



14 February 2025

Plan for Victoria

Department of Transport and Planning

email | [planforvictoria@transport.vic.gov.au](mailto:planforvictoria@transport.vic.gov.au)

Dear Plan for Victoria,

## **SUBMISSION TO SHAPE VICTORIA'S FUTURE CONSULTATION**

The Federation of Victorian Traditional Owner Corporations (**Federation**) is the Victorian state-wide body that convenes and advocates for the rights and interests of Traditional Owner groups while progressing wider social, economic, environmental, and cultural objectives. We support agreement-making and participation in decision-making that enhances the authority of Traditional Owner Corporations in speaking for Country on behalf of their communities. We do not speak for Traditional Owner groups, but they direct our work, which responds to their identified issues, objectives and ambitions. We are pleased to make this submission to the new plan for Victoria, focused on its first pillar: self-determination and caring for Country – noting Traditional Owner input benefits the broader Victorian community, and is a unique and important aspect of Victoria's story.

### **Summary of recommendations**

The new plan for Victoria must:

- represent best-practice in clearing the way to realising the right to self-determination
- give full effect to Traditional Owner groups' rights and end damaging practices that erode recognised rights
- centre a Cultural Landscapes approach that recognises the importance of Country
- fully recognise the rights and authority of Traditional Owner Corporations by providing for power-sharing partnership and unilateral decision-making.

## **1. Decision-making on Traditional Owners' terms**

### **The new plan for Victoria must enable true self-determination**

While self-determination means different things to different people, a generally accepted core principle is the fundamental right of peoples to shape their own lives. The Federation accepts the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)'s definition of a collectively held right to self-determination that enables a group to freely determine its political status and pursue its economic, social and cultural development. This is a right that accrues to the collective, rather than a collective expression of individual rights.

In Victoria, Traditional Owner Corporations<sup>1</sup> hold this collective right for the benefit of their groups. Realising the right to self-determination in Victoria's planning schemes necessarily involves

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<sup>1</sup> Victoria has formally recognised Traditional Owner groups across approximately 75 per cent of the state. The term 'Traditional Owner Corporation' in this submission refers to the 12 groups that have been legally recognised as Traditional Owners of Country in Victoria under one or more of the Native Title Act 1993 (Cth), Aboriginal Heritage Act 2006 (Vic), and Traditional Owner Settlement Act 2010 (Vic).

respecting the authority of Traditional Owner Corporations as inclusive and representative membership structures with authority to speak for their community and Country.

Understanding how the right to self-determination is expressed in a Victorian setting goes beyond measures to promote individual wellbeing. A future plan for Victoria that is grounded in self-determination must understand, enable and resource the work of Traditional Owner Corporations, including respecting their sophisticated governance structures, systems for transmitting knowledge and making decisions, cultural and community obligations, and the considerable time required to meet responsibilities to Country and members. The best intentions of Victoria's suite of frameworks and policies<sup>2</sup> aimed at realising the right to self-determination must exist in the plan's implementation, not just its wording. The Federation is concerned by the current gap between intention and action. Despite the Victorian Government's stated commitment to self-determination, Traditional Owner groups face significant and compounding barriers to realising and exercising this right.

Traditional Owners consistently raise the following barriers with the Federation:

- inadequate recognition of Traditional Owners' rights in government policies and practices, at all levels of government
- systemic disregard and disrespect for Aboriginal governance and decision-making
- under-investment in Traditional Owner Corporations, despite increasing recognition by governments of their social, cultural, and political authority, and increasing expectations to participate in consultation with government
- fragmented, inconsistent, and insufficient funding with heavy compliance requirements that are tied to governmental priorities
- limited access to the resources, capital and economic opportunities required to realise the right to self-determination.

## **RECOMMENDATION 1**

The new plan for Victoria enables the right to self-determination expressed in UNDRIP, including by:

- implementing UNDRIP into domestic Victorian law
- conceptualising its self-determination pillar as a joint decision-making and power-sharing arrangement between Traditional Owner Corporations and the Victorian Government, not a forum for mere consultation or information-sharing
- providing consistent, core and ongoing funding from Treasury to Traditional Owner Corporations to enable their function as representative community bodies managing and caring for Country, repatriating knowledge, upholding cultural responsibility, and expressing the collective right to self-determination.

### **The new plan for Victoria must respect rights and stop dispossession**

The new plan for Victoria must give effect to rights recognised under native title determinations, Recognition and Settlement Agreements,<sup>3</sup> and Treaty,<sup>4</sup> and equally, must not create any new

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<sup>2</sup> Australia endorsed UNDRIP in 2009, and the document is increasingly recognised by the Victorian Government as a benchmark to driving key Aboriginal affairs policies, including the Victorian Aboriginal Affairs Framework 2018-2023, the Victorian Government Self-determination Reform Framework 2019, the Treaty Authority Agreement 2022, and the Advancing the Treaty Process with Aboriginal Victorians Act 2018 (Vic).

<sup>3</sup> First Peoples – State Relations summarises the history of Victoria's four positive native title determinations, four Recognition and Settlement Agreements, and a cooperative land management agreement between the state and Yorta Yorta Nation Aboriginal Corporation at <https://www.firstpeoplesrelations.vic.gov.au/history-native-title-claims-and-settlements-victoria> (accessed 11 February 2025).

<sup>4</sup> Statewide Treaty negotiations have commenced and may be finished by the time the new plan for Victoria is written – the new plan must anticipate its interaction with yet-to-be-created rights under Statewide Treaty and Traditional Owner Treaties that may commence and conclude over the plan's drafting.

proprietary rights over Traditional Owners' resources – which has been a recent and unwelcome practice by various Australian governments.

The Federation has expressed concern<sup>5</sup> over a willingness within government to create new proprietary rights in unceded land and resources, then hand those rights to entities that are not the relevant Traditional Owner group. Recent examples of this practice include new rights being created in fishing industries, including periwinkle and sea urchin, in new green markets – including with carbon credits and the Nature Repair Market – and in legislation that would have allowed for camping and fires near possible cultural heritage sites. Here, we see the colonial practice of dispossession continuing, with rights and authority over Country being taken from Traditional Owners by the very governments that “[acknowledge] that Aboriginal Victorians hold the knowledge and expertise about what is best for themselves, their families and their communities” and which aim to “transform government systems and structures to enable Aboriginal decision-making...”<sup>6</sup>

These examples of ongoing dispossession are a clear sign we are going backwards, and in breach of UNDRIP. The declaration obliges states to “consult and cooperate in good faith with the [I]ndigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources...”<sup>7</sup>. The new plan for Victoria must reverse this extremely concerning trajectory of eroded Traditional Owner rights and realign Victoria's actions with its stated commitment to rights contained in the UNDRIP.

## **RECOMMENDATION 2**

The new plan for Victoria must give full effect to Traditional Owner groups' rights as expressed in UNDRIP and formal land rights determinations and agreements (including the forthcoming Statewide Treaty and Traditional Owner Treaties); must not erode Traditional Owners' rights by creating new propriety rights in resources that are then handed over to other entities; and must be a vehicle to end the continuing dispossession that occurs through governmental creation and handling of new property rights.

## **2. A Traditional Owner worldview**

### **The new plan for Victoria must have care for Country at its heart**

Contemporary Australian governance systems frustrate work towards self-determination. It's difficult to freely pursue self-determined political, economic, social and cultural aims between the narrow guardrails of western laws, policies, and land management paradigms – yet, as UNDRIP provides, it's “control by [I]ndigenous [P]eoples over developments affecting them and their lands, territories and resources”<sup>8</sup> that will preserve and strengthen Indigenous cultures for generations to come, and promote Indigenous groups' self-determined development and prosperity. Realising land justice requires embedding Traditional Owner notions of Country<sup>9</sup> as holistic, reciprocal, and interconnected – within the current narrow and fragmented planning framework.

Fortunately, Victorian Traditional Owners have provided a breakthrough bridging approach.

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<sup>5</sup> See, for example, the Federation's submission to Yoorrook Justice Commission's Land Injustice Inquiry (attached).

<sup>6</sup> Victorian Government, Self-determination Reform Framework (2019), pages 6 and 11.

<sup>7</sup> United Nations Declaration on the Rights of Indigenous Peoples, Resolution 61/295 adopted by the General Assembly on 13 September 2007, article 32(2). ‘Their own representative institutions’ are, in Victoria, Traditional Owner Corporations.

<sup>8</sup> United Nations Declaration on the Rights of Indigenous Peoples, Resolution 61/295 adopted by the General Assembly on 13 September 2007, annex 1.

<sup>9</sup> The Federation's submission to Yoorrook Justice Commission's Land Injustice Inquiry (attached) expands on Traditional Owners' conception of Country, including Country's significance to Traditional Owner identity, its consciousness and constitutive role, and the reciprocity and respect that exist between Traditional Owners and Country, over pages 11-14.

Traditional Owners' work in the area of cultural landscapes provides a vital conceptual framework for realising self-determination within the confines of contemporary Victoria.<sup>10</sup>

### **The new plan for Victoria must be grounded in a cultural landscapes approach**

The Victorian Traditional Owner Cultural Landscapes Strategy was developed by Traditional Owners in a process facilitated by the Federation that commenced in 2019. Its preamble provides:

“Cultural landscapes are reflections of how Aboriginal people engage with the world. The concept of a cultural landscape is a bridging tool, in this case one that aims to bridge the ontological differences between Indigenous and ‘western’ world views, between Natural Resource Management (NRM) and caring for Country. This is required to take steps towards preventing the ongoing ontological violence that is perpetuated by the dominance of ‘western’ approaches to managing Country.”

Traditional Owners must have access to and authority over Country to heal, manage and care for Country, and to redress harm caused by colonial land planning systems. Necessarily, this requires genuine, equitable and power-sharing partnership: a stepping-back by government to enable Traditional Owners to exercise their rights, meet their cultural obligations, and be with Country. The new plan for Victoria is a significant opportunity to rectify the mistakes of the past and design land management systems that respect Traditional Owners as rights-holders – not mere stakeholders – who must have access to, and authority over, Country.

### **The new plan for Victoria must recognise the centrality of Country to everything**

Country is central to all areas of Aboriginal and Torres Strait Islanders' wellbeing. Reciprocal and interdependent, a relationship between Country and people entwines physical, social, emotional, and spiritual wellbeing in connection with community, culture and Country.<sup>11</sup> Research shows that strong connections to culture and Country build stronger individual and collective identities and a sense of self-esteem and resilience. It has also demonstrated the importance of culture in realising better outcomes across other determinants of health including education, economic stability and community safety.<sup>12</sup> Accessing land and determining how it is used, managed, protected and developed is vital for Traditional Owners' long-term wellbeing and prosperity.

## **RECOMMENDATION 3**

The new plan for Victoria must give effect to the Victorian Traditional Owner Cultural Landscapes Strategy, including by centring Traditional Owner worldviews in land management and planning, and recognising the centrality of Country to identity, culture, wellbeing and long-term prosperity.

## **3. Transformation requires trust**

Self-determination in a colonial state requires new ways of thinking. Change can bring discomfort. A Victorian Government that is truly committed to enabling Traditional Owners' right to self-determination must embrace discomfort as a vehicle for transformative change. This must involve great willingness from government to trust Traditional Owner Corporations, understand their

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<sup>10</sup> Noting that an attempt to translate Aboriginal and Torres Strait Islander worldviews into a western paradigm is often flawed, as the totality of knowledge, ontology and epistemology may not allow for a full translation.

<sup>11</sup> Fogarty, W., Bulloch, H., McDonnell, S. and Davis, M. (2018) *Deficit Discourse and Indigenous Health: How Narrative Framings of Aboriginal and Torres Strait Islanders People are Reproduced in Policy*, The Lowitja Institute, Melbourne, Australia; Rigney, D., Bignall, S., Vivian, A., and Hemming, S. (2022) *Indigenous Nation Building and the Political Determinants of Health and Wellbeing*, Discussion Paper, The Lowitja Institute, Melbourne, Australia.

<sup>12</sup> The importance of Country in achieving health outcomes is reflected in the Aboriginal and Torres Strait Islander ownership of land and waters target in the National Agreement on Closing the Gap 2020.

expertise and capacity, and address harmful assumptions about their capacity and capability.<sup>13</sup> Traditional Owner Corporations are highly capable, robust and visionary organisations – experts in the business of caring for Country – and trust-based partnership in a deregulated environment is the minimum they deserve.

#### **RECOMMENDATION 4**

The new plan for Victoria must fully recognise the rights and authority of Traditional Owner Corporations by centring genuine, equitable and power-sharing best-practice partnership between the Victorian Government and Traditional Owner Corporations, and the opportunity for unilateral Traditional Owner Corporation decision-making.

In conclusion, the Federation reiterates a key sentiment from our submission to Yoorrook Justice Commission’s Land Injustice Inquiry (attached):

“It is not enough for the Victorian Government to say all the right words about self-determination. For any of this work to be truly meaningful, those words must be matched with a genuine handover of responsibilities to Traditional Owner groups. Genuine self-determination will require a shift of mindset on the part of Victorian Government departments and agencies, and an increase in a willingness to trust Traditional Owner Corporations to deliver.”

Please contact Jill Webb on [jill.webb@fvtoc.com.au](mailto:jill.webb@fvtoc.com.au) if you would like to discuss our submission further. We thank you for considering our submission and would be happy to provide further assistance as required.

Yours sincerely,



Paul Paton  
Chief Executive Officer

#### **Attachments**

[Submission to the Inquiry into Implementing UNDRIP in Australia](#)  
[Submission to Yoorrook Justice Commission – Land Injustice Inquiry](#)  
[Traditional Owner Cultural Landscapes Strategy](#)

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<sup>13</sup> One positive example of progress towards greater devolution of decision-making is the Victorian Government’s Department of Environment, Energy and Climate Action’s relationship with Traditional Owners in the Statewide Caring for Country Partnership Forum, which has institutional arrangements to better support shared decision-making, and which recently enabled its Traditional Owner Corporation Caucus to submit its own budget bid, through a process usually reserved for government departments.