Aboriginal Community Assembly Final Statement and Recommendations to the Aboriginal Treaty Working Group

December 2017

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# A Message from the Aboriginal Treaty Working Group

The Aboriginal Treaty Working Group (the Working Group) welcomes the Aboriginal Community Assembly's recommendations on the design of a Victorian Aboriginal Representative Body and thanks the Assembly for its tremendous work for all Aboriginal Victorians.

Building on community consultation earlier this year, the Working Group initiated an independent expression of interest process to select a group of Aboriginal Victorians to make recommendations about the representation, governance and structure of the Victorian Aboriginal Representative Body. The expression of interest process and the Community Assembly sessions were facilitated by Ernst and Young and guided by its independent Victorian Aboriginal Advisers - Karen Milward and Richard Frankland.

Over six days in November and December, 31 Aboriginal people from across Victoria with a diversity and wealth of cultural knowledge, expertise and experience came together as the Community Assembly to undertake this challenge.

The Working Group will carefully consider the Community Assembly's report to inform its final recommendations to the Minister for Aboriginal Affairs on the design of the Aboriginal Representative Body next year.

In early 2018, the Victorian Treaty Advancement Commission will also build on the work of the Working Group, to establish the Aboriginal Representative Body.

### 1. Our final statement

We, the Aboriginal Community Assembly, acknowledge the traditional lands and waters of the Sovereign Aboriginal people of Victoria. We recognise our Sovereignty over those lands and waters has never been ceded. We acknowledge our Ancestors, Elders, and Communities who have been at the forefront of our thoughts throughout this entire process. We reflect upon the history of our shared survival and our spirit of resilience.

We present to the Aboriginal Treaty Working Group our recommendations to consider and act upon. Our recommendations answer all five questions we were tasked with and were developed through robust deliberation and debate.

This process enabled our voices to be heard and our views to be made clear. We hope this opportunity extends to more of our Community so that this Representative Body is truly *our* Representative Body.

It was our honour and privilege to be a part of this historic process.



Figure 1: Community Assembly Participants, November-December 2017

Aunty Fay Carter, Aunty Joy Murphy, Uncle Bevan Harrison, Aunty Lois Peeler, Aunty Janet Turpie-Johnstone, Uncle Colin Bourke, Lyn Thorpe, Neville Atkinson, Uncle Stephen Walsh, Aunty Hilary Saunders, Uncle Michael Belle, Karen Jones, Daria Atkinson, Antoinette Gentile, Belinda Duarte, Louise Chatfield, Shane Bell, Tracey Onus Bamblett, Tiriki Onus, Alan Walsh, Alister Thorpe, Kylie Spencer, Jesse Williams, Billy McGuinness, Jordan Edwards, Christopher Saunders, Jade Hudson-Morgan, Madison Connors, Emily Tipping, James Atkinson, Jidah Clark

Aboriginal Community Assembly Final Statement and Recommendations

## 2. Preamble

We, the Community Assembly, met over six days in November and December 2017 to discuss and provide recommendations to the Working Group on the final design elements of the Representative Body.

We are the oldest living culture on the planet and our Sovereignty has never been ceded. Our culture has always been evolving and fluid – and will be for years to come.

We recognise our cultural capacity and kinship structures are the basis of our strength.

We acknowledge that all Aboriginal people in Victoria continue to resist the effects of dispossession, dislocation and dispersal from our traditional lands. It is a challenge to create a representative structure for our people, however, we remain resilient as we build our future. Our people are varied and diverse – in that we find strength and hope.

How we structure and build the Representative Body must pay respect to our ancestors, our communities, our Elders and our families. It will be a living embodiment of our Aboriginal ways of knowing, doing and being, our cultural knowledge, expertise, experience and history.

The Representative Body will be tasked with developing a Treaty Negotiating Framework and supporting and enabling Treaty negotiations. The elected representatives will represent all Aboriginal people in Victoria. They must be able to promote the equality and inclusion of the diversity in the Aboriginal community. This is the time for us as a Community to embrace solidarity and unity. The Representative Body is about strengthening trust between all groups. This is how we drive forward. The Representative Body will symbolise that to our people.

We want the best candidates who must represent all aspects of the Aboriginal community including, but not limited to, Stolen Generation, those who don't fit into gender binaries, all sexual orientations, all age groups and all Aboriginal people who live in Victoria.

As an elected body of the Aboriginal people we understand that the Government will respect the voice and actions of the Representative Body.

Our work as the Community Assembly builds on previous consultations with the Victorian Aboriginal Community, led by the Aboriginal Treaty Working Group. Further engagement with the Community is necessary to communicate the final form of the Representative Body. It is our understanding that this will be undertaken through the Victorian Treaty Advancement Commission (VTAC).

This document, wherever possible, uses the words and phrases we used in our discussions as part of the Community Assembly.

In addition to the recommendations which respond to the questions posed by the ATWG, we offer the following additional recommendations:

- Our overarching recommendation is that there be continuing engagement with the Aboriginal Community similar to the Community Assembly process to maintain momentum on this journey.
- We recommend that common or contested words and phrases are defined to reflect their meaning and intent in the context of establishing the Representative Body. These should be defined by the Victorian Treaty Advancement Commissioner.

### 3. Our recommendations

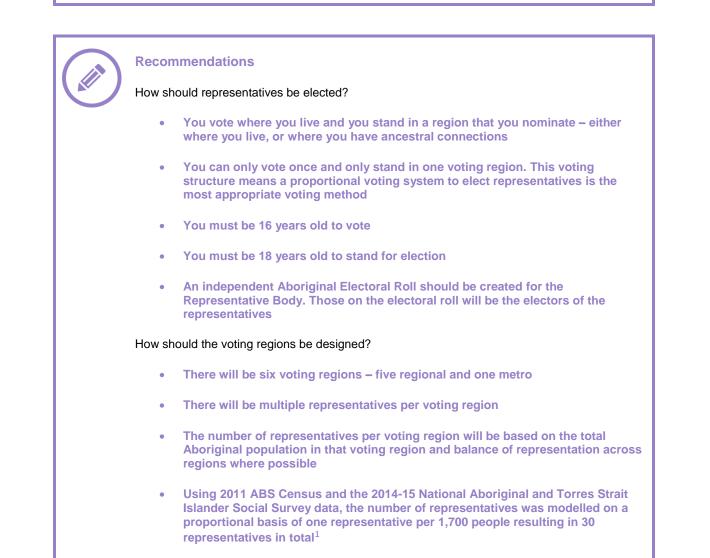
### 3.1 Q1. How would you like to be represented?

#### Questions

How should representatives be elected?

How should the voting regions be designed?

How many elected representatives should there be?



<sup>&</sup>lt;sup>1</sup> The Community Assembly used the following data to determine representative numbers: the 2011 Census data, and the 2014-15 National Aboriginal and Torres Strait Islander Social Survey (NATSISS). These were the only data sets available at the time the Community Assembly discussed representation. The Community Assembly used the 2011 Census data to show population concentrations across Victoria (this was mapped across municipal areas based on population density) and then cross referenced with the total number of Aboriginal people living in Victoria (approximately 50,000) as indicated by the 2014-15 NATSISS. This meant that the population concentrations from the 2011 Census data were used as a guide when looking at where the total population outlined in the 2014-15 NATSISS were spread across the State. More up to date data is now available based on the 2016 Census. Current data will need to be used to ensure that the final number of representatives reflects the current number of Aboriginal people in Victoria.

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- You vote where you live and stand where you nominate
- Wherever possible voting regions should be designed so they do not divide existing traditional boundaries

Please see Appendix 1 for suggested voting regions.

#### How many elected representatives should there be?

There will be multiple representatives per voting region. Using 2011 ABS Census and the 2014-15 National Aboriginal and Torres Strait Islander Social Survey data, the number of representatives will be modelled on a proportional basis of one representative per 1,700 people. Based on the data used, this results in 30 elected representatives.

**NOTE:** The number of representatives will be reviewed periodically to reflect the growing Aboriginal population when new data is released.

The gender composition of the Representative Body must promote gender equality and reflect the gender diversity in the Victorian Aboriginal Community. The Victorian Treaty Advancement Commissioner must explore this matter further prior to establishing the Representative Body to understand how Community wishes to create the most inclusive Representative Body possible.

#### Rationale

The Representative Body must lead the establishment of the Treaty Negotiation Framework – the 'rules of engagement'. It will do this by establishing an independent Aboriginal electoral roll and all representatives will be elected by all Aboriginal people aged 16 and over, living within the voting regions set by the Representative Body. Representatives will only be Aboriginal people with Victorian Aboriginal ancestral connections, aged 18 and over.

There must be equity and inclusion of the diversity within the Aboriginal community. Population size determines the number of representatives and representatives are Sovereign Aboriginal people elected to represent all Aboriginal people in Victoria. For this reason you vote where you live and nominate where you stand – because representatives will not be representing one traditional owner group rather all Victorian traditional owners and Community will decide on the best representatives for each voting region.

They will be representing our sovereignty as Victorian Aboriginal people – they are going to represent us all as a united Victorian Aboriginal Community. They will be our voice to take forward our views in sensitive negotiations around the Treaty Negotiation Framework with Government to ensure the cultural, economic and sustainable future of Aboriginal people in Victoria. Because for far too long, we have sat with a degree of mistrust and we need to put faith in those that will represent us. The representatives represent all Aboriginal people in Victoria, they do not speak for Country. As the voice of our Community, they are entrusted with our views and aspirations and they are those who trust who will not cede our Sovereignty.

# 3.2 Q2. How should the candidate eligibility and nomination criteria be finalised?

#### Questions

Confirm the existing candidate eligibility and nomination criteria:

How many terms can representatives serve?

Will each cycle of elections open all positions for election or only a portion?

Should there be an Ethics Council to monitor applicants? What could this look like?

#### Recommendations

Confirm the existing candidate eligibility and nomination criteria.

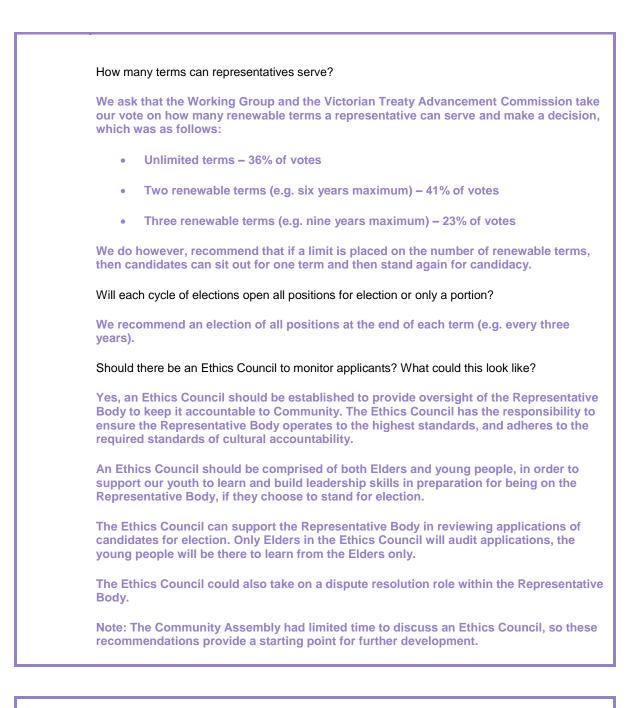
The following eligibility and nomination criteria is recommended, in addition to the criteria already confirmed. Please see Appendix B for a proposed candidate nomination form.

- Candidates have the opportunity to add a statement discussing why they wish to nominate and/or outline their relevant skills. (Note: this is optional.)
- Two points of support for nomination must be presented by a candidate. If no support is received from an Aboriginal Community Controlled Organisation (ACCO) or a Traditional Owner (TO) Group then this does not disqualify a candidate, if they have tried to seek this support and have also gathered 20 signatures from eligible voters
- Candidates must list their nominated voting region to stand in
- Candidates must declare that they are:
  - 18 years or older in age;
  - o A Sovereign Aboriginal person of Victoria
  - Accepted in their relevant Victorian Aboriginal Community

The information should be held confidentially and in compliance with all data and privacy laws and no information will be shared without the express permission of the individual filling out the form. All candidate data held by the Victorian Treaty Advancement Commission will be transferred to the Representative Body in its entirety once it is established, and will be destroyed by the Victorian Treaty Advancement Commission once it has been transferred. None of this data should be shared with or held by the Victorian or Australia Governments at any time.

All of the candidate eligibility and nomination forms will have a supporting document that will provide explanation of the terms or requirements on the form.

VTAC will need to work with Community to define how to determine Aboriginality for the purposes of establishing an Aboriginal electoral roll. This can be re-visited by the Representative Body once it is established.





#### Rationale

These recommendations describe how we wanted to strengthen the candidate eligibility and nomination criteria that was already decided in previous phases of consultation. We have added to these criteria and strengthened them, not taken away – our aim was to ensure that people or particular groups do not feel excluded. It is about Community making their own choices by helping to create transparency around who each of the candidates are, where they come from and their backgrounds. This is supported through the suggested Candidate Declaration form in Appendix B.

The best candidates for the job should be elected and we put trust in the Community to do that.

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#### 3.3 Q3. How will the Representative Body be accountable to **Community?**

# Question

What mechanisms and process will be needed to ensure the Aboriginal Representative Body is accountable to Community?

#### Recommendation

What mechanisms and process will be needed to ensure the Aboriginal Representative Body is accountable to Community?

#### We recommend that:

- There is an annual general meeting (AGM) which provides transparency and financial accountability
- An annual report should be readily available online to Community, and on request
- Representatives meet four times a year as a group
- The Representative Body establish a vision and strategic plan
- There must be regular feedback, consultations, meetings and forums with the Community across all of the voting regions, including quarterly (four) State-wide open meetings.
- Consultation should occur at a state-wide level and also through place-based meetings where longer periods of time can be spent with Community
- Individual representatives are able to be approached about issues, and have a platform on which to raise these to the Representative Body level. These discussions must be able to be recorded and reported publically. This may be in the form of a local office for each voting region where Community can feel safe to have a chat
- A formal education program be established for young people between the ages of 16 to 20 focused on leadership development and education, for the purpose of being involved with the Representative Body and Treaty
- The Representative Body should utilise existing programs and processes to support communication and reach the grassroots of Community, for example, utilising the Koori Youth Council as an advisory group to the Representative Council
- The Representative Body should have a code of conduct and a dispute resolution process to manage breaches of the code of conduct
- There should be an ethics council, which is comprised of both Elders (for cultural accountability) and youth (for exposure and hearing the voice of young people)

- The Representative Body use surveys as a form of communication, quality evaluation and feedback
- There is a regular newsletter and a dedicated online Treaty portal for information sharing and advertising
- Cultural integrity will be maintained through a strong code of conduct and robust governance practices
- Communication, education and awareness of Community is critical and there must be the resources to support this properly

#### Rationale

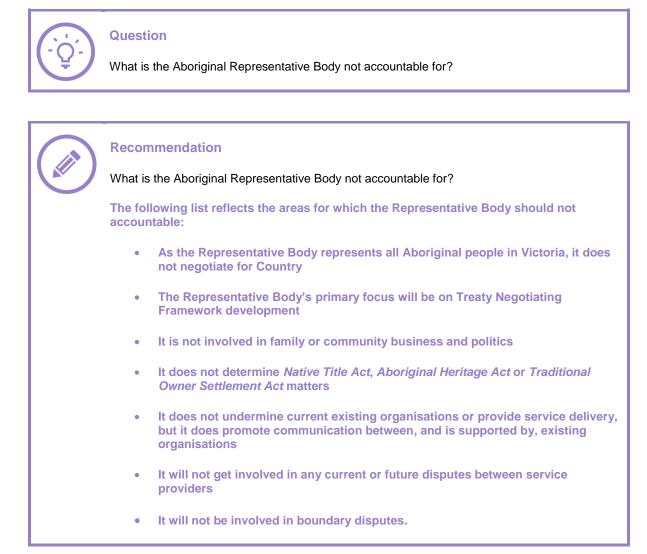
The Representative Body must represent all Aboriginal people in Victoria and capture the voice of the people who feel they have been left out. It must practice and implement inclusiveness in everything, and consult all sections of community, including young people and Elders.

The Representative Body must be accountable and transparent to Community. It must be open and honest and have integrity. This can be achieved in the ways listed in the recommendations, but it is to be noted that these are a minimum and not exhaustive.

It is incredibly important that our young people be included, looked after and more importantly developed and educated on Treaty. The Representative Body must support young people in becoming future leaders: educating them so that when they feel ready, and if they are willing, they can stand for the Representative Body – this must be a formal development process for people from aged 16 to 20 that is resourced and supported. This can include a Youth Treaty Journey program (similar in structure to the Yorta Youth Leadership Program).

The Representative Body should always maintain consistency on Treaty and present one voice to Community. These recommendations are designed to ensure that the Representative Body has multiple ways to communicate out of session and provide regular feedback.

# 3.4 Q4. What types of matters should the Representative Body not be involved in?





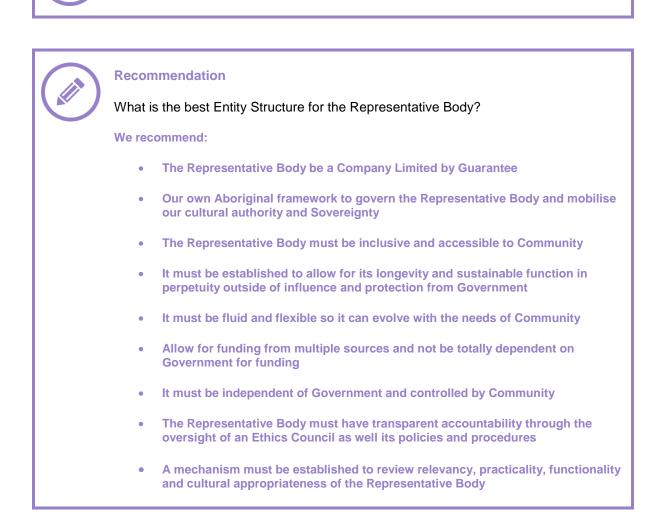
#### Rationale

The Aboriginal Representative Body represents all Aboriginal people in Victoria. It does not negotiate for Country. It will not deliver services. It must focus on Cultural continuity, cultural capacity building and cultural furtherance in relation to the facilitation of the Treaty process, including developing the Treaty Negotiation Framework.

The Representative Body will be an independent state-wide voice for Aboriginal people in Victoria focussed on matters of Treaty or Treaties but it will not negotiate Treaty for country.

# 3.5 Q5. What is the best Entity Structure for the Representative Body?

What is the best Entity Structure for the Representative Body?



#### Rationale

**Considerations** 

We recommend using this structure because we believe it is the most appropriate model to advance our Sovereignty and empower our voice and cultural authority. It is how we frame, build and design this structure that determines its cultural appropriateness. A Company Limited by Guarantee gives us the best flexibility to ensure that the Representative Body maintains our cultural integrity and authority while remaining dynamic, evolving and accessible to Community. It also provides mechanism for true independence and control.

A Company Limited by Guarantee allows for multiple streams of funding, including, but not limited to, having Deductible Gift Recipient status which would help to source philanthropic funding. We have an expectation that there will be a significant investment in the establishment of the Representative Body and its ongoing operations.

The Representative Body must have its constitution, governance policies, practices and processes earthed in respect and Aboriginal cultural values and principles. This will be reflected

through its strategies and vision. This cultural authority must be written into every document that is created for the Representative Body because the cultural authority that comes from the Victorian Aboriginal Community must and will transcend any legal structure.

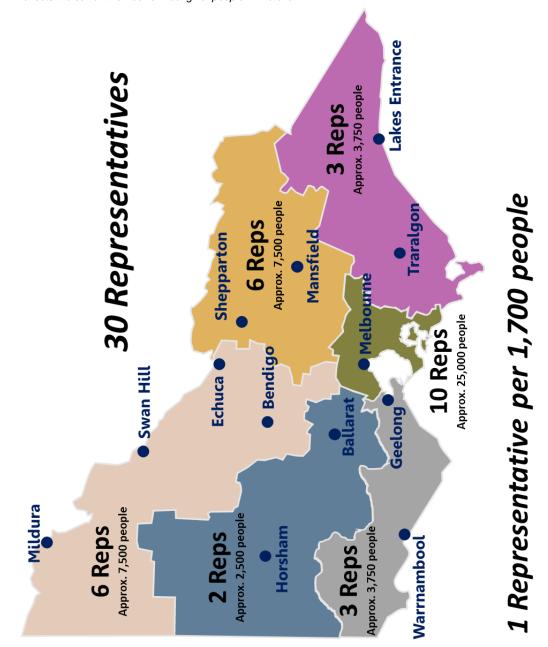
We must be governed by what our families and Community wants for us. This must be fresh and inclusive of all in our Community, regardless of the legal structure, it is inclusive of every Aboriginal Victorian voice in the State.

Ultimately, the Representative Body will enshrine our Sovereignty. It is a place of strength from which to exercise self-determination.

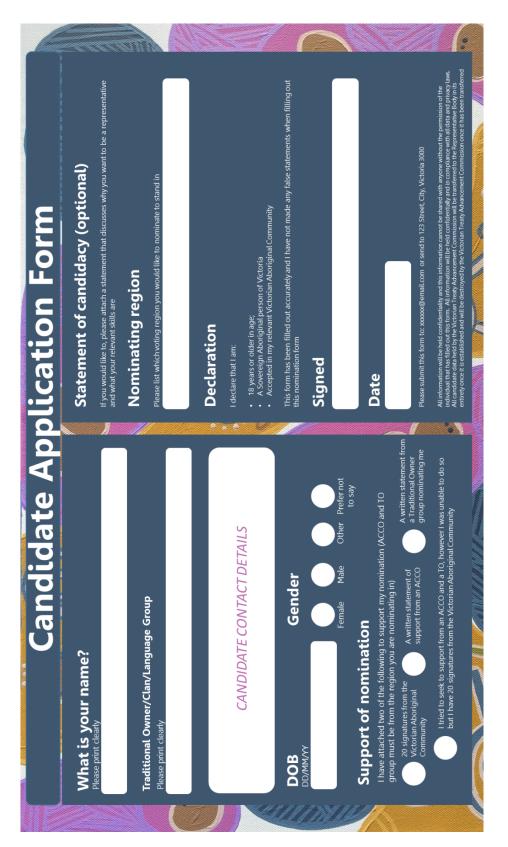
This Representative Body will be innovative and different to what has been done in the past and this can be influenced through the cultural authority built into the Representative Body.

### Appendix A – Proposed voting regions

Note: This is not definitive placement of the voting region boundaries as voting regions should be designed, where possible, so they do not divide existing traditional boundaries. As the population grows voting regions may need to be reviewed. The Community Assembly used the following data to determine representative numbers: the 2011 Census data, and the 2014-15 National Aboriginal and Torres Strait Islander Social Survey (NATSISS). These were the only data sets available at the time the Community Assembly discussed representation. The Community Assembly used the 2011 Census data to show population concentrations across Victoria (this was mapped across municipal areas based on population density) and then cross referenced with the total number of Aboriginal people living in Victoria (approximately 50,000) as indicated by the 2014-15 NATSISS. This meant that the population concentrations from the 2011 Census data were used as a guide when looking at where the total population outlined in the 2014-15 NATSISS were spread across the State. More up to date data is now available based on the 2016 Census. Current data will need to be used to ensure that the final number of representatives reflects the current number of Aboriginal people in Victoria.



# Appendix B – Proposed candidate application form and candidate declaration form



Candidate Declaration						
Answer ALL the following questions by crossing the correct box. Then date and sign the declaration.						
Have you been found guilty of a serious indictable offence nationally? *A serious indictable offence is a serious criminal offence, including but not limited to theft, drug trafficking, sexual offences, dangerous driving where a person is seriously injured as a result or murder.	Yes No					
Are you, or have you been subject to, an order or a law disqualifying you from being a Director, Officer or Board member of an organisation or corporation or from working with children?	Yes No					
Are you or have you ever been subject to any current disciplinary action in any professional						
or occupational capacity in the last ten years?	Yes No					
Are you, or have you ever been declared bankrupt?	Yes No					
If you answered yes to any of the above questions, please provide further details as an attachment to this declaration. If you have answered yes to any of the above questions, this does not mean you are ineligible for the Representative Body, and the attachments to this declaration, and the space below are an opportunity to justify or explain the questions you have answered 'yes' to.						

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Candid	ate Dec	claratio	n			
			<i>Then date and sign the declaration.</i>			
The space below is for you to detail any achievements or contributions to Community that you have, to demonstrate your good character and suitability for the Representative Body.						
I declare that to the be and correct.	est of my knowledge,	the information I have	e provided in this declaration is true			
Declared on the	day of	20	(Day, month and year)			
Ву			(Name of person signing			
Signed			(Signature of person signing			
Are you willing to underg	Yes No					
Are you willing to underg	Yes No					
All information will be held confidentiality and this information cannot be shared with anyone (including, but not limited to, any ACCO or Traditional Owner Group) without the permission of the individual that has filled out this form. All information will be held confidentially and in compliance with all data and privacy laws. All candidate data held by the Victorian Treaty Advancement Commission will be transferred to the Representative Body in its entirety once it is established and will be destroyed by the Victorian Treaty Advancement Commission once it has been transferred.						
	MLS					

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# **Appendix C - Definitions**

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The following words and phrases require definition to reflect their meaning and intent in the context of establishing the Aboriginal Representative Body. These are to be defined by the Victorian Treaty Advancement Commissioner.

#### Ancestral ties

#### **Cultural Authority**

Elders

#### Sovereignty

Youth

N.

1100

 (COM)

# Appendix D – Our first statement



# **Community Assembly Statement**

We, the Aboriginal Community Assembly, acknowledge the traditional countries, lands and waters across our state. We acknowledge our Ancestors, Elders, and Communities who are at the forefront of our minds, and will be across the time over which we will meet.

We reflect upon the history of our shared survival, our spirit of resilience. We acknowledge our diversity and difference as a platform of strength. We are united as a group, and we are committed to being inclusive in our approach to deliberation and making recommendations.

This is another step towards the development of a Representative Body, which will represent our mob and create a Treaty Negotiating Framework. We, as the Community Assembly are not negotiating a Treaty or Treaties on behalf of Aboriginal people in Victoria.



Our role is to make recommendations to the Working Group on the following five questions.

Your voice is critical in this process and will be heard. Please consider these questions, and contribute your opinions via the Community Assembly portal – <u>http://communityassembly.com.au</u> Your voice is essential. Community Assembly

Aboriginal Community Assembly Final Statement and Recommendations

## Appendix E – Our second statement

# **Our Statement**

1 December 2017

We, the Aboriginal Community Assembly, acknowledge the traditional lands and waters of the Sovereign Aboriginal people of Victoria. We recognise our Sovereignty over those lands and waters has never been ceded. We acknowledge our Ancestors, Elders, and Communities who have been at the forefront of our thoughts throughout this entire process. We reflect upon the history of our shared survival and our spirit of resilience.

Through the memories of all our ancestors, those long gone and those departed recently, our Sovereignty, knowledge, experience and purpose has enabled us to create a community of multiple opinions despite the apprehension we initially felt. Our diversity and difference is a platform of strength. Solidarity emerged through our collective strength. We believe this will serve as a base for the entire Treaty process and carry through to the Representative Body. Our task was to consider and make recommendations on the following questions:



We acknowledge the response of the Victorian Government to the Aboriginal Community's call for Treaty. It has been our privilege and honour to help to move this important journey forward for our people. The Sovereign Aboriginal people of Victoria are leading the way not only in Victoria but across the entire nation. We are creating something of our own. Something strong and independent from Government. The Community Assembly was made up of the following Community members:

> Aunty Joy Murphy Uncle Bevan Harrison Aunty Janet Turpie-Johnstone **Aunty Hilary Saunders** Uncle Stephen Walsh Karen Jones Antoinette Gentile **Neville Atkinson** Louise Chatfield Shane Bell Alister Thorpe Alan Walsh Jordan Edwards Jade Hudson-Morgan **Emily Tipping** Jidah Clark

Aunty Fay Carter Aunty Lois Peeler Uncle Colin Bourke Uncle Michael Bell Lyn Thorpe Daria Atkinson Jesse Williams Belinda Duarte Tracey Onus Bamblett Tiriki Onus Kylie Spencer Billy McGuinness Christopher Saunders Madison Connors James Atkinson

This is just the start of our journey towards Treaty, we look forward to what comes next.

