

ISSUES PAPER: CALL FOR SUBMISSIONS ON LAND INJUSTICE

INTRODUCTION

The Yoorrook Justice Commission (Yoorrook) is investigating systemic injustice experienced by First Peoples in relation to their land, waters, sky and resources in what is now known as the State of Victoria. In this paper, references to “land” or “country” include waters, sky and resources. First Peoples have never ceded their sovereignty to their land.

For thousands of generations, sovereign First Peoples governed themselves. They managed traditional lands according to their law and lore, cultural knowledge, practices and customs. These knowledges and practices were passed down through generations and encompassed holistic and interconnected relationships and obligations between each First People and their country.

Colonisation disrupted these connections through violence and the taking of land and destroyed their systems of governance. The attempted destruction of culture, language, and the deliberate and forced removal of people from their own country followed.

Yoorrook is examining the past and ongoing injustices caused by colonisation, including:

- the impact it had and has on First Peoples and their ability to exercise their relationships and obligations, their right to self-determination and their human and cultural rights, in relation to their land, and
- how, despite this injustice, First Peoples have maintained their connections, knowledge and practices with, and are healing, country and communities.

Yoorrook is calling for submissions from individuals and organisations to assist this land injustice investigation. Submissions should be made by **17 November 2023**.

ABOUT YOORROOK

Yoorrook is the first formal truth-telling process into historical and ongoing injustice experienced by First Peoples in Victoria since colonisation. Guided by its values and principles, Yoorrook is:

- establishing an official record of the impact of colonisation on First Peoples in Victoria
- developing a shared understanding among all Victorians of the impact of colonisation, as well as the diversity, strength and resilience of First Peoples' cultures
- recommending immediate legislative and policy changes as well as reforms that may be implemented through the treaty making process.

Yoorrook is independent of government. It has been established as a Royal Commission under the Inquiries Act 2014. Yoorrook's goals are to achieve truth, understanding and transformation in Victoria. Yoorrook's [Letters Patent](#) sets out its mandate in detail. Yoorrook is due to complete its work in June 2025.

Yoorrook was designed and is led and guided by First Peoples.

YOORROOK IS INVESTIGATING LAND INJUSTICE

Yoorrook is scheduled to deliver its final reform report in December 2024. In addition to other issues, this report will include evidence, findings and recommendations about systemic land injustice.

CALL FOR SUBMISSIONS

Yoorrook calls for submissions from individuals and organisations who have experience and/or expertise in land particularly:

- First Peoples and other Victorians
- First Peoples organisations and groups and other Victorians' organisations and groups
- current and former staff of organisations and agencies working in land, water or resource management
- advocates and legal representatives
- non-government organisations or entities
- academics and researchers, and
- government/government agencies.

Submissions responding to this Issues Paper should be made no later than 17 November 2023 to allow time to analyse submissions and to inform hearings and other inquiry processes that Yoorrook will undertake for its report. Submissions received after this date will continue to inform Yoorrook's ongoing inquiry and official public record.

Yoorrook will publish the submissions it receives on its website, with the consent of the person or organisation making the submission. Yoorrook will not make a submission public without the consent of the person or organisation making the submission. Yoorrook reserves the right to choose not to publish all or part of a submission if it considers it inappropriate to do so.

THE FOCUS OF OUR INQUIRY

Yoorrook has identified six priority themes regarding systemic injustice experienced by First Peoples in relation to land/country. These are:

- the centrality of country to First Peoples' identity, culture, language, physical and spiritual wellbeing and economic opportunities and the disconnection and devastation wrought by the forced taking of their country
- how First Peoples were dispossessed of their lands including through state sanctioned policies and laws; massacres and other violence
- the past and present benefits obtained by the colonising state, other entities, land holders and settlers through their dispossession of First Peoples of their country
- the taking, misappropriation and destruction of cultural knowledge and heritage

- the ways First Peoples have maintained their culture and connection to their country despite attempts to suppress culture, and
- ways to address violations of the right to self-determination and human and cultural rights and provide redress for past, present and ongoing injustice in relation to First Peoples dispossession of their country now collectively known as the State of Victoria.

Building on those themes, Yoorrook has identified a number of key issues relevant to land injustice:

- the past and present importance of country to First Peoples distinct identity, culture, language, physical and spiritual wellbeing and economic opportunities and to First Peoples systems of law, lore and government
- the past and present impact caused by European colonisers taking the lands of First Peoples
- the role played by state and non-state entities in taking the lands of First Peoples, in attempting to destroy cultural knowledge and heritage and in causing and perpetuating injustice
- the way institutions, legislation, and policies have adapted over time to deny First Peoples' rights to their lands
- the effectiveness of current recognition and legislative regimes including *Native Title Act 1993 (Cth)*, *Aboriginal Heritage Act 2006 (Vic)* and the *Traditional Owner Settlement Act 2010 (Vic)* and their impact on the expression of First Peoples' rights, obligations and interests
- for First Peoples in relation to their lands:
 - the importance of the right to self-determination and human and cultural rights, and especially the United Nations Declaration on the Rights of Indigenous Peoples, and of State compliance with those rights
 - how those rights might be reflected in State law, administration and practice
- the commitment of First Peoples to land justice and cultural practices despite State sanctioned policies, laws, and violence
- ways to provide redress for past, present and ongoing injustice related to taking First Peoples' lands, damaging those lands and denying First Peoples their rights in relation to land, and
- recommendations for immediate legislative and policy reform to address ongoing land injustice as well as reforms that may be implemented through the treaty making process.

The priority themes and key issues identified above are intended to guide your submission. You may respond to any or all of these themes and issues or raise others. You may attach relevant submissions or research you have provided to other inquiries or reform processes.

In addition to submissions on these priority themes and key issues, Yoorrook welcomes:

- case studies which demonstrate barriers that prevent First Peoples from exercising their cultural rights, obligations and responsibilities to land
- examples of resistance that enabled the continuation of cultural knowledge, custodianship and responsibility to care for and heal country despite ongoing injustice
- examples of good practice that should be adopted or expanded upon
- in relation to land, consideration of what self-determination and treaties might look like now and into the future, and
- examples where the state has failed to meet its obligations or implement land related policy recommendations, legislation and recognition agreements.

WHAT YOORROOK WILL NOT DO

Clause 4(m) of Yoorrook's Letters Patent states that it cannot inquire into, or report on, any executive decisions or specific outcomes made in legal proceedings which have been settled or determined in relation to the recognition of Traditional Owners, including but not limited to those under the *Native Title Act 1993*, the *Traditional Owner Settlement Act 2010* or the *Aboriginal Heritage Act 2006*.

This means Yoorrook cannot investigate decisions made about First Peoples' rights under those Acts or make findings about whether those decisions were correct or not.

However, this does not prevent Yoorrook from inquiring into First Peoples' experience of these processes, the impact of them and whether these processes and systems cause or contribute to systemic injustice. Yoorrook may also make recommendations for processes or systems or changes to existing ones in order to address systemic injustice against First Peoples.

Yoorrook will be able to hear stories and receive evidence about:

- how these processes operate (for example, the evidence, processes and resources required to make a claim, the timeframes for decisions)
- the appropriateness of the rights that these processes recognise, and
- at a systems level, the impacts of these regimes on First Peoples.

HOW TO MAKE YOUR SUBMISSION

To make your submission please click [here for individuals](#) and [here for organisations, agencies or other entities](#).

Submissions should be made by **17 November 2023**.

For queries about this issues paper or making a submission please contact enquiries@yoorrook.org.au or 1800 YOO RRK (1800 966 775).