

## Yoorrook Justice Commission Expert Advisory Committee

### Terms of Reference

#### 1. Background

The Yoorrook Justice Commission (Yoorrook) is the first truth-telling body to be established in Australia. It has been established as a Royal Commission under the *Inquiries Act 2014* (Vic). Yoorrook is led by Professor Eleanor Bourke as Chairperson (Yoorrook Chairperson), supported by Commissioners Dr Wayne Atkinson, Professor the Honourable Kevin Bell AM QC, Sue-Anne Hunter and Distinguished Professor Maggie Walter (collectively Commissioners).

Yoorrook will inquire into historical and ongoing systemic injustices perpetrated against First Peoples in Victoria by State and non-State entities since colonisation until today. It will establish an official public record of the impact of colonisation on First Peoples in Victoria, as well as make recommendations for practical actions and reform needed in Victoria to acknowledge historical injustices and address ongoing injustices. Yoorrook is required to provide an interim report by 30 June 2022 and its final report by 30 June 2024.

#### 2. Role

Yoorrook's Letters Patent dated 12 May 2021 direct it to establish an Expert Advisory Committee (Committee) within three months of gazettal of the Letters Patent to act as consultants to Yoorrook. The Committee must include certain expertise, namely:

- persons with expertise in First Peoples':
  - history;
  - cultural knowledge;
  - information and data sovereignty; and
  - trauma, redress and healing (Letters Patent, 4(e)(i)); and
- at least one member of the Committee who is an impartial expert with at least 10 years' experience in a jurisdiction outside of Victoria in driving practical reform or transformation of entrenched norms, practices, legislation, and/or policy in large institutions, particularly experience in providing independent oversight of such institutions to drive government system reform through assessment of strategy, governance, accountability and outcomes of large organisations or institutions (Letters Patent, 4(e)(ii)).

The Committee may include persons with other experience, such as comparative international processes and transitional justice that the Commissioners consider could assist Yoorrook in achieving its objectives (Letters Patent, 4(e)(iii)).

These Terms of Reference provide guidance on how Yoorrook may engage the Committee to assist with its work.

#### 3. Functions

##### 3.1 Functions of all Committee members

Committee members may be requested to act as a sounding board for Commissioners and Commission staff on an ad-hoc basis throughout the course of the inquiry. This may include providing input or feedback on aspects of Yoorrook's work, including its Terms of Reference (Letters Patent, 3), recommendations and interim and final reports.

Committee members may also be requested to provide written advice during the conduct of the inquiry on specific matters in accordance with requests from the Yoorrook Chairperson.

Committee members may be required to work as a group with other Committee members, or to work as individual consultants to Yoorrook as required (see 9 Advice provided by Committee/Committee Members).

### **3.2 Functions of Committee Chairperson**

The Yoorrook Chairperson may appoint one or more Committee Chairpersons to lead and coordinate Committee members if they are required to work as a group (see 5.1 Membership and Requirements).

If appointed, a Committee Chairperson is responsible for leading and coordinating the work of the Committee when it is operating as a group in line with guidance provided by the Yoorrook Chairperson. If more than one Committee Chairperson is appointed, the Committee Chairpersons will perform their functions jointly, or as otherwise directed by the Yoorrook Chairperson.

## **4. Responsibilities**

Committee members are:

- considered Royal Commission officers under the *Inquiries Act 2014* (Vic), and as such are subject to the requirement of confidentiality; and
- appointed in their personal capacity, and not as a representative or nominee of any community or organisation.

The Committee and/or its individual members:

- do not represent the Royal Commission; and
- cannot request, collect or store any research, information or data.

Any research, information or data made available to Committee members by Yoorrook and any documents created during the operation of the Committee must be kept confidential at all times and returned to Yoorrook on or before 29 June 2024.

## **5. Membership**

### **5.1 Membership and Requirements**

Committee members will be appointed in their individual capacity by the Yoorrook Chairperson on the basis that they have the necessary expertise and meet the criteria set out in the Letters Patent (see 2 above). Following the establishment of the Committee, additional Committee members may be appointed at any time throughout the duration of Yoorrook's inquiry.

One or more Committee Chairpersons may be appointed by the Yoorrook Chairperson at any time throughout the duration of Yoorrook's inquiry.

### **5.2 Induction**

The Yoorrook Chairperson, supported by the Chief Executive Officer and Yoorrook staff, will provide Committee members with all necessary and relevant information to enable them to understand the scope of operations of the Committee and their duties and responsibilities.

### 5.3 Conduct

Committee members:

- should prioritise attending Committee meetings – which may be scheduled on a regular or ad hoc basis;
- should ensure adequate preparation for Committee meetings or engagements to be able to contribute, clearly articulate points of view or concerns and, where required, work collaboratively with other Committee members; and
- are subject to the duties and obligations imposed under the *Inquiries Act 2014* (Vic).

### 5.4 Governance

Committee members individually and the Committee as a group will report to the Yoorrook Chairperson, and be supported by Yoorrook staff.

### 5.5 Resignation and Removal

A Committee member may resign in writing to the Yoorrook Chairperson. Only the Yoorrook Chairperson is able to appoint or remove a member of the Committee at any time for any reason.

## 6. Conflict of Interests

Committee members will be required to disclose relevant interests prior to their appointment, and will be subject to an ongoing duty of disclosure during the period of their appointment. Such interests may include:

- employment with agencies of the State of Victoria and/or other organisations the subject of Yoorrook's inquiries from time to time;
- role as a native title applicant and/or officer of a Prescribed Body Corporate (PBC); and
- an appointment to the First Peoples' Assembly of Victoria (Assembly).

Practical guidance as to the relationships, roles and appointments that may constitute a perceived, potential or actual conflict of interest will be provided to Committee members, to support these processes.

During the course of Yoorrook's inquiry, in the context of individual requests for advice, Committee members shall declare prior to the commencement of relevant agenda items and/or discussions:

- any relevant interests in the matters the subject of the Committee's intended focus;
- details as to the nature of those interests; and
- any conflict that results, may result or could be perceived to result from it.

All declared actual, potential or perceived conflicts of interest will be recorded by Yoorrook staff, and the Committee member will be required to manage them in line with a conflict of interest management protocol.

## 7. Media and Public Comment

Committee members will make no public comments or undertake any media activities in respect of the Committee or Yoorrook, unless given prior approval in writing by the Yoorrook Chairperson.

## **8. Meetings**

Committee members will be called upon to attend meetings as determined by the Yoorrook Chairperson – including, possibly, as a full group, subgroup or individually (as the context requires).

## **9. Advice provided by Committee/Committee members**

Advice provided by individual Committee members and/or the Committee as a group or subgroup is advisory in nature only. Therefore, if requested to meet as a group, no quorum is required.

Advice from the Committee members does not need to be unanimous or agreed upon by the majority of the Committee (or Committee members in attendance at a particular meeting).

Advice provided by Committee members will helpfully inform Yoorrook's work, but will not determine any aspect of Yoorrook's work.

## **10. Remuneration and Expenses**

### **10.1 Remuneration**

Remuneration for Committee members will be in accordance with the Appointment and Remuneration Guidelines (Guidelines). The Committee is classified as a Group B organisation as defined by the Guidelines.

Members will be paid a day rate for each meeting they attend, inclusive of meeting preparation. Where duties are required for less than four hours, members will be paid at a half day rate. Where a member is commissioned to conduct work for Yoorrook, they will be paid at a day rate for the number of days agreed with Yoorrook or an agreed amount.

### **10.2 Expenses**

Committee members are entitled to reimbursement of reasonable travelling and personal expenses that they incur as a result of their duties.