

LEGISLATIVE ASSEMBLY

ADVANCING THE TREATY PROCESS WITH ABORIGINAL VICTORIANS BILL  
2018

(Amendments, New Clauses and New Schedule to be moved by Ms Thorpe)

1. Clause 1, line 5, omit "Aboriginal Victorians" and insert "Clans and First Nations,".
2. Clause 1, line 9 and page 4, line 1, omit "Aboriginal Victorians" and insert "Clans and First Nations".
3. Clause 3, lines 27, omit "10" and insert "14".
4. Clause 3, lines 28 to 31 and page 5, lines 1 to 14, omit all words and expressions on these lines.
5. Clause 3, page 5, after line 14 insert—

**"Clan** means—

- (a) an Aboriginal Traditional Owner Group or Aboriginal extended family group that has—
  - (i) a traditional connection to a specific territory of land that is wholly or partly in the area now known as Victoria; and
  - (ii) shared Ancestors and Descendants, Aboriginal language, cultural heritage, beliefs, spirituality, traditions or customary law; or
- (b) an Aboriginal Traditional Owner Group or Aboriginal extended family group listed as a Clan in Schedule 1;

**Clan Elders Council** means a body that—

- (a) consists of a gathering of Elders from Clans and First Nations that choose to participate and for which each participating Clan and First Nation self-determines its representatives; and
- (b) exists for the purpose of providing advice and advocacy on advancing the treaty process;"

6. Clause 3, page 5, after line 18 insert—

**"First Nation** means—

- (a) a group of Clans with a shared Aboriginal language that has a traditional connection to a specific territory of land that is wholly or partly in the area now known as Victoria; or
- (b) a First Nation listed in Schedule 1;"

7. Clause 3, page 5, line 27 omit "17" and insert "21".
8. Clause 3, page 5, after line 27 insert—

***"traditional connection***, in relation to land, means an identifiable connection through time, whether or not there is a change to the nature of the connection or the manner the connection is expressed;"

9. Clause 8, line 4, omit "Aboriginal Victorians" and insert "Clans and First Nations".
10. Clause 8, line 9, omit "Aboriginal Victorians" and insert "Clans and First Nations".
11. Clause 9, lines 12 and 13, omit "Aboriginal Victorians" and insert "Clans and First Nations".
12. Clause 9, line 19, omit "Aboriginal Victorians" and insert "Clans and First Nations".
13. Clause 9, line 21, omit "Aboriginal Victorians" and insert "Clans and First Nations".
14. Clause 10, line 24, omit "Commissioner," insert "Commissioner working in partnership with the Clan Elders Council,".
15. Clause 11, line 4, after "must" insert "work in partnership with the Clan Elders Council to".
16. Clause 11, after line 11 insert—
  - "( ) A recommendation under subsection (1) must be made in respect of an entity—
    - (a) that consists solely of representatives of Clans and First Nations; and
    - (b) for which each Clan that chooses to participate self-determines the Clan's representation."
17. Clause 12, line 23, omit "Aboriginal Victorians" and insert "Clans and First Nations".
18. Clause 12, lines 25 and 26, omit "Aboriginal Treaty Working Group" and insert "Clan Elders Council".
19. Clause 12, line 29, omit "Aboriginal Victorians" and insert "Clans and First Nations".
20. Clause 14, line 29, omit "13(1)(c)" and insert "17(1)(c)".
21. Clause 15, line 4, omit "13(1)(b)" and insert "17(1)(b)".
22. Clause 16, page 13, lines 3 to 11, omit all words and expressions on these lines and insert—
  - "(a) for the purpose of working in partnership with Clans, convene or cause to be convened a forum, or more than one forum, in relation to the Aboriginal Representative Body that is open to all Clans and First Nations; and"
23. Clause 16, page 13, line 21, omit "Aboriginal Victorians" and insert "Clans".
24. Clause 17, line 32, omit "16" and insert "20".

25. Clause 19, lines 10 and 11, omit "Aboriginal Victorians" and insert "Clans and First Nations".
26. Clause 19, after line 19 insert—  
    "( ) the Clans;  
    ( ) the First Nations;"
27. Clause 21, after line 7 insert—  
    "( ) Any decisions in the treaty process that affect Clans must be made in consultation, cooperation and with the free, prior and informed consent of the Clans before they are finally adopted and implemented."
28. Clause 26, after line 5 insert—  
    "( ) The Treaty Authority must be—  
        (a) independent from all other parties to the treaty process; and  
        (b) free from any actual or perceived conflict of interest between the activities of the Treaty Authority and any natural persons employed or assisting in the performance of the functions of the Treaty Authority, and the outcomes of the treaty process."
29. Clause 30, line 30, omit "27" and insert "32".
30. Clause 34, after line 5 insert—  
    "( ) The self-determination fund must be—  
        (a) established within 30 days of the day the Aboriginal Representative Body is declared; and  
        (b) adequately funded to achieve the purposes specified in section 40."
31. Clause 35, line 9, omit "Aboriginal Victorians" and insert "Clans".
32. Clause 35, after line 11 insert—  
    "( ) supporting mapping of the genealogy of Clans—  
        (i) in order for Aboriginal people to fully identify and connect to their cultural heritage and Clans; and  
        (ii) for better participation in the treaty process;"
33. Clause 35, line 15, omit "prosperity." and insert "prosperity;"
34. Clause 35, after line 15 insert—  
    "( ) supporting a process of truth telling of the history of Victoria from the perspectives of Clans and other Aboriginal Victorians."

35. Clause 36, line 29, omit "35" and insert "40".
36. Clause 40, line 13, omit "Aboriginal Victorians" and insert "Clans and First Nations".
37. Clause 40, line 18, omit "Aboriginal Victorians" and insert "Clans and First Nations".

#### NEW CLAUSES

38. Insert the following New Clause to follow clause 3—

**"A Act does not affect sovereignty**

A treaty between the State and a Clan or a First Nation is not an act of cession by the Clan or the Clans the First Nation represents and does not diminish or displace the sovereign status Clans assert."

39. Insert the following New Clauses to follow clause 7—

**"B Meaning of treaty**

- (1) A treaty is a legally binding agreement that is negotiated in good faith between the State and a Clan, a group of Clans, or a First Nation and is agreed to with the free, prior and informed consent of the Clan or the Clans the First Nation represents.
- (2) A treaty must—
  - (a) address past and present injustices; and
  - (b) provide resources to the Clan or First Nation; and
  - (c) provide culturally appropriate powers of decision-making to the Clan or First Nation; and
  - (d) ensure control of the Clan or First Nation's own affairs rests with the Clan or First Nation; and
  - (e) support peace and reconciliation; and
  - (f) promote the human rights of Aboriginal Victorians.
- (3) A treaty may include matters additional to those specified in subsection (2).
- (4) Nothing in this Act prevents Clans or First Nations from entering into any agreement with the State that is not a treaty.

**C Recognition of Clans and First Nations**

- (1) Schedule 1 sets out Clans and First Nations for the purposes of this Act.
- (2) Nothing in this section limits the participation in the treaty process of a Clan or a First Nation that is not included in Schedule 1.

**Note**

Section 3 sets out the definitions of *Clan* and *First Nation* for the purposes of this Act.

**D Attorney-General may recognise Clans and First Nations**

- (1) The Attorney-General may recognise an entity to be a Clan or a First Nation by notice published in the Government Gazette.
- (2) Nothing in this section limits the participation in the treaty process of a Clan or a First Nation that is not recognised by the Attorney-General."

40. Insert the following New Clause to follow clause 20—

**"E United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)**

All processes engaged in or undertaken pursuant to this Act must ensure the treaty process proceeds in accordance with the Articles of the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly of the United Nations on 13 September 2007 (resolution 61/295)."

NEW SCHEDULE

41. Insert the following New Schedule to follow clause 43—

**"Clans and First Nations**

**TABLE 1**

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>
	<i>First Nation</i>	<i>Clans</i>
1	Barapa Barapa	Gunbower gundidj Kurrowertukhe Mially Water Clan Moyberrer Balug Perregoo Tanne Balug Teerap Balug Yulowil Balug
2	Bidwell	Unknown
3	Boonwurrung / Bunwurrung	Bun Wurrung Balug Mayne Balug Ngaruk William Yallock Ballug Yalukit Willam

		Yowengarra
4	Dhudhuroa / Yatmaithang	Dhudhuroa Boengar Mittong Ginning Matong Tarrer Mittung Theddora Mittung Gundungerre Kandangora Mittung Yatte Mittong
5	Dja Dja Wurrung / Jaara	Bial Balug Burung Balug Bulangurd Gundidj Catto's Run Clan Galgal Gundidj Gurabungalid Gundidj Banyul Willam Dja Dja Wurrung Balug Galgal Balug Gunangara Gundidj Larning Gundidj Liarga Balug Tardardyinlar Munal Gundidj Dirag Balug Durid Balug Wurn Balug Wungaragira Gundidj Yung Balug
6	Djab Wurrung	Baumbidj Gundidj Djargurd Balug Koenghegulluc Korrungow Werroke Gundidj

---

	Leehoorah Gundidj
	Mullungkil Gundidj
	Djargurd Wurrung
	Netcunde
	Tarnbeere Gundidj
	Teerinyillum Gundidj
	Uropine Gundidj
	Wane Gundidj Colac
	Worong Gundidj
	<hr/>
7	Girai Wurrung / Kirrae Wurrung
	Baradh Gundidj
	Badadgil Gundidj
	Burug Gundidj
	Duram Gundidj
	Flat Topped Hill Clan
	Garar Gundidj
	Garngigung Gundidj
	Girai Wurrung Kirrae Wurrung
	Gilambidj Gundidj
	Gilidmurar Gundidj
	Gulag gundidj
	Gular Gundidj
	Gun Gundidj
	Gunawurd Gundidj
	Gunindarar
	Ngalung Barar Balug
	Mt Noorat Clan
	Ngaragurd Gundidj
	Girai Wurrung Kirrae Wurrung
	Purteet Chowel Gundidj
	Lake Terang Clan
	Warnmbul Gundidj
	<hr/>
8	Gulidjan
	Beac Clans
	Birregurra Clans
	<hr/>

---

		Guraldjin Balug
		Gulidjan Balug
9	Gunditj Mirring / Dhauwurd Wurrung Gunditjmara	Art Gundij Ballumin Gudidj Bate Gudidj Biteboren Gudidj Bokerer Gudidj Bome Gudidj Bonedol Gudidj Can Can Corro Gudidj Carnbul Gudidj Cart Gudidj Cartcorang Gudidj Corry Gudidj Cupponenet Gudidj Dandeeyallum Direk Gudidj Gilgar Gudidj Kerrup Gudidj Kilcarer Gudidj Gudidj Koroit Gudidj Lay Gudidj Mallo Mallun Gudidj Meen Gudidj Mendeet Gudidj Marayn Monwer gudidj Moperer Gudidj Mordoneneet Gudidj Morro Gunditj Mum Keelunk Gudidj Mumdorrong Gundij Nancurrer Gudidj

---



---

Nartitbeer Gundidj  
Net Net Yune Gundidj  
Nilan Gundij  
Omebegare Rege Gundidj  
Pallapnue Gunditj  
Peerracer  
Ponungdeet Gundidj  
Pyipgil Gundidj  
Tarrerwung Gundidj  
Tarerer Gundidj  
Tarngonene Wurrer Gundidj  
Teerar Gundidj  
Tolite Gundidj  
Tone Gundidj  
Ure Gundidj  
Wane Gundidj  
Wanedeet Gundidj  
Warerangur Gundidj  
Waywac Gundidj  
Weereweerip Gundidj  
Woortenwan  
Worcarre Gundidj  
Worerome Killink Gundij  
Worn Gundidj  
Tallo Gundidj  
Yambeet Gundidj  
Yarrer Gundidj  
Yiyar Gundidj  
Yowen

---

10 Gunai / Kurnai

Brataualung  
Tatungulung  
Braiakaulung  
Brabralung

---

---

		Krauatungulung
11	Jardwadjali	Apsley Clan
		Barbadin Balug
		Bernet
		Buluga
		Bung Bung Gul Gundidj
		Congbool and Yat Nat Clan
		Darkogang Gundidj
		Djappuminyu
		Djura Balug
		Jardwadjala
		Djurid Balug
		Kallutbeer Kanal Gundidj
		Karrebil Gundidj
		Konongwootong Gundidj
		Koroite
		Konenicen Balug
		Kum Balug
		Larnaget
		Jardwadjala
		Lil Lil Gundidj
		Mideriber Gundidj
		Moody Balug
		Murray Murra Barap
		Ngarum Ngarum Balug
		Pellerwin Balug
		Pobbiberer Balug
		Rockburrer Balug
		Tuan Balug
		Jardwadjala
		Tukallut Balug
		Tununder Balug
		Ullswater Clan

---

		Wanemollechoke Welleetpar Whiteburer Gundidj Worrercite Yanneborer Balug Yareen Me Yoke Yetteker Balug
12	Latji Latji	Balug Mernen Bandjel Gundidj Lail Buil
13	Monero-Ngarigu / Southern Monero	Unknown
14	Ngintait	Unknown
15	Ngurai Illum Wurrung	Benbedora Balug Gunung-Willam Ngurai-Illum Balug
16	Nyeri Nyeri / Yary Yary	Unknown
17	Tati Tati / Dadi Dadi	Jungeegatchera
18	Taungurung	Buthera Balug Look Willam Moomoom Gundidj Nattarak Balug Nira Balug Warring-Illum Balug Yarran-Illum Balug Yeerun-Illum Balug Yowung-Illum Balug
19	Tjapwurrung	Bankneit Bar Gundidj Beeripmo Balug Boner Balug Buller Buller Cote Gundidj

---

Cartbonong Gundidj Cart Cart Worrata  
Gundidj  
Curruc Balug  
Gnareeb Gnareeb Gundidj  
Jacelet  
Kolorer Gundidj  
Konegilwerring Gundidj  
Mingalac Gundidj  
Mitteyer Balug  
Mutterchoke Balug  
Neetssheere Balug  
Tjapwurrung  
Peeripar Balug  
Poit Balug  
Punnoinjon Gundidj  
Puppellenneering  
Tappoc Gundidj  
Terrel Balug  
Terrumbehal Gundidj  
The Gums Clan  
Tillac Gundidj  
Tin Balug  
Tjapwurrung  
Tonedidgerer Balug  
Tool Balug  
Toorac Balug  
Toorac Balug  
Uelgal Gundidj  
Ural Balug  
Utoul Balug  
Wattenpeer Balug  
Tjapwurrung  
Weeripcart Balug

---

		Worrembeetbeer Gundidj
		Wurcurri Gundidj
		Yam Yam Burer Balug
		Yourwychall Gundidj
20	Wada Wurrung / Wathaurong	Barere Barere Balug
		Beerekwart Balug
		Bengalat Balug
		Berrejin Balug
		Borogundidj
		Burrumbeet Balug
		Keyeet Balug
		Carringham Balug
		Carninje Balug
		Corac Balug
		Corrin Corrinjer Balug
		Gerarlture
		Marpeang Balug
		Mear Balug
		Mojjerra Balug
		Moner Balug
		Monmart
		Neerer Balug
		Pakeheneek Balug
		Peerickelmoon Balug
		Toolora Balug
		Woodealoke Gundidj
		Wada Wurrung Balug
		Wongerrer Balug
		Worinyaloke Balug
		Yaawang
21	Wadi Wadi / Weki Weki	Nat Konedeyoke
		Targundidj

22	Wamba Wamba / Wemba Wemba	Bael Bael Gundidj Dietchen Balug Geroung Bukeer Gourmjanyuk Koron Gundidj Mallenjerrick Moorta Moorta Murrabit Gundidj
23	Waywurru / Waveroo	Tarrer Mittung
24	Wergaia Wergaia Wotjobaluk Djupagalk Jardwajala	Banyiinong Balug/Banju Bunan Gundidj Bulla Bulla Wycher Karroit Balug Djubagalg Gundidj Duwin Barap Jakel Balug Jackal Barap Jarambiuk Wergaia Jarrung Jarrung Kapun Kapun Bara Kreitch Balug Gur Balug Nyill Porrone Gundidj Wengen Marongeitch Witch Wundauk/Njarimbalug Yarrikuluk Yoonjareup
25	Woi-wurrung / Wurundjeri	Wurundjeri Willam Gunung Willam Balug Talling Willum Kurung Jang Balug Marin Balug

		Wurundjeri Balug
		Bulug Willam
26	Yorta Yorta	Darrinban Wongatban Merdiderban Maddemowero Yewngotban Biggolatban Ungidderroban Mowatban Derranatban Toolinyagan Boongatpan Angootheriban Kailthiban Moiraduban Towroonban Wolithiga
27	Yuin	Unknown

".

#### AMENDMENT OF PREAMBLE

42. Preamble, omit "traditional owners" (where first occurring) and insert "Traditional Owners and Clans".
43. Preamble, omit "traditional owners" (where second, third and fourth occurring) and insert "Clans".
44. Preamble, page 2, omit "Victorian traditional owners maintain that their sovereignty has never been ceded, and" and insert "The State of Victoria recognises that the Clans have never ceded sovereignty over the land now known as Victoria. The State of Victoria recognises that".
45. Preamble, page 2, omit "Aboriginal Victorians" (where third occurring) and insert "Clans and First Nations".
46. Preamble, page 2, omit "Aboriginal Victorians" (where fifth, eighth and ninth occurring) and insert "Clans and First Nations".

47. Preamble, page 2, omit "Aboriginal Victorians" (where tenth occurring) and insert "Clans".
48. Preamble, page 2, omit "traditional owners" (where first, third, fourth and fifth occurring) and insert "Traditional Owners".
49. Preamble, page 3, omit "traditional owners" and insert "Clans and Traditional Owners".