**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;".

1. 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;".

1. Clause 3, page 5, line 27 omit "17" and insert "21".
2. 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;".

1. Clause 8, line 4, omit "Aboriginal Victorians" and insert "Clans and First Nations".
2. Clause 8, line 9, omit "Aboriginal Victorians" and insert "Clans and First Nations".
3. Clause 9, lines 12 and 13, omit "Aboriginal Victorians" and insert "Clans and First Nations".
4. Clause 9, line 19, omit "Aboriginal Victorians" and insert "Clans and First Nations".
5. Clause 9, line 21, omit "Aboriginal Victorians" and insert "Clans and First Nations".
6. Clause 10, line 24, omit "Commissioner," insert "Commissioner working in partnership with the Clan Elders Council,".
7. Clause 11, line 4, after "must" insert "work in partnership with the Clan Elders Council to".
8. 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.".

1. Clause 12, line 23, omit "Aboriginal Victorians" and insert "Clans and First Nations".
2. Clause 12, lines 25 and 26, omit "Aboriginal Treaty Working Group" and insert "Clan Elders Council".
3. Clause 12, line 29, omit "Aboriginal Victorians" and insert "Clans and First Nations".
4. Clause 14, line 29, omit "13(1)(c)" and insert "17(1)(c)".
5. Clause 15, line 4, omit "13(1)(b)" and insert "17(1)(b)".
6. 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".

1. Clause 16, page 13, line 21, omit "Aboriginal Victorians" and insert "Clans".
2. Clause 17, line 32, omit "16" and insert "20".
3. Clause 19, lines 10 and 11, omit "Aboriginal Victorians" and insert "Clans and First Nations".
4. Clause 19, after line 19 insert—

 "( ) the Clans;

 ( ) the First Nations;".

1. 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.".

1. 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.".

1. Clause 30, line 30, omit "27" and insert "32".
2. 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.".

1. Clause 35, line 9, omit "Aboriginal Victorians" and insert "Clans".
2. 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;".

1. Clause 35, line 15, omit "prosperity." and insert "prosperity;".
2. 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.".

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

NEW CLAUSES

1. 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.".

1. 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.".

1. 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

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

"Clans and First Nations

Table 1

|  |  |  |
| --- | --- | --- |
| *Item* | *Column 1First Nation*  | *Column 2Clans* |
| 1 | Barapa Barapa | Gunbower gundidjKurrowertukhe Mially Water ClanMoyberrer BalugPerregoo 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 | DhudhuroaBoengar MittongGinning MatongTarrer MittungTheddora MittungGundungerreKandangora MittungYatte 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 GundidjLarning Gundidj Liarga Balug Tardardyinlar Munal Gundidj Dirag Balug Durid Balug Wurn Balug Wungaragira Gundidj Yung Balug  |
| 6 | Djab Wurrung | Baumbidj GundidjDjargurd BalugKoenghegullucKorrungow Werroke GundidjLeehoorah GundidjMullungkil GundidjDjargurd WurrungNetcundeTarnbeere GundidjTeerinyillum GundidjUropine GundidjWane Gundidj ColacWorong Gundidj |
| 7 | Girai Wurrung / Kirrae Wurrung | Baradh GundidjBadadgil GundidjBurug GundidjDuram GundidjFlat Topped Hill ClanGarar GundidjGarngigung GundidjGirai Wurrung Kirrae WurrungGilambidj GundidjGilidmurar GundidjGulag gundidjGular GundidjGun GundidjGunawurd GundidjGunindararNgalung Barar BalugMt Noorat ClanNgaragurd GundidjGirai Wurrung Kirrae WurrungPurteet Chowel GundidjLake Terang ClanWarnmbul Gundidj |
| 8 | Gulidjan | Beeac ClansBirregurra ClansGuraldjin BalugGulidjan Balug  |
| 9 | Gunditj Mirring / Dhauwurd Wurrung Gunditjmara | Art GundijBallumin GudidjBate GundidjBiteboren GundidjBokerer GundidjBome GundidjBonedol GundidjCan Can Corro GundidjCarnbul GundidjCart GundidjCartcorang GundidjCorry GundidjCupponenet GundidjDandeeyallumDirek GundidjGilgar GundidjKerrup GundidjKilcarer GundidjGundidjKoroit GundidjLay Gundidj MalloMallun GundidjMeen GundidjMendeet Gudidj MaraynMonwer gundidjMoperer GundidjMordoneneet GundidjMorro GunditjMum Keelunk GundidjMumdorrong GundijNancurrer GundidjNartitbeer GundidjNet Net Yune GundidjNilan GundijOmebegare Rege GundidjPallapnue GunditjPeerracerPonungdeet GundidjPyipgil GundidjTarrerwung GundidjTarerer GundidjTarngonene Wurrer GundidjTeerar GundidjTolite GundidjTone GundidjUre GundidjWane GundidjWanedeet GundidjWarerangur GundidjWaywac GundidjWeereweerip GundidjWoortenwanWorcarre GundidjWorerome Killink GundijWorn GundidjTallo GundidjYambeet GundidjYarrer GundidjYiyar GundidjYowen |
| 10 | Gunai / Kurnai | BrataualungTatungulungBraiakaulungBrabralungKrauatungulung |
| 11 | Jardwadjali | Apsley ClanBarbadin BalugBernetBulugaBung Bung Gul GundidjCongbool and Yat Nat ClanDarkogang GundidjDjappuminyuDjura BalugJardwadjalaDjurid BalugKallutbeer Kanal GundidjKarrebil GundidjKonongwootong GundidjKoroiteKonenicen BalugKum BalugLarnagetJardwadjalaLil Lil GundidjMideriber GundidjMoody BalugMurray Murra BarapNgarum Ngarum BalugPellerwin BalugPobbiberer BalugRockburrer BalugTuan BalugJardwadjalaTukallut BalugTununder BalugUllswater ClanWanemollechokeWelleetparWhiteburer GundidjWorrerciteYamneborer BalugYareen Me YokeYetteker 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-Illam Balug Yowung-Illam Balug  |
| 19 | Tjapwurrung | BankneitBar GundidjBeeripmo BalugBoner BalugBuller Buller Cote GundidjCartbonong Gundidj Cart Cart Worrate GundidjCurruc BalugGnareeb Gnareeb GundidjJaceletKolorer GundidjKonegilwerring GundidjMingalac GundidjMitteyer BalugMutterchoke BalugNeetssheere BalugTjapwurrungPeeripar BalugPoit BalugPunnoinjon GundidjPuppellenneeringTappoc GundidjTerrel BalugTerrumbehal GundidjThe Gums ClanTillac GundidjTin BalugTjapwurrungTonedidgerer BalugTool BalugToorac BalugToorac BalugUelgal GundidjUral BalugUtoul BalugWattenpeer BalugTjapwurrungWeeripcart BalugWorrembeetbeer GundidjWurcurri GundidjYam Yam Burer BalugYourwychall 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 Moijerra Balug Moner Balug Monmart Neerer Balug Pakeheneek Balug Peerickelmoon Balug Tooloora Balug Woodealloke Gundidj Wada Wurrung Balug Wongerrer Balug Worinyaloke Balug Yaawangi  |
| 21 | Wadi Wadi / Weki Weki | Nat Konedeyoke Targundidj  |
| 22 | Wamba Wamba / Wemba Wemba | Bael Bael Gundidj Dietchen Balug Geroung Bukeer Gourrmjanyuk Koron Gundidj Mallenjerrick Moorta Moorta Murrabit Gundidj  |
| 23 | Waywurru / Waveroo | Tarrer Mittung |
| 24 | Wergaia Wergaia Wotjobaluk Djupagalk Jardwajala | Banyiinong Balug/Banju Bunan GundidjBulla Bulla WycherKarroit BalugDjubagalg GundidjDuwin BarapJakel BalugJackal BarapJarambiukWergaiaJarrung JarrungKapun Kapun BaraKreitch BalugGur BalugNyillPorrone GundidjWengen MarongeitchWitch Wundauk/NjarimbalugYarrikulukYoonjareup |
| 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

1. Preamble, omit "traditional owners" (where first occurring) and insert "Traditional Owners and Clans".
2. Preamble, omit "traditional owners" (where second, third and fourth occurring) and insert "Clans".
3. 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".
4. Preamble, page 2, omit "Aboriginal Victorians" (where third occurring) and insert "Clans and First Nations".
5. Preamble, page 2, omit "Aboriginal Victorians" (where fifth, eighth and ninth occurring) and insert "Clans and First Nations".
6. Preamble, page 2, omit "Aboriginal Victorians" (where tenth occurring) and insert "Clans".
7. Preamble, page 2, omit "traditional owners" (where first, third, fourth and fifth occurring) and insert "Traditional Owners".
8. Preamble, page 3, omit "traditional owners" and insert "Clans and Traditional Owners".