



OUTLINE OF EVIDENCE OF AUNTY GERALDINE ATKINSON FIRST PEOPLES' ASSEMBLY OF VICTORIA

DECEMBER 2022 HEARINGS (CRIMINAL JUSTICE & CHILD PROTECTION)

12 DECEMBER 2022

I BACKGROUND

1. I am a proud Bangerang/Wiradjuri woman and Co-Chair of the First Peoples' Assembly of Victoria (**the Assembly**). I was elected to the Assembly in November 2019.
2. I have been involved in government policy and reform in Aboriginal education for over 40 years. I have also advocated over this timeframe on a range of other critical issues for Victorian First Peoples, including justice, family reconciliation and family violence.
3. I have been President of the Victorian Aboriginal Education Association Inc. (**VAEAI**) since 1999. In this role, I represent VAEAI on Koorie education matters across all education sectors.
4. In 2020, I was honoured with a Deakin University Honorary Doctorate Award for my work in Aboriginal education.
5. I was inducted into the Victorian Aboriginal Honour Roll in 2018.

II OVERVIEW

6. This outline of evidence addresses:
 - a. the First Peoples' Assembly of Victoria as the voice for First Peoples in the Victorian Treaty process;
 - b. an update on the Treaty process in Victoria;
 - c. the need to shift decision-making power to First Peoples;
 - d. how the treaty process will get First Peoples' voices to decide First Peoples' issues;
 - e. how Treaty can secure systems designed by First Peoples;
 - f. my experiences of how systems continue to harm First Peoples;
 - g. urgent criminal legal system reforms that are needed now; and
 - h. my belief that truth-telling is for everyone.

III FIRST PEOPLES' ASSEMBLY IS THE VOICE FOR FIRST PEOPLES IN THE VICTORIAN TREATY PROCESS

7. The Assembly is the independent and democratic voice for Aboriginal and Torres Strait Islander peoples in the Victorian Treaty process. Our 31 Assembly Members were elected by our Community.
8. In everything we do, we are fighting to ensure First Peoples have the freedom and power to decide First Peoples' issues.
9. I am one of the elected Co-Chairs of the Assembly and, together with the other Co-Chair, Marcus Stewart, have held this position since the Assembly was established in 2019.

IV UPDATE ON THE TREATY PROCESS IN VICTORIA

10. The Assembly has reached agreement with the State on the foundations for Treaty negotiations –
 - a. the Treaty Authority – an independent umpire, led by First Peoples, to oversee and facilitate Treaty negotiations;
 - b. the Treaty Negotiation Framework – the ground rules for negotiating a Statewide Treaty and individual Traditional Owner Treaties; and
 - c. the Self-Determination Fund – a First Peoples' controlled resource to support Traditional Owners to enter Treaty negotiations with the State on a level playing field and build capacity, wealth and prosperity for future generations.
11. The stage is set to negotiate Treaties to achieve better outcomes for First Peoples – there will be Statewide and Traditional Owner treaty negotiations.
12. Both Statewide and Traditional Owner Treaty negotiations will be informed by relevant findings and recommendations of Yoorrook.
13. Treaty negotiations could start as early as next year.
14. Traditional Owner Treaty negotiations are about Traditional Owners negotiating with the State on matters important to their Communities. That is for each Traditional Owner group to decide. The door is open for all Traditional Owners to meet the minimum standards to participate, which are set out in the Treaty Negotiation Framework, so that no one is left behind.
15. It is intended that the Assembly will be the body to negotiate Statewide Treaty. As Co-Chair of the Assembly, I will focus my evidence on the opportunity for change through Statewide Treaty.

16. Both the Assembly and the State will need to meet minimum standards before starting Statewide Treaty negotiations, set out in the Treaty Negotiation Framework. The Assembly will need to show it represents the diversity of First Peoples in Victoria and that it is inclusive.
17. The Assembly first needs to go to its elections next year.
 - a. The Assembly will hold its elections next year, for Community to choose the Members who will lead Statewide Treaty-making in Victoria.
 - b. Nominations will open in April 2023, with voting from mid-May to early June 2023.
18. If you are Community – enrol now to make your voice heard.
19. If you are already on the Assembly's independent electoral roll, update your details so you're ready to vote.
20. As the body that will negotiate the Statewide Treaty, the Assembly will ensure that all First Peoples – Traditional Owners, off Country mob who are living in Victoria and Aboriginal Community Controlled Organisations – will be included in the negotiation process.
21. Treaty negotiations will be all about shifting decision-making power from Government to First Peoples.
22. The Treaty Negotiation Framework allows for negotiating parties to reach interim agreements. This means that First Peoples' rights and decision-making powers can be secured during negotiations in the short, medium and longer term.
23. With Statewide Treaty-making beginning possibly as early as next year – after the Assembly's next elections – this means that Yoorrook's recommendations should be directed towards the Treaty process being the appropriate way for First Peoples to determine how best to shift decision-making power to First Peoples.

V WE NEED TO SHIFT DECISION-MAKING POWER TO FIRST PEOPLES

24. When we talk about systemic injustices in the criminal justice system and the child protection systems, these are not just statistics – they affect our children, our sisters, brothers, nieces and nephews. Every single Aboriginal person and their family has been impacted by those systems. The criminal legal system is not a justice system for our people, it is an injustice system.
25. To get better outcomes for First Peoples, we need to shift decision-making power to First Peoples. That is genuine self-determination.
26. Genuine self-determination means First Peoples making the decisions on all matters that impact our lives. Yoorrook will be hearing lots of evidence about possible reforms to the

criminal legal and child protection systems. And while changes to these systems are necessary and long overdue – the most significant changes will be to the ways that First Peoples make decisions in this State.

27. The most important decisions are those that stop our people coming into contact with criminal legal and child protection systems in the first place. And, as everyone knows, this means addressing the underlying causes of disadvantage, systemic discrimination and disempowerment experienced by us as First Peoples.
28. That starts by improving outcomes in health, education, housing, employment – and that change happens when First Peoples are in control. We know what needs to be done. We just need the power to do it.
29. Governments talk about the importance of self-determination – but do they really understand what this is? The current child protection and criminal legal systems remain legacies of colonisation, dispossession and disempowerment. At the moment, First Peoples don't have real power to design and control systems and programs.
30. We get better outcomes where we have more control over our lives. Self-determination is the only approach that works.
31. I've seen really good results through Aboriginal-led programs.
32. For example, we opened a childcare centre in Greater Shepparton 40 years ago (now Lulla's Children and Family Centre). When we opened the childcare centre, we started programs not just for children but Aboriginal families. The Aboriginal-run childcare centre connected children to culture. And we had a TAFE program so their parents could drop the children off and go to TAFE, to train for better employment opportunities.
33. This is the kind of approach we need Statewide: First Peoples in charge of designing and running programs.
34. At the Assembly, we have consistently heard from Community the support for taking back control of First Peoples' affairs. There is a lot of support for this in the areas of law and justice, and child protection.

VI THE TREATY PROCESS IS HOW WE WILL GET FIRST PEOPLES' VOICES TO DECIDE FIRST PEOPLES' ISSUES

35. Re-designing a child protection system must be part of Statewide Treaty negotiations, where First Peoples are empowered to make the decisions about our children and families.
 - a. It is positive to hear the Premier's comments last week that the child protection system is broken and there should be a new system.
 - b. But First Peoples, not Government, should be the ones designing systems that affect them. And that is for Treaty deliver.

- c. When First Peoples are making decisions, we are accountable to our communities. That is the best way to keep children at home, safe with their families where they belong.
- 36. Treaty is about moving beyond First Peoples advising Government. Last week, the Premier talked about listening to and partnering with First Peoples. We have been advising, and sometimes governments listen, and sometimes they don't.
 - 37. Treaty is about First Peoples saying: we should have the power and resources to enable us to re-imagine and re-shape the systems with which our people interact.
 - 38. We can determine how to shift decision-making power to First Peoples through Treaty negotiations. System re-design needs to be led by First Peoples. We need to be the real decision-makers.
 - 39. The work can start now. The Victorian Government should make investments now to resource First Peoples and experts to begin thinking about system re-design. This could be done by resourcing the Assembly to work with ACCOs and Community to develop aspirations and priorities for system re-design that shifts decision-making power to First Peoples.
 - 40. In addition to transferring decision-making power to First Peoples, there is urgent work the Victorian Government can and must do now. Our children are still being taken away at record rates, but there is not enough focus and investment to prevent that from happening. As VACCA and others have recommended, the Government could start by immediately:
 - a. Urgently investing in early intervention programs and allocating family support services to Aboriginal families – this will help keep families together and avoid escalation to the tertiary end of the system.
 - b. Increasing the Kinship Carer allowance to match the Foster Carer allowance – and raising both payments.
 - c. Supporting First Peoples to building an Aboriginal evidence base about what is needed to address vulnerabilities within First Peoples families and evaluate the effectiveness of responses – and make sure First Peoples own their own data.

VII TREATY CAN SECURE SYSTEMS DESIGNED BY FIRST PEOPLES

- 41. Yoorrook's inquiry is different to inquiries that have gone before. Because we will soon negotiate Treaty – and Treaty is the process that can secure action on Yoorrook's recommendations.
- 42. After its elections, the Assembly intends to develop the priorities for Statewide Treaty negotiations, working with our Community and Community-led organisations.

- a. the Assembly will be the body to negotiate Statewide Treaty.
 - b. Yoorrook's findings and recommendations will be critical to inform that work.
 - c. the main thrust of Yoorrook's recommendations must therefore be that the Treaty process is the strongest way to shift decision-making power to First Peoples, so that First Peoples can self-determine what re-design of the child protection and criminal legal systems should look like for our people.
 - d. First Peoples need to be able to choose their own priorities and paths to reform through Treaty.
43. I personally believe the criminal legal system is another priority area for Treaty negotiations. Just like the child protection system, the criminal legal system is failing and harming our Communities. Giving First Peoples control over decisions will ensure our children and their families are provided with the critical supports necessary to prevent contact with the child protection and criminal legal systems in the first place.
44. Treaty can hold governments to account. It means recommendations won't just be left on a shelf to gather dust.

VIII EXPERIENCES OF THE SYSTEMS CONTINUING TO HARM FIRST PEOPLES

45. For a long time, our children have been removed from their families. I have seen this personally. And it is still happening to our Community.
46. When I was growing up, I was one of 14 children. My mother moved our family around often, to different towns, so that the government wouldn't take away her children. She was told that if we didn't move, she would have her children taken. I probably moved about 8 times before I was 10 years old.
47. I also remember growing up on an Aboriginal reserve where I had my friends, and I had my community. And then one day I'd look around and half my friends had gone. They had been removed from their families. I didn't see many of those children again until they were adults, and I know it really impacted them, being removed from their culture.
48. Issue-specific reform alone is not enough to address the injustices faced by First Peoples:
- a. I have worked for over 40 years in Aboriginal education, and worked with a lot of children in the out of care home system. We've been talking about the same issues for a long time. And we haven't seen good progress.
 - b. I've seen Governments create one good program in one region that might have good results, but it is never rolled out across the whole State. The programs are not coordinated.
 - c. I worry that Government just puts band-aids over the problems.

- d. Government programs often don't look at the whole picture. For example, working with children in out of home care, it is important to work with the whole family, and not just the children.

49. Government can still make policies and pass laws that cause enormous harms to First Peoples. That actively undermines well-intentioned programs and reforms.

50. So, rather than piecemeal reforms adopted by Government, what is needed is holistic reform that shifts decision-making power across the whole system.

IX URGENT CRIMINAL LEGAL SYSTEM REFORMS ARE NEEDED NOW

51. There are urgent reforms that are needed now, that can't wait for Treaty.

52. Our people are still dying in custody. Often, our people are dying in custody because they go into custody with health issues. The health system in prison is outsourced, and I don't think they understand the health issues our people face. If they were to use our Aboriginal-controlled health services, we could reduce the number of our people dying.

53. The Assembly gives some detail in our submission to Yoorrook about other urgent issues and the clear way forward.

54. They are all issues where Community has been calling for action for a long time – and I know other ACCOs and organisations are giving evidence to Yoorrook in these hearings about that.

55. Urgent action needed in the criminal legal system:

- a. Raise the age of criminal responsibility from 10 to at least 14 years of age;
- b. Implement an independent and effective police accountability system;
- c. Implement reforms for a public health response to public drunkenness; and
- d. Implement reforms to Victoria's punitive bail law and policy.

X TRUTH-TELLING IS FOR EVERYONE

56. I believe truth-telling is an obligation for everyone. It is not just for First Peoples to tell their stories.

57. There are descendants of first settlers who know the history of what happened when settlers usurped our authority and stole our land. Their stories should be heard by Yoorrook.