconciliation Groups with an update on Treaty and Constitutional Reform and is designed to support Local Reconciliation Groups in their approach and engagement on these important issues.

Background

Reconciliation Victoria supports a reconciliation network of 25 local reconciliation groups (LRGs) across the state. Over a number of years we have built our engagement and involvement in both Constitutional Reform and Treaties. Part of our role has been to help inform our networks about the proposals and campaign developments to help people make considered and informed decisions. Many LRGs have held their own events to help raise awareness over the past few years; we have provided strategic advice, support and feedback, where invited and possible.

Our work in these areas is guided by the Reconciliation Victoria Council, the work of the Referendum Council, the State Aboriginal Treaty Interim Working Group and other key stakeholders. We take a considered approach and are aware of the diverse views and complexity of this space. We endeavor to provide a platform for informed and measured discussion, that represent this diversity, via our website and community engagement activities.

Treaty

We have a history of engagement in promoting and advocating for treaties; initially through a joint Agreements and Treaties working group with ANTaR Victoria. Now with the Andrews government committing to a treaty with Traditional Owners within the next few years, we are in discussions with the state government about how we can best facilitate conversations and share information about the current treaty process with our networks and when the time is right, the broader community.

The [Treaty Interim Working Group](#) conducted 16 community consultation events across Victoria in 2016. The Working Group reported back at a [State-Wide Forum in December 2016](#) & an [Interim Report](#) was released in February this year. The final consultations for the design and creation of a [representative body](#) to help facilitate the negotiation of Treaty/Treaties have begun with consultations across the state being held in March. Find out more about the consultation process including the [Results of Consultations](#) and the [opportunity for Aboriginal community engagement](#).

The approach is made up of 3 parts; Community Consultations; [Treaty Circles](#); and [Online Message Stick](#). The current proposed timeline is a 3 -step process, as presented in the [Treaty Circles Handbook](#) is as follows:

- Step 1: Establish a Representative Body (within the next 18 months)
- Step 2: Consult on what is a Treaty
- Step 3: Negotiate Treaty/Treaties (beginning in 2019, this may take many years)

At the most recent [Treaty Forum](#) held in Melbourne on the 28th April, the Victorian Government committed \$28.5M for Treaty discussions over 4 years. \$16 million of this funding is earmarked for the treaty process itself, with the remainder funding an representative body, further community consultations and planning. [Some concerns](#) were raised during the consultation period by community members about the current process and engagement. Further consultations are expected – please refer

to the State Government Treaty [website](#) for further details.

Victoria is home to some of this country's most notable Aboriginal civil rights champions and is the birthplace of some of Australia's first Aboriginal community-controlled organisations, and is now potentially the site of Australia's first legitimate Treaty. Other states are now progressing their own treaty and agreement making process. The [South Australian Government](#) has committed to negotiating a treaty with the Traditional Owners within 12 months. The [Northern Territory](#) and [Queensland](#) governments have also indicated an interest in working towards a treaty with Traditional Owners. This is yet another example of states leading the way on important social justice issues.

Constitutional Reform

We have also been involved in raising awareness about constitutional reform since the Expert Panel released their Final Report in 2011. We have had over 12,000 conversations with people about Constitutional Reform through over 170 different events including forums, stalls at festivals, school talks, and community/ organisational briefing sessions across the State during this period. In addition, our advocacy for a provision for protection from racial discrimination as well as discussions around the importance to move towards discussions around treaties and sovereignty were noted¹ in the [Final Report of the Joint Select Committee](#) on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples.

Reconciliation Victoria's approach to constitutional reform activities and discussions has and continues to be focussed on providing general information on the issue and a platform for the diversity of views of Aboriginal and Torres Strait Islander People so that people can make an informed decision.

The [Referendum Council](#) are currently conducting [nation-wide dialogues](#), with a final report due at the end of June 2017. They are [seeking feedback](#) on the following proposals:

- drafting a statement acknowledging Aboriginal and Torres Strait Islander peoples as the First Australians, and inserting it either in the Constitution or outside the Constitution, either as a preamble in a new head of power or in a statutory Declaration of Recognition
- amending or deleting the 'race power', section 51 (xxvi) and replacing it with a new head of power (which might contain a statement of acknowledgement as a preamble to that power) to enable the continuation of necessary laws with respect to Indigenous issues
- inserting a constitutional prohibition against racial discrimination into the Constitution
- providing for an Indigenous voice to be heard by Parliament, and the right to be consulted on legislation and policy that affect Aboriginal and Torres Strait Islander people
- deleting section 25, which contemplates the possibility of a State government excluding some Australians from voting in State elections on the basis of their race.

Reconciliation Victoria believes that any amendment to the constitution needs to be substantive, not simply symbolic. From our experience, only substantive reform will garner the kind of support from Aboriginal and Torres Strait Islander Communities required to swell popular support for this reform

¹ RecVic was quoted directly on p 52 & 72 and our [2nd submission \(#35\)](#) was referenced 6 times and the [HANSARD recordings of our presentation to the JSC on the 14th August](#) 2015 was referenced five times.



agenda. It is crucial that Aboriginal and Torres Strait Islander Peoples be involved in the decision-making process, and we hope the dialogues provide an avenue to achieve this. The resounding message from the [dialogues](#) thus far has been that substantive change is essential and a critical part of constitutional reform.

In spite of bi-partisan support for constitutional reform, neither major party has officially responded to any of the recommendations made in numerous reports over the past few years by various, government initiated, committees. From the Expert Panel, to the Joint Select Committee to the Referendum Council, none of their recommendations have been officially responded to or addressed.

It is our understanding that both state-based Treaty discussions and the national constitutional reform agenda can be progressed alongside each other. Both will represent significant milestones in our country's history, but they must be informed by the diverse voices of Aboriginal and Torres Strait Islander peoples if they are to be achieved. Read our full Position Statement on Constitutional Reform and Treaty [here](#).

Suggestions for Related Activity Planning

Prior to commencing planning of activities in this space, we suggest LRGs contact the Reconciliation Victoria office so that we can provide up to date information and context to inform local decision making.

Due to the current complexity of the political context Reconciliation Victoria is not intending to hold any events around constitutional reform or treaty until there are clear developments and appropriate roles for the broader community. We look forward to receiving the final reports from the relevant committees and councils and encourage the government to respond to and indicate their commitment and next steps forward in addressing justice and self-determination for the First Peoples of Australia.

If members of the reconciliation network do wish to host a forum or event on these important issues, please let us know; we are here to support the network.

Important components for a forum on Constitutional Reform:

- Local Aboriginal community members/leaders who are engaged in this space
- A speaker with legal knowledge and background who is across the complexity of the two issues, who can answer complex legal questions from the audience and help guide discussion
- To provide context for the audience: the current proposals, the histories of both issues, the diversity of opinions and so on

Please contact the office if you would like support and advice on interested and informed speakers on these issues. The reconciliation network has a potential role in the engagement and support of these campaigns when the time is right and as guided by Aboriginal and Torres Strait Islander voices in Victoria and relevant lead bodies.

Our dedicated website sections on both [Constitutional Reform](#) and [Treaties](#) has recently been updated, you will find information on current news and events, updates on the current political context and historical context, our engagement and approach and informative resources.

We invite your feedback on this resource – please email info@reconciliationvic.org.au or contact the office on 03 9016 0657.