

LEGISLATIVE COUNCIL

ADVANCING THE TREATY PROCESS WITH ABORIGINAL VICTORIANS BILL
2018

(Amendments, New Clauses and New Schedule to be proposed in Committee by Dr
RATNAM)

1. Clause 1, lines 5 and 6, omit "Aboriginal Victorians," and insert "Clans and First Nations,".
2. Clause 1, line 10, omit "Aboriginal Victorians" and insert "Clans and First Nations".
3. Clause 3, page 5, lines 8 to 25, omit all words and expressions on these lines.
4. Clause 3, page 5, after line 25 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;".
5. Clause 3, page 5, after line 29 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;".
6. Clause 3, page 6, after line 3 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;"

7. 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."

8. Insert the following New Clauses to follow clause 8—

"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."

9. Clause 9, line 5, omit "Aboriginal Victorians" and insert "Clans and First Nations".
10. Clause 9, line 10, omit "Aboriginal Victorians" and insert "Clans and First Nations".
11. Clause 10, line 15, omit "Aboriginal Victorians" and insert "Clans and First Nations".
12. Clause 10, line 22, omit "Aboriginal Victorians" and insert "Clans and First Nations".
13. Clause 10, lines 24 and 25, omit "Aboriginal Victorians" and insert "Clans and First Nations".
14. Clause 11, line 31, omit "Commissioner," insert "Commissioner working in partnership with the Clan Elders Council,".
15. Clause 12, line 6, after "must" insert "work in partnership with the Clan Elders Council to".
16. Clause 12, after line 13 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 13, lines 25 and 26, omit "Aboriginal Victorians" and insert "Clans and First Nations".
18. Clause 13, line 28, omit "Aboriginal Treaty Working Group" and insert "Clan Elders Council".
19. Clause 13, line 32, omit "Aboriginal Victorians" and insert "Clans and First Nations".
20. Clause 17, page 14, lines 3 to 13, 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".
21. Clause 17, page 14, line 24, omit "Aboriginal Victorians" and insert "Clans".
22. Clause 20, line 11, omit "Aboriginal Victorians" and insert "Clans and First Nations".
23. Clause 20, after line 19 insert—
 - "() the Clans;
 - () the First Nations;"
24. Insert the following New Clause to follow clause 21—

"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).".

25. Clause 22, 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.".

26. Clause 27, 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.".

27. Clause 35, 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 36.".

28. Clause 36, lines 9 and 10, omit "Aboriginal Victorians" and insert "Clans".

29. Clause 36, 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;".

30. Clause 36, line 15, omit "prosperity." and insert "prosperity;".

31. Clause 36, after line 15 insert—

"() supporting a process of truth telling of the history of Victoria from the perspectives of Clans and other Aboriginal Victorians.".

32. Clause 41, line 14, omit "Aboriginal Victorians" and insert "Clans".

33. Clause 41, lines 22 and 23, omit "Aboriginal Victorians" and insert "Clans".

34. Insert the following New Schedule to follow clause 44—

"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
		<hr/>
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
8	Gulidjan	Beeac Clans
		Birregurra Clans
		Guraldjin Balug
		Gulidjan Balug
9	Gunditj Mirring / Dhauwurd Wurrung Gunditjmarra	Art Gundij
		Ballumin Gudidj
		Bate Gundidj
		Biteboren Gundidj
		Bokerer Gundidj
		Bome Gundidj
		Bonedol Gundidj
		Can Can Corro Gundidj
		Carnbul Gundidj
		Cart Gundidj
		Cartcorang Gundidj
		Corry Gundidj
		Cupponenet Gundidj
		Dandeeyallum
		Direk Gundidj
		Gilgar Gundidj
		Kerrup Gundidj

Kilcarer Gundidj
Gundidj
Koroit Gundidj
Lay Gundidj Mallo
Mallun Gundidj
Meen Gundidj
Mendeet Gudidj Marayn
Monwer gundidj
Moperer Gundidj
Mordoneneet Gundidj
Morro Gunditj
Mum Keelunk Gundidj
Mumdorrong Gundij
Nancurrer Gundidj
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-Illam 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
Mojerra Balug
Moner Balug
Monmart
Neerer Balug
Pakeheneek Balug
Peerickelmoon Balug
Tooloora 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

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AMENDMENT OF PREAMBLE

35. Preamble, omit "traditional owners" (where first occurring) and insert "Traditional Owners and Clans".
36. Preamble, omit "traditional owners" (where second, third and fourth occurring) and insert "Clans".
37. 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".

38. Preamble, page 2, omit "Aboriginal Victorians" (where third occurring) and insert "Clans and First Nations".
39. Preamble, page 2, omit "Aboriginal Victorians" (where fifth, seventh and eighth occurring) and insert "Clans and First Nations".
40. Preamble, page 2, omit "Aboriginal Victorians" (where ninth occurring) and insert "Clans".
41. Preamble, page 2, omit "traditional owners" (where first, third, fourth, fifth and sixth occurring) and insert "Traditional Owners".
42. Preamble, page 3, omit "traditional owners" and insert "Clans and Traditional Owners".