**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 1  First Nation* | *Column 2  Clans* |
| 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 |
| 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 Gunditjmara | 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  Yamneborer 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-Illam Balug  Yowung-Illam Balug |
| 19 | Tjapwurrung | Bankneit  Bar Gundidj  Beeripmo Balug  Boner Balug  Buller Buller Cote Gundidj  Cartbonong Gundidj Cart Cart Worrate 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  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 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

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".