



SUBMISSION TO THE YOORROOK JUSTICE COMMISSION
IN RELATION TO LAND INJUSTICE

May 2024

Dear Commissioners

This submission is made on behalf of the Taungurung First Nation people group, for whom the Taungurung Land and Waters Council provides corporate expression and advocacy. We are glad to have this opportunity to bring before the Commission an account of the Taungurung experience of massive colonial injustice.

SUMMARY STATEMENT OF THE TAUNGURUNG EXPERIENCE OF LAND INJUSTICE

Prior to the European invasion, the Taungurung people occupied an area of over 2 million hectares centred around Warring (the Goulburn River) in what came to be called Victoria. Our people had enjoyed unbroken occupancy of our Country for many millennia, but within just two decades following the European arrival we had been completely dispossessed and our people decimated – most of our lands now occupied and controlled by the invaders, and with almost no place anywhere on our traditional estate to provide refuge or safety.

To describe this historic experience in terms of land injustice is to understate its magnitude. It was a catastrophic assault on Taungurung society – with entire clans utterly removed from the face of the earth, and the land that had been essential to the Taungurung people’s understanding of ourselves, and with which we were so intimately acquainted, being now under the full control of avaricious, and largely unsympathetic, newcomers. That is the historic reality from which the present-day descendants of the Taungurung people that survived the onslaught are now seeking to recover. We are doing so with energy, determination and positivity, and with a strong focus on Country – caring for Country and being healed and renewed by Country.



A PICTURE OF PRE-CONTACT TAUNGURUNG SOCIETY

Taungurung's traditional country can best be described by reference to current place names. It was an extensive area, stretching on its western flank from Kyneton up as far as Rochester, then eastwards across to Benalla and on to Bright, where the Ovens River then marked the border in the north-eastern corner of Taungurung country. From there the eastern flank of traditional lands took in Mt Buller and then further south to the great dividing range, which generally marked the Taungurung people's southern boundary. The total Taungurung estate comprises a sacred diversity of towering snow-capped alpine country, grasslands, woodlands, and river country, with the Goulburn, Broken, Delatite, Coliban and Campaspe Rivers all being significant elements of the country.

This was the country enjoyed and embraced by the various land-owning Taungurung clans. These clans – or what some anthropologists prefer to describe as clusters of patriline – were the local groups into which Taungurung society was divided – the way people organised themselves socially on the ground in everyday life. Each clan (or family group cluster) was named and is thought to have comprised an average of around 120 people, the actual number depending of course on how numerous each patriline (male-led family) was. The other significant organising principle of Taungurung society was the existence of moieties, whereby the entire society was divided into two halves – one named for the eagle (bundjil) and the other for the crow (waa), the two principal figures in Taungurung creation stories.

Every clan was associated with one or the other moiety, and consequently every person was likewise associated with either Bundjil or Waa. These moiety associations were rarely reflected in actual groupings on the ground other than at times of ceremonial activity, when ritual groupings would often reflect moiety affiliation, with Bundjil people, for example, dancing or sitting together. The moieties were also important determinants of marriage arrangements, with moieties being exogamous – that is, a Taungurung person would always find a marriage partner in the other moiety rather than in one's own moiety. Every marriage was a pairing of eagle and crow.

The entire Taungurung estate was divided amongst the clans. It was long believed that there had been nine Taungurung clans, but recent research by the historical geographer Dr Ian Clark suggests that there were twelve clans – and probably thirteen, if the Mogullumbidj people of Mt Buffalo are included.

The twelve clans were as follows:



<u>Clan name</u>	<u>Moiety</u>	<u>Estate location</u>
Benbedorr baluk	Bundjil	Elmore - Campaspe country - Lake Cooper
Buthera baluk	Bundjil	Seymour area
Danbre wilam	uncertain	uncertain
Gunung yilam	Waa	Campaspe River - south of Benbedorr country
Look yilam	Waa	Kilmore area
Moomoom yilam	uncertain	East of Mt Alexander; NW of Mitchellstown
Natterak baluk	Bundjil	Coliban River - upper Campaspe
Ngurra-yilam baluk	Bundjil	Mitchellstown - Toolamba - Murchison area
Nira baluk	Waa	Broadford - Pyalong - Heathcote area
Waring-yilam baluk	Bundjil	Yea - Alexandra area
Yarran yilam baluk	Waa	Cathkin - upper Goulburn area
Yawang yilam baluk	uncertain	Mansfield - Mt Battery - Broken River

The current Taungurung First Nation people are all descendants from just five of these clans, with the other seven clans having been entirely swept away by the tide of colonial history.

But prior to the beginnings of calamities in the 1830s the Taungurung people enjoyed a rich life on their beautiful lands – country with an abundance of resources and with which they had both an intimate knowledge and a relationship that went far beyond the mere utilitarian and was essential to their sense of meaning. They engaged in ceremony; waged both war and peace with neighbouring groups; dug yams, fished, collected, and hunted; organised marriage and embraced a lively social intercourse; and experienced the full range of typical human enjoyments and challenges. Until the sky fell in, and their world changed.



THE IMPACT OF THE INVASION

“They ... wished me to go round to all the people who were unkind to them and drove them from their country and now would not permit them near their stations and begged of me not to let the white man shoot them. I of course promised to do all in my power and took farewell of these unfortunate people. Their situation is to be deeply commiserated.”

G.A. Robinson [Chief Protector of Aborigines] 8 August 1841 – northern Taungurung country - Journals

Ian Clark has estimated that prior to the arrival of Europeans, with their guns and their diseases, the Taungurung population would have been “probably as high as 1,560” and that by the mid-1840s there had been a loss of population of as much as 80 per cent. The historical records tell us that the white man’s diseases – smallpox in particular – took a considerable toll on the Taungurung people even before white men moved into Taungurung country in 1837. But there was one single frontier event that had a devastating impact on the Taungurung – that being the so-called “Faithfull Massacre” on the Broken River near Benalla in April 1838. The event itself was one of the few occasions when hostilities on the frontier resulted in an Aboriginal victory, with at least eight settlers being speared to death as they attempted to move sheep onto Taungurung country. But the response was brutal, with reprisal raids on Taungurung people in the months that followed resulting in a great many deaths.

The few years from 1837 until 1841 were for the Taungurung people years of rapid dispossession and significant population loss. The establishment of the Port Philip Aboriginal Protectorate in 1839 provided some form of relief and protection where there had before been none, but the two protectorate stations at which Taungurung people could seek harbour were, for different reasons, not particularly safe and welcoming places. The first, at Mitchellstown on the Goulburn River, operated from May 1839 until November 1840 and was closed due to its being too close to a Police barracks and a traveller’s inn, with the result that the Assistant Protector, James Dredge, had great difficulty protecting the Taungurung women from the sexual demands of drunken police and other Europeans.

The Chief Protector, George Augustus Robinson, then selected an alternative site for a new station at Murchison, on the Goulburn downstream of Mitchellstown and further to the north. It was on Ngurai-illum (or Ngurra-yilam) baluk country – and so was part of the Taungurung estate, but the presence in the area at that time of Bangerang people meant that, while the station was in fact operating from late 1840 until 1853, the southern Taungurung in particular were always somewhat ambivalent in their attitude to the place. Matters were complicated by the hostile and unsympathetic behaviour of William Le Souef, who was appointed Assistant Protector in 1840 to supervise the new station. Indeed, the records show that many Taungurung people fled from the Murchison station in 1842 after Le Souef arrested the Taungurung leader Yabbee (Billy Hamilton of the Nira baluk clan) for what were spiteful and inadequate reasons. Billy Hamilton was a strong leader and certainly no criminal or reprobate. He had formed a close relationship with Dredge at Mitchellstown – a friendship that they maintained even after the closure of the first protectorate station and Dredge



moved back to Melbourne. Yabbee strongly objected to the relocation to Murchison but was ignored by Le Souef and others in the colonial administration.

But where were they to go? There was no safe haven on Taungurung land – no Christian mission station and no place to call their own – even though it was their own. Sometimes large groups of Taungurung people relocated to the outskirts of Melbourne, where they were generally welcomed by the Wurundjeri/Woiwurrung – fellow Kulin, with whom they enjoyed far better relations than they did with the Bangerang to the north. But Charles La Trobe issued instructions that they were not to come to Melbourne, and they were driven away, becoming refugees and displaced persons – figures of abject tragedy.

Land theft on a massive scale had occurred. The beautiful country so loved by Taungurung people from time immemorial – the land that gave meaning to their lives and with which they were so intimately identified – was now entirely in the possession of occupiers whose avarice and hostility seemed to know no bounds. The Taungurung people were, however, quite active in asking for land to be set aside for them – particularly through Yabbee's advocacy in the 1840s.

By 1845 Chief Protector Robinson and Assistant Protector Parker were able to record only about 300 Taungurung survivors. The protection afforded by the Protectorate was failing in its most essential objective – to save lives.

Hopes for Taungurung Land Justice – Ultimately Denied

In the account of the Taungurung experience of being swamped by the colonial tsunami there are still to be found moments of kindness, instances of close cross-cultural friendship, and of genuine efforts on the part of the agents of government to achieve just outcomes for the Taungurung people. Indeed, the historical records provide several instances of pastoral landholders harbouring and providing food to desperate Taungurung people and requesting that the agents of colonial imposition desist from their more brutal behaviours. The fact that such support so often has a sense of being too little too late – of 'smoothing the dying pillow' – does not make them negligible or unworthy of mention – even if they often provided hope that was ultimately unfulfilled.

One such heart-warming account is offered by the experience of a group of Taungurung who sought refuge at Wappan Station, near Bonnie Doon, from the murderous reprisals that followed the 1838 European deaths in the skirmishes near Benalla. Not only were they given sanctuary by the station manager, John Bon, but they were allowed to remain on the property, given employment, paid a fair wage, and allowed to continue their traditional cultural practices. Wappan became a place of occasional safety and support for the Wurundjeri leader, William Barak, as well as fostering the leadership of Birdarak (Thomas Bamfield), a Taungurung man who became an important figure in colonial race relations. John Bon's wife, Anne, managed Wappan on her own for some years following the death of her husband and was to become a champion of Aboriginal rights in her later years in Melbourne – a regular irritant to those in the colonial government who cared little for black rights and interests.

In 1849 the Aboriginal Protectorate, which had never served Taungurung people very well, was abolished and Assistant Protector William Thomas, a true defender of First Peoples, was



retained in the new role of Guardian of Aborigines. Thomas was well trusted by the Taungurung and in July 1859 he sent an impassioned plea to the Commissioner of Lands proposing that a series of depots be set up across Victoria to provide for the physical needs of first peoples – including several to be established on traditional Taungurung lands. Further, he advocated that ‘extensive tracts of land’ be allocated to Aboriginal people, arguing in his submission that this would be ‘the only means of ... saving them from ultimate extinction. These Aboriginal settlements should be beyond the white squatter. If a squatter’s station be in the way of establishing such settlements, the squatter should be removed.’ It was an impressive submission, though the government response was miserably lukewarm.

A few months earlier, in March 1859, Thomas had assisted a deputation of five Taungurung men, supported by two Wurundjeri translators, with a petition for a grant of culturally significant land near the junction of the Acheron and Little rivers, south-west of Wappan Station. The Taungurung men who comprised the delegation that petitioned the Surveyor General on this matter were Munnarin, Murrin Murrin, Parngean, Baruppin, and Bearing. In supporting their request Thomas stated that southern Taungurung numbers had been reduced to 32 adults and some children in 1859 – to the best of his knowledge. The relevant government authority gave Thomas permission to survey the land at Acheron and there was jubilation amongst the people as they began work on land that would be their own meaningful refuge. Thomas was himself joyful at the prospect of the dispossessed at last having their own ‘Promised Land’, and he apparently had good reason to be confident that the necessary gazettal would proceed.

But, despite the proposed Aboriginal Station receiving all the necessary approvals on its way to final approval by the Executive Council of government, a group of self-interested squatters conspired to thwart the settlement, acting both immorally and illegally. The conspirators forced the removal of the Taungurung farmers from their chosen block at Acheron to a vastly inferior parcel of land in the same general area, the Mohican Station. Assured that they had the backing of powerful people, the squatter conspirators took possession of the Acheron reserve even before gaining formal permission. The Taungurung people were bitterly disappointed. William Thomas wrote that “This is enough to deter Aborigines from ever having confidence in promises held out to them”, and Mohican failed completely and was quickly closed.

This heartbreaking episode marked the final act of betrayal and denial experienced by the Taungurung people – the withdrawal of their last bastion of hope following two decades of sustained devastation. Following the Acheron experience many of the surviving Taungurung people retreated to Coranderrk, on Wurundjeri country, only to then some years later face a similar experience of government failure and squatter hostility, with Coranderrk, like Acheron, forced to close in highly questionable circumstances.

But while the people of the land were largely removed from their land for many long decades – right up to the end of the last millennium, the land itself continued to bear the marks of their long habitation. The rock art, the rock wells, the hearth ovens, the birthing trees and the scarred trees, the artefact scatters, and the vast evidence everywhere in the land meant that in a sense the land itself continued to hold the memory of the people and to wait for their return.



THE TAUNGURUNG RENAISSANCE

For over a century various Taungurung families and individuals held onto a Taungurung identity and passed down through the generations their cultural inheritance – the stories, connections and memories from the past – but without there being any opportunity or encouragement to express a shared identity. But then there was a turning of the tide. As the national sentiment became more favourably disposed towards First Peoples, notably in the successful referendum in 1967, Commonwealth and State governments began to provide intentional recognition not just of Aboriginal people, but also of their traditional, land-based identities. First came land rights legislation in some areas, but only to a limited extent in Victoria. Then on 3 June 1992 a more radical form of recognition in the High Court of Australia conceded in *Mabo v Queensland [no.2]* that the Crown had historically overlooked native title in the Torres Strait, wrongly assuming that the territory was *terra nullius*. An implication of that decision was that every First Nation people group in Australia potentially held native title rights over their traditional lands. And that decision has transformed Australia.

The last thirty years have seen a quite extraordinary renaissance of the Taungurung people. Today they express their shared identity with great pride and energy, and are widely admired as one of the most impressive, well-organised and successful groups of traditional owners in Victoria. Through their corporate entity, the Taungurung Land and Waters Council, they are reclaiming and strengthening a vital connection with their traditional lands and in doing so are leading the way in land management programs that are bringing healing to both country and people. They are revitalising their language, reviving aspects of culture, recording their stories, and building strong social and economic platforms for the well-being of their people. Never again will the Taungurung people be oppressed and humiliated as they were in times past.

There have been three significant factors that have brought about this wonderful renewal of Taungurung society:

1. The operation of the *Native Title Act 1993 (Cth)*
2. The operation of the *Traditional Owner Settlement Act 2010 (Vic)*
3. Extraordinary Taungurung leadership and commitment

1. The Operation of the Native Title Act

The *Native Title Act* provided strong encouragement to every First Nation group to incorporate in order to achieve formal legal recognition, with all the benefits that flowed from that. In Victoria the significant Aboriginal entities had been the cooperatives that provided a range of services and whose membership was open to all Aboriginal people living in the immediate locality. The *Native Title Act* required that groups seeking recognition should establish a corporation based not on residence but on traditional ownership, with incorporation to be made under the relevant Commonwealth Aboriginal incorporation legislation. A number of Taungurung people, led by the extraordinary champion of Taungurung cultural pride, Aunty Judy Monk, applied for incorporation in 2003 and the Taungurung Clans Aboriginal Corporation was registered on 21 March 2003.



The eight Taungurung elders who signed that application and formed the corporation twenty-one years ago were:

Judith M. Monk
 Roy Patterson
 Vera Moser
 Melva Roberts
 Bernadette Crocker
 Brian Patterson
 Glenys Merry
 Trish Terry

Several descendants of these champions are either currently employed by the Corporation or have been employed for periods in the recent past.

The Corporation received Registered Aboriginal Party status in 2009, *under the Aboriginal Heritage Act 2006 (Vic)*, which empowers it to manage Aboriginal cultural heritage right across the Taungurung estate. The practical effect of these cultural management rights is that Taungurung people are constantly involved in monitoring the impact of building construction and other activities on the land – discovering and protecting items of material culture. Once again, after a century of estrangement, the engagement of the Taungurung people with their traditional lands is close and enriching.

On 25 January 2019 the Registrar of Aboriginal Corporations formally approved a decision at the 2018 AGM to change the name of the corporation to the Taungurung Land and Waters Council (TLaWC). It is an impressive and rapidly growing organisation – employer of many Taungurung people, and with a bold vision for prosperity, self-determination and cultural strength. There are major TLaWC offices at both Broadford and Alexandra.

2. The Operation of the Traditional Owner Settlement Act

In response to the demands of Victorian traditional owners for more effective avenues to land justice than those available through the *Native Title Act*, the Brumby Labor Government in 2010 brought about the *Traditional Owner Settlement Act* after an extended series of negotiations. This was a significant State legislative response to the Federal Native Title Act – designed to facilitate easier access to traditional owner benefits in circumstances where ‘native title’ connections to country had been undermined and cultural practice eroded through dispossession and dispersal.

The *Traditional Owner Settlement Act* has proven to be hugely beneficial for First Nations groups, with the Taungurung people having signed off in 2018 on a Recognition and Settlement Agreement with the State of Victoria under the terms of the Act. The Agreement recognises the Taungurung people as the traditional owners of part of central Victoria and provides a range of redress measures, including:

- Funding to support the Taungurung Corporation to manage the settlement’s benefits and obligations, and to undertake economic development
- Measures to strengthen Taungurung culture



- Grants of nine parks and reserves as Aboriginal title, and several surplus public land parcels as freehold title
- A regime for managing activity on public land, mirroring the future acts regime in the Native Title Act
- Resourcing and strategies for the Taungurung people to access, use, and manage natural resources.

As a direct consequence of the suite of benefits and opportunities provided by the Recognition and Settlement Agreement, there has been a proliferation of new projects at TLaWC, with Taungurung people now directly involved in the management of national parks, Taungurung rangers now working alongside Parks Victoria rangers, TLaWC teams engaged in the assessment of all proposed activities on public lands, while others are involved in contracting to local government and other agencies for the provision of earthworks and land management services by TLaWC's services entity.

3. Taungurung Leadership, Vision and Commitment

The current performance and public standing of the Taungurung corporation can be attributed substantially to the CEO position being held by two outstanding Taungurung leaders: Marcus Stewart (2016-18) and Matthew Burns (2018-present). In addition, the same eight-year period has been marked by strong and effective Board Chairpersons and Directors, and a membership that has been largely free of conflict and division and has been united in its support for the vision and direction set by the Board and senior management. There were times of conflict and dysfunction during the first decade or so following its 2003 incorporation – a decade when the Board was not always well served at the management level and when the organisation struggled to project unity, direction and common vision. The past eight years, however, have seen the Taungurung Land and Waters Corporation emerge as one of the outstanding traditional owner corporations in Victoria.

The Taungurung Elders and champions of the past would be very proud of the re-emergence of Taungurung culture, hope and identity in evidence today. The ancestors who suffered so greatly through the nineteenth century years of calamity continue to inspire today's generation and will always do so. Language is being revitalised; country, song and ceremony are being renewed and embraced; the genealogies and being recorded and retained; and the Taungurung people are rebuilding what was once destroyed.

- The outstanding Taungurung artist, Uncle Mick Harding, has designed the TLaWC logo and has contributed other artwork to the aesthetics associated with many TLaWC projects and activities.
- Aunty Loraine Padgham, as well as leading Taungurung's language revitalisation program, provided the design for the Taungurung sovereign flag, launched in May 2021 – a flag that will hopefully now be flown at every significant facility and government agency on Taungurung land in the years ahead. The flag is a symbol of Taungurung unity and pride, and is one of the first such flags in Victoria.
- Over a decade ago Aunty Lee Healy did outstanding work towards the publication of the first Taungurung Dictionary.
- In 2018 the Camp Jungai facility was transferred to Taungurung ownership, and a celebratory event attended by the relevant State Minister was held at the site.



- A significant rock art site at the Garden Range near Euroa was transferred to Taungurung ownership, with the assistance of the ILSC, and is now under the custodianship of Taungurung Elders.
- More recently, in November 2022 the Nyagaroon property near Acheron was transferred to Taungurung ownership by the Victorian Government – an event with great symbolic significance, given that the property formed part of the Mohican Run, the location so closely associated with the betrayal of Taungurung aspirations in 1860 (see the account of those events earlier in this submission).

All these activities and events are emblematic of an organisation and a First Nation people group who are rightly being entrusted with more and more responsibility and with the assets and resources needed to redress the impacts of the colonial past.

The Taungurung people today are proud and capable, with a strong cultural identity, along with significant standing in the mainstream community. Within the membership of TLaWC there are a number of highly qualified professional people with a range of different competencies and achievements. There is also a steady flow of Taungurung people moving back to live on traditional country, with the active assistance of TLaWC. The story of the Taungurung people today is one of re-engagement with country, a growing community commitment, and the restoration of the spirit and hope that are essential for Taungurung well-being.



LOOKING FORWARD – THOUGHTS FOR YOORROOK CONSIDERATION

We, the Taungurung people, hereby make our appeal to the Yoorrook Commissioners, in view of our historic experience described earlier in this submission – and in light of our re-emergence as a people with competent leadership, great cultural pride, a fierce attachment to our Country, a bold vision for the future, and a strong corporate identity. Whatever else the Commissioners may have in mind by way of redress for the impact of colonialism, we want to set out for your consideration our suggestions for measures to enhance the well-being of not only our own people, but potentially also that of all Victorian traditional owners.

1. Statutory Establishment of the Taungurung Land and Waters Council as the Voice for Country

This proposal is foremost among the several significant ideas that we wish to put before the Commission. In essence it would empower TLaWC to exercise responsibility for regulating and governing all decision-making by State agencies and related entities so as to ensure that the health and long-term interests of Country are always prioritised. In this way the Taungurung people would exercise the rights and obligations over Country inherited from their ancestors and would thereby exercise a genuine sovereignty, shared with the State in a post-colonial world.

We are strongly committed to this proposal. It would not involve taking on all the functions of land administration from the State. Rather, it would enable the Taungurung people, through their Corporation, to ensure that Taungurung country is managed in accordance with Taungurung biocultural values and knowledge. All relevant policies, plans, programs and projects would be subject to overall Taungurung assessment and monitoring, on the basis that the traditional owners of the country should have the right to perform this role in the revised governance arrangements that the Yoorrook Commission seeks to bring about.

The regulatory role of the Voice for Country (or however described) would be somewhat similar in role and function to the Essential Services Commission that regulates Victoria's energy, water and transport sectors, and administers the local government rate-capping system. In the same way, TLaWC would regulate and oversee all natural resource management matters on the Taungurung estate, in the interests of both healthy Country and Taungurung pre-eminence. Just as the work of the Essential Services Commission touches the lives of every Victorian every day, so the work of the Voice for Country would have the potential to positively impact many aspects of life for every person living on Taungurung Country. In carrying out this role TLaWC would give consideration to many factors, including the economic impact of its decisions, as well as environmental sustainability and human well-being.

The responsibilities of the Taungurung Voice for Country would be set out in enabling legislation and would include:

- Defining the values and principles to apply in the use and management of Taungurung Country
- Developing strategies and fact sheets on how Country is to be understood and treated



- Assessing management plans, natural resource management strategies and proposed activities for all relevant entities with respect to Taungurung Country
- Taking compliance and enforcement actions
- Preparing compliance assessment reports and audits
- Preparing an annual work plan outlining key focuses for the year

2. Improved Government Public Education and Support re Traditional Owner Rights

More needs to be done in informing the broader public about traditional owner rights to public land. We believe this to be a matter on which Yoorrook might place some emphasis and that it is imperative that there be better public education in relation to the benefits that can flow from traditional owner groups exercising responsibility for their traditional lands – and about the rights that already exist in this regard.

This would be an important mechanism for avoiding the damage that can be done by the hard right media if government does not go on the front foot in communicating what has been done, or is to be done, in relation to traditional owner agreement-making and benefits. The media storm that erupted in relation to the Recognition and Settlement Agreement made with the Wimmera clans earlier this year is an example of the capacity of hostile media to fill any information void with assertions that undermine public confidence in the necessary process of redressing Indigenous land injustice.

We submit that Yoorrook might urge upon government the need not only to have a readiness to counter any negative reporting of rights and benefits accorded to traditional owners in Victoria – but also to do more to inform and consult with affected parties in the negotiation phase. Agreements concluded pursuant to the *Traditional Owner Settlement Act* are an alternative form of native title agreement, and in the same way that Native Title Act consent agreements in the Federal Court require the consent of all parties, so perhaps should there be some form of involvement of such affected parties in the process of negotiating agreements made under the State's Settlement Act – even if just by way of information and discussion.

3. Intentional Government Investment in Cultural Preservation

It is often stated by government Ministers that Australian Aboriginal cultures are the oldest living cultures on the planet – a statement of fact that is widely acknowledged and respected. And yet our observation is that the Victorian Government invests very little into the preservation and strengthening of our precious cultures. The Taungurung people have a great enthusiasm for the preservation and sharing of cultural knowledge, the revitalisation of language, and the maintenance and development of ceremony, story and song. But our experience is that the Government largely expects us to fund such activities from our own resources.



The *Aboriginal Heritage Act 2006 (Vic)* is an immensely important legislative mechanism for the protection and recording of Aboriginal cultural heritage – places, objects and knowledge. But the Act can do little to support and strengthen the many aspects of a living culture that the Taungurung people and other First Nations groups across the State are actively engaged in, and we would urge Yoorrook to consider making recommendations in this regard. There is so much more that could be done if Government support were available, with the following being projects TLaWC would be eager to submit for funding consideration:

- TLaWC's language revitalisation program
- Development of a significant online repository of Taungurung cultural materials – ancestors' details, photos, songs and stories, genealogies, and solar system knowledge and stories
- Taungurung cultural camps held at Camp Jungai, at which cultural knowledge is shared, consolidated and celebrated
- Taungurung participation in the annual Kulin Tanderrum ceremony in Melbourne, which could develop into a major attraction for the city

4. Amendment of the Aboriginal Heritage Act to Expand Traditional Owner Functions

As we have already noted, the *Aboriginal Heritage Act* is beneficial legislation that has brought great benefits to Victorian traditional owners. We submit, however, that there may be scope for a review of the Act, with a view to maximising traditional owner involvement in all matters covered by the Act. Registered Aboriginal Parties, the statutory bodies established under the Act to represent First Nations groups in the management of cultural heritage in their respective traditional estates, have an important role in evaluating and approving Cultural Heritage Management Plans, amongst other things. It may well be appropriate, however, to consider whether the involvement of Registered Aboriginal Parties in broader matters of monitoring, evaluation and compliance investigation should be expanded.

The Victorian Aboriginal Heritage Council's proposals for self-determined reform of the *Aboriginal Heritage Act 2006*, *Taking Control of Our Heritage 2021*, has 19 proposals for reform of the Act to better protect cultural traditions and knowledge.

Additional relevant considerations might include:

- The development of a national framework for the protection of Aboriginal cultural knowledge, in addition to a State-based model – to ensure cohesive protections across Australia, to be developed in partnership with the First Nations Heritage Protections Alliance
- Support for the devolution of the Victorian Aboriginal Heritage Register and the move to a self-managed, in-house Taungurung digital record of land use and occupancy that goes beyond the artefacts/sites focus of the current Register
- Protections for larger areas of Country as being culturally sensitive for Taungurung people; and movement away from a 'triggers' model of heritage protection to a more holistic recognition of attachment to Country



5. Water Justice

Water access and use rights are a matter of significant injustice for traditional owners across Australia. Although native title has now been legally recognised over 40% of the Australian land mass, Aboriginal people hold less than 1% of all water licences granting access to the nation's surface water. This has been a matter of ongoing concern and advocacy by native title representative bodies for decades and is only now starting to get some traction.

In Victoria traditional owners hold just 0.2 percent of all water access entitlements. The Victorian Government has established an Aboriginal Water Program designed to increase traditional owner involvement in management of water resources, but there is more to be done. The Taungurung people think of themselves as the people of the waters and mountains, but their Recognition and Settlement Agreement provides no specific rights to water, and they currently have no water rights with respect to Warring, the Goulburn River – the core life-giving resource that has always been central to the well-being of Taungurung society.

It is hoped that Yoorrook might propose that a high-level Indigenous advisory body be established to advise the Minister for Water and other relevant Ministers on future planning for traditional owner rights in water.

6. Public Land Reform

A Cultural Landscapes Strategy was developed by Victorian Traditional Owners and embraced by the Government in 2021 as an important guide to public policy and practice. It provides a framework for the planning and management of public land (forests and parks) across the State and sets out core principles, specific actions and a common language that can underpin the Department of Energy, Environment and Climate Action's and Parks Victoria's approach to future land management decisions, including policy and legislative reform.

TLaWC has provided advice and support to the relevant Department in relation to the renewing of Victoria's public land legislation. The passing of this legislation will be an important progress point in setting an enabling environment for supporting Traditional Owner rights and interests in the future management, governance and planning of public land.



7. Traditional Owner Acquisition of Private Land

While Aboriginal title, the form of tenure created by the *Traditional Owner Settlement Act*, has brought significant benefits, the Taungurung corporation has full and unfettered ownership of very little traditional land as freehold title – and that is made up of either those few land parcels for which government had no further use, or land purchased by TLaWC from its own financial resources.

It is recommended that Yoorrook propose that the State Government establish a Land Acquisition Fund to which traditional owner organisations such as TLaWC could apply for assistance to acquire parcels of private land with particular cultural significance. Such strategic land purchases could, for example, allow for the re-establishment of important cultural landscapes on Taungurung country.

8. Special Rights over Freehold Title Land Owned by Traditional Owner Corporations

While TLaWC currently owns very little freehold land, it certainly hopes to increase its private land holdings and will avail itself of any opportunity to do so. Our final request of the Yoorrook Commission is that it seek government action to legislate special provisions to apply to freehold land that is owned by traditional owner organisations such as TLaWC. Such provisions would provide a greater measure of security and protection, so that, for instance, Taungurung-held freehold land:

- could not be repossessed by the State
- would not be as vulnerable to creditors as might be the case in the normal course
- could not be subject to exploration or mining licences granted to external parties
- could be, at time of transfer to TLaWC ownership, immediately rezoned to Special Use Zone with a schedule that would facilitate use and development by TLaWC

We thank the Commissioners for their attention and wish them well in their efforts to speak truth to power and to make recommendations that will bring an enduring benefit to the Taungurung people and to all Victorian traditional owners.

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