



15 March 2018

Local Government Act Review Secretariat

Online submission

SUBMISSION ON THE EXPOSURE DRAFT OF THE LOCAL GOVERNMENT BILL

Reconciliation Victoria was established in 2002 to carry on the unfinished business of reconciliation as recommended by the Council for Aboriginal Reconciliation. Reconciliation Victoria works with a network of 27 Local Reconciliation Groups, Local Governments, Community Organisations and others to create a Victorian community that accepts our true history, values Aboriginal culture and ensures self-determination and equitable outcomes for Aboriginal and Torres Strait Islander people.

Reconciliation Victoria has worked closely with Victorian Local Governments over the past 8 years fostering a growing commitment to and engagement in reconciliation across the State. The majority of Victorian councils have taken symbolic steps to acknowledge and respect Aboriginal people. Our [2012 Statewide Survey](#) found:

- 66 councils were flying the Aboriginal flag;
- 61 councils had a protocol on Acknowledging Country;
- 61 councils celebrated Aboriginal culture through events such as NAIDOC Week and Reconciliation Week;
- 65 councils promoted local Aboriginal history including through cultural tours, publications, in libraries and on their websites.
- Over half of Victorian local governments (42) had specific Indigenous commitments or initiatives as part of their organisational plans.

We know anecdotally that these numbers have continued to grow in the almost 6 years since the Survey. The Survey also found, however, that there is vast under-representation of Aboriginal people in Council decision-making and employment. In 2012 only 2 Councillors identified as Aboriginal or Torres Strait Islander, out of more than 600 Councillors. 35% of Councils reported Aboriginal input into decision-making, via committees for example. The

Survey found there were 76 known Aboriginal or Torres Strait Islander employees in the sector, out of a total of up to 40,000 employees.

Local Governments, as the level of government closest to communities, has an important role in creating and influencing positive change in the relationships between Aboriginal people, Governments and other Victorians at a local level.

The Local Government Act Review provides an opportunity to address the role of Victorian Local Governments in engaging with Aboriginal people as the First Peoples of Victoria, and in doing so make a vital contribution to closing the gaps in health, wellbeing and life-expectancy that persist between Aboriginal and other Victorians.

We appreciate your consideration of our submission, below.

Yours sincerely,



Erin McKinnon

Statewide Coordinator



Submission on the Exposure Draft of the Local Government Bill

The Local Government Act Review provides an opportunity to address the role of Victorian Local Governments in upholding the rights of Aboriginal people and in particular the rights of Traditional Owners, and in doing so make a vital contribution to closing the gaps in health, wellbeing and life-expectancy that persist between Aboriginal and other Victorians.

The Victorian Government has recognised the importance of self-determination for Aboriginal Victorians – having a voice and a meaningful role in decision-making on matters affecting them – recognised as a right in the United Nations Declaration on the Rights of Indigenous Peoples signed by Australia in 2009. An historic Treaty process has now commenced.

Local Governments, as the level of government closest to communities, has an important role in creating and influencing positive change in the relationships between Aboriginal people, Governments and other Victorians at a local level.

While the diversity between local governments leads to diverse approaches, there are some common reference points for understanding local government roles in relation to Aboriginal and Torres Strait Islander peoples:

- The responsibility to provide effective services to all constituents;
- Legislative responsibilities in relation to Native Title and Aboriginal Heritage;
- The commitment to Closing the Gap through reducing Indigenous disadvantage;
- Upholding and protecting human rights; and
- Promoting reconciliation.ⁱ

The Victorian Constitution and the Victorian Charter of Human Rights and Responsibilities recognise that Victoria's Aboriginal people *"have a unique status as the descendants of Australia's first people; and have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria"*.

Specific rights and responsibilities of Traditional Owners in relation to cultural heritage, lands and waters are detailed in the Aboriginal Heritage Act 2007 and the Traditional Owner Settlement Act 2010.

However there is no requirement for Local Governments to give a voice to Traditional Owners in their decision-making processes, for example for recognised Traditional Owners to be entitled to a seat at the Council table.

The omission of Aboriginal people and their unique status and rights as Australia’s first peoples from the current draft Local Government Bill misses the opportunity to:

- re-cast the relationship between Local Governments and Aboriginal peoples and in doing so make real progress towards closing the gaps;
- align the Local Government Bill with Victoria’s Constitution and the other important legislation and policy mentioned and in doing so recognise Victoria’s Aboriginal people as first peoples, respect their spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria and acknowledge the rights and responsibilities of Traditional Owners.
- reflect the long history of collaboration and respect many Victorian Local Governments have practised in working with their local Aboriginal communities and Traditional Owners.

The draft Bill could incorporate explicit reference to Aboriginal people in the following sections:

PART 2 – Councils

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Other comments?
8.2	Add a clause	Add a governance principle that refers to a voice for Traditional Owners and Aboriginal and Torres Strait Islander peoples as first peoples in Council decision-making.	
45, 4 a) iii	Add a clause	Specific reference to Aboriginal employment. Aboriginal people should not be considered part of the ‘diversity’ agenda, as this does not reflect their status as first peoples, nor does it address the appalling gaps in health, wellbeing and life-expectancy that exist between Aboriginal and other Victorians. As a place-based employer offering diverse employment opportunities Local Governments could greatly contribute to closing the gaps in employment between Aboriginal and other Victorians, through effective Aboriginal Employment Strategies. Local Governments could be	

		encouraged to set Aboriginal employment and procurement targets.	
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Part 3: Council decision making

Clause (No.)	Support / Do Not Support / Neutral	What changes do you propose and why?	Other comments?
55	Add clause	<p>Specific reference to engagement with Traditional Owners on land use planning, cultural heritage management and protocols, recognising that they care for, speak for, and have obligations to, a particular Country as the First People of that Country.</p> <p>Specific reference to engagement with Aboriginal and Torres Strait Islander peoples on matters affecting them. Those matters would encompass provision of effective, culturally appropriate services – family, youth and children’s services, aged care, health and wellbeing, library and recreational services, arts and culture.</p>	

ⁱ Reconciliation Victoria defines Reconciliation through the following five dimensions, based on the dimensions outlined in the State of Reconciliation in Australia Report 2016:

- **Overcoming racism and understanding white privilege and power relations:** Strong legal protection against racism; zero tolerance for racism across the community; strong cultural awareness and competence within organisations and communities.
- **Achieving equitable outcomes in justice, health, education and employment between Aboriginal and other Victorians:** Appropriately resourced programs enabling the achievement of equity through self-determination; Victorian government achieving Closing the Gap targets.
- **Developing a new State-wide identity:** The sovereignty of Aboriginal people is recognised by all (including through establishing a Treaty); the significance of self-determination is recognised and valued; all Victorians have an opportunity to connect with a shared sense of place.
- **Ensuring government, corporate and community accountability:** State government policy outcomes are transparent; appropriate protocols/principles inform state government

policy development; organisations are accountable for their reconciliation plans and commitments, and are developing MOUs with Aboriginal groups and communities.

- **Addressing historical injustice:** Truthful education of Australian history and integration of Aboriginal history into curriculum; full implementation of the Bringing Them Home Report (1997) recommendations to address lack of justice for those affected by Stolen Generations; full implementation of the Royal Commission into Aboriginal Deaths in Custody Report recommendations (1991); and truthful community narratives of local history [e.g. memorials to frontier wars, place names reflecting shared history and local Aboriginal language].