

**Treaties, Agreements and Other Constructive Arrangements between Indigenous peoples and States**

*Submission to the Expert Mechanism on the rights of Indigenous peoples*

**Castan Centre for Human Rights Law**

Prepared by:

Scott Walker, Researcher

Andrea Olivares Jones, Policy Manager

Dr Katie O’Bryan, Academic

Associate Professor Melissa Castan, Academic Director

**January 2022**

|  |
| --- |
| 1. Background  |

The [Castan Centre for Human Rights Law](https://www.monash.edu/law/research/centres/castancentre) is a world-renowned academic research centre within the Faculty of Law at Monash University in Australia. We advocate for the respect and promotion of human rights to allow all people to flourish in freedom and dignity. We welcome the opportunity to provide a submission to the Expert Mechanism on the rights of Indigenous peoples on the above subject.

While we recognise that some progress towards treaties, agreements, constructive arrangements and joint problem-solving initiatives has been made to varying degrees in differing jurisdictions within Australia,[[1]](#footnote-1) this particular submission will focus on initiatives that have been advanced at a **national level**. It will further highlight progress in the state of **Victoria,** which is leading the country in the development of a treaty with First Nations[[2]](#footnote-2) peoples, as well as acknowledge the Noongar Settlement, a notable agreement in **Western Australia.**

|  |
| --- |
| 2. Types of Treaties, Agreements, Constructive Arrangements and Other Joint Problem-Solving Initiatives |

**2.1 Commonwealth**

1. *Constitutional Recognition*

Australia does not currently have any treaties with its Indigenous peoples, nor does it recognise them in the Australian Constitution. Recognition of the self-determination of First Nations peoples is also not a stated policy goal of the Australian Government.[[3]](#footnote-3)

Notwithstanding, Australia is in the midst of a long and robust dialogue with First Nations peoples on the form and substance of constitutional recognition[[4]](#footnote-4) (as well as, to some degree, treaties, agreement-making and other reconciliation initiatives).[[5]](#footnote-5) First Nations leaders have emphasised that recognition in this context requires more than symbolic ‘acknowledgement’, but rather requires substantive structural reform.[[6]](#footnote-6) Indeed in 2017, following extensive dialogues[[7]](#footnote-7) between First Nations peoples facilitated by the Referendum Council, the Australian people were presented with the *Uluru Statement from the Heart* (**Uluru Statement**). This powerful document saw First Nations peoples ‘invite’ non-Indigenous Australians to ‘walk with [them] in a movement of the Australian people for a better future’. The Castan Centre strongly endorses the Uluru Statement and a constitutionally entrenched First Nations Voice as manifestations of Indigenous self-determination.

The central claims arising from the Uluru Statement are that of Voice, Treaty, Truth. The Uluru Statement prioritises establishing a *constitutionally* enshrined First Nations Voice to Parliament,[[8]](#footnote-8) as a necessary first step towards structural reform. The Voice is intended to ‘redistribute public power via the Constitution’ and create an ‘institutional relationship between governments and First Nations that will compel the state to listen to Aboriginal and Torres Strait Islander peoples in policy and decision-making’.[[9]](#footnote-9) The Voice would not have the same powers of a House of Parliament (i.e. the ability to initiate, pass or reject bills).[[10]](#footnote-10)

In 2019, the Australian Government announced the Indigenous Voice Co-design Process to consult and engage on the mechanism of a Voice.[[11]](#footnote-11) The Co-Design’s final model for the Voice, announced in December 2021,[[12]](#footnote-12) is a *legislated* one which consists of a National Voice, as well as Local and Regional Voices.[[13]](#footnote-13) Under this proposal, the Australian Parliament and Government ‘would be “obliged” to ask the National Voice for advice on a defined and limited number of proposed laws and policies that *overwhelmingly* affect Aboriginal and Torres Strait Islander peoples’.[[14]](#footnote-14) There are considerable barriers to effecting this reform (see Part 3).

1. *Native Title*

Another constructive arrangement under Australian law is native title, which sees the recognition of First Nations’ pre-existing rights and interests over land and waters.[[15]](#footnote-15) The case of *Mabo v Queensland* (No 2), and subsequent enactment of the *Native Title Act* (**NTA**)allowed for the transformation of First Nations peoples’ moral claims to land and waters, into legal rights.[[16]](#footnote-16) While the NTA covers all Australian states and territories,[[17]](#footnote-17) there are other legislative frameworks on First Nations peoples’ rights to land that vary between jurisdictions.[[18]](#footnote-18)

**2.2 Victoria**

1. *Treaty Process*

The State of Victoria is the first in the country to formally commence developing a treaty with Aboriginal Victorians and Traditional Owners.[[19]](#footnote-19) The treaty process is governed by the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) (**Advancing Treaty Act**), which requires an Aboriginal Representative Body to work in partnership with the State to ‘establish the entities, rules and resource base necessary to facilitate future treaty negotiations’.[[20]](#footnote-20) The treaty process in Victoria has three phases: (1) establishing an Aboriginal Representative Body; (2) developing a treaty framework; and (3) negotiating treaties.[[21]](#footnote-21)

The first phase saw the establishment in 2019 of the First Peoples’ Assembly of Victoria (**Assembly**) -a democratically elected representative body for First Nations people in the State.[[22]](#footnote-22) The treaty process is currently in phase 2,[[23]](#footnote-23) which involves collaboration between the Assembly and the State to develop a framework for the negotiation of treaties.[[24]](#footnote-24) The Treaty Negotiation Framework will determine whether there should be one or multiple treaties, the content of treaties, and who negotiates and is represented by the treaties.[[25]](#footnote-25) The framework must ensure negotiations cover key issues, including the recognition of historic wrongs, addressing ongoing injustices, supporting reconciliation, ‘promoting the fundamental human rights of Aboriginal peoples, including the right to self-determination’, and acknowledging the importance of culture to Aboriginal identity, among other objectives.[[26]](#footnote-26) The Assembly is also working to establish:[[27]](#footnote-27)an Elders’ Voice;[[28]](#footnote-28) a Self-determination Fund;[[29]](#footnote-29) and a Treaty Authority.[[30]](#footnote-30)

1. *Truth Commission*

Victoria has also established a truth telling commission, the Yoorrook Justice Commission.[[31]](#footnote-31) The role of the Commission is to ‘look into both past and ongoing injustices experienced by Traditional Owners and First Peoples in Victoria in all areas of life since colonisation,’ and includes [making] recommendations for healing, system reform and practical changes to laws, policy and education, as well as to matters to be included in future treaties.’[[32]](#footnote-32)

The Castan Centre strongly endorses the First Peoples’ Assembly of Victoria and the Yoorrook Justice Commission as manifestations of Indigenous self-determination.

**2.3 Western Australia**

1. *The Noongar Settlement*

A further agreement which has origins in native title is the ‘Noongar Settlement’, ‘the largest and “most comprehensive” agreement to settle Aboriginal interests in land in Australian history’.[[33]](#footnote-33) The agreement, which involves 30,000 Noongar people, and covers 200,000 km2 of land in the south west of Western Australia, resolves all native title claims to that area.[[34]](#footnote-34) It includes agreement on ‘rights, obligations and opportunities relating to land, resources, governance, finance and cultural heritage’.[[35]](#footnote-35) While constitutional and Indigenous rights scholars Harry Hobbs and George Williams contend that the Noongar Settlement constitutes Australia’s first treaty between First Nations and the State, [[36]](#footnote-36) it is important to note that the Noongar Settlement was ‘not conducted under an explicit treaty framework’.[[37]](#footnote-37)

|  |
| --- |
| 3. Barriers to, and Enabling Conditions Necessary to Promote, Constructive Dialogue on such Arrangements  |

**3.1 Barriers to Establishing a Voice**

The immediate political response to the Uluru Statement was dismissive, particularly of the Voice reform. The then Prime Minister argued that such a reform was ‘[not] capable of winning acceptance in a [constitutional] referendum’, and would be ‘seen as a third chamber of Parliament’.[[38]](#footnote-38) The current Prime Minister,[[39]](#footnote-39) Deputy Prime Minister[[40]](#footnote-40) and Minister for Home Affairs[[41]](#footnote-41) have also made similar claims- although scholars have dismissed these claims as unfounded.[[42]](#footnote-42)

The Opposition, however, supports *constitutional* enshrinement,[[43]](#footnote-43) and considers the Government’s proposal to be inconsistent with the Uluru Statement.[[44]](#footnote-44) There has also been criticism of the co-design process,[[45]](#footnote-45) and there remains continued disagreement about how to best achieve constitutional recognition,[[46]](#footnote-46) and the nature of the Voice, with considerable public support for a constitutionally enshrined Voice.[[47]](#footnote-47) A constitutional Voice would ‘benefit from greater stability because its existence would be guaranteed’, and would also provide for the recognition sought by many Aboriginal and Torres Strait Islander peoples.[[48]](#footnote-48)

Despite early commitments by the Australian Government to engage in Indigenous Voice reform before the end of the 46th Parliament, no such legislation has been enacted to date, and there is no indication that such a Bill will be introduced before the conclusion of the current Parliament, with the General Election required by May 2022.[[49]](#footnote-49)

|  |
| --- |
| **4. Barriers to Implementation of Treaties, Agreements and Other Constructive Arrangements etc** |

**4.1 Truth Alone is Insufficient**

The Australian experience has shown that ‘[t]he idea that truth automatically will lead to justice is fraught’.[[50]](#footnote-50) Indeed, there have been many attempts at truth-telling in Australia on laws, policies, and practices impacting upon First Nations peoples, including the 1991 Royal Commission into Aboriginal Deaths in Custody, the 1997 Australian Human Rights Commission *Bringing Them Home* Report and the 2017 Royal Commission into the Protection and Detention of Children in the Northern Territory. None have led to systemic reform of law, policy, or practice. Accordingly, First Nations peoples have placed great emphasis on mechanisms for meaningful structural reform before more truth-telling initiatives.

The Victorian treaty and truth-telling process (see Part 2.2) provides an illustration of a mechanism which recognises the need for structural reform to recognise First People’s sovereignty and self-determination (i.e. First Peoples’ Assembly and treaty process) as well as the truth-telling exercise to be undertaken by the Yoorrook Justice Commission. The Commission’s design and process is informed by the self-determination of Victoria’s First Peoples which complements, but does not overshadow, the structural reform agenda.[[51]](#footnote-51)

**4.2 Barriers to Establishing Native Title**

The limitations inherent in the recognition of native title ‘have constrained Indigenous peoples’ ability to transform their moral interests into legally enforceable rights’.[[52]](#footnote-52)As Hobbs and Williams note, native title reflects the desire of governments to pursue what it considers to be practical mechanisms to the recognition of First Nations land rights, rather than any broader claim for self-determination and sovereignty beyond the process of colonisation.[[53]](#footnote-53) The Noongar Settlement can therefore be seen as an outlier and the real ability of native title agreements to deliver upon the sorts of claims First Nations people are making for self-determination can be questioned. Further, the native title process has been recognised as ‘highly resource intensive’ with costs borne ‘most acutely’ by First Nations people, such as ‘in the need for detailed evidence relating to connection [to the land] to be brought by [First Nations] claimants’.[[54]](#footnote-54)

|  |
| --- |
| 5. Mechanisms for Conflict Resolution |

**5.1 Victoria’s Treaty Process and National Native Title Tribunal**

Although no treaty process has been finalised as yet,[[55]](#footnote-55) Victoria’s Advancing Treaty Act sets out the treaty process and recognises a number of institutional and procedural mechanisms for delivery of a treaty with Victoria’s First Peoples. The Act requires that parties to ‘work together to establish the dispute resolution process by agreement’.[[56]](#footnote-56) The interim dispute resolution process—which also provides standards of conduct for negotiation discussions—was finalised in January 2021[[57]](#footnote-57) and signed in February 2021.[[58]](#footnote-58) The First Peoples’ Assembly has said that this process ‘will ensure our future negotiations are done in good faith, on an equal playing field and honouring Aboriginal ways of doing business’.[[59]](#footnote-59) The Treaty Negotiation Framework and Treaty Authority (once established) will formalise and decide upon final dispute resolution mechanisms.[[60]](#footnote-60)

We also briefly note that the National Native Title Tribunal has functions relating to conflict resolution involving native title matters (for example, mediation, inquires etc), as does the Federal Court of Australia. [[61]](#footnote-61)

1. Progress towards treaty has taken place (to varying degrees) in the Northern Territory, Queensland and Tasmania. See eg, ‘Home’, *Northern Territory Treaty Commission* (Web Page) <<https://treatynt.com.au/>>; ‘Queensland Government’s historic commitment to Treaty-making process’, *Queensland Department of Premier and Cabinet* (Media Release, 13 August 2020) <<https://statements.qld.gov.au/statements/90413>>; Lucy Shannon, ‘Tasmanian government commits to time frame for truth-telling, treaty talks with Indigenous community’, *ABC News* (online, 23 June 2021) <<https://www.abc.net.au/news/2021-06-23/tasmanian-aboriginal-truth-telling-treaty-discussions/100235634>>. [↑](#footnote-ref-1)
2. In recognition of the diversity of Indigenous peoples in Australia, this submission utilises the term ‘First Nations peoples’ when referring to this broader group. In doing so we acknowledge that some groups of Indigenous peoples within Australia may adopt different language: The Australian Institute of Aboriginal and Torres Strait Islander Studies, ‘Australia's First Peoples’, (Web Page) <<https://aiatsis.gov.au/explore/australias-first-peoples>>. [↑](#footnote-ref-2)
3. However, this has not always been the case. See, eg, Will Sanders, ‘Towards an Indigenous Order of Australian Government: Rethinking Self-Determination as Indigenous Affairs Policy’ (Centre for Aboriginal Economic Policy Research, Research Paper No 230/2002); Megan Davis, ‘Listening but Not Hearing: When Process Trumps Substance’ (2016) 51 *Griffith Review* 73, 74-5, 83. [↑](#footnote-ref-3)
4. See summary of key historical developments in this area in Megan Davis and George Williams, *Everything You Need to Know About the Uluru Statement from the Heart* (NewSouth Publishing, 2021); Harry Hobbs, ‘Self-Determination and Treaty-Making in Australia’ in Paula Gerber and Melissa Castan (eds), *Critical Perspectives on Human Rights Law in Australia* (Lawbook Co, 2021) vol 1, 353. [↑](#footnote-ref-4)
5. For a First Nations’ perspective on the struggle against colonisation and for the recognition of sovereignty and self-determination see, Inala Cooper and Shannan Dodson, ‘Marrul (Changing Season)’ in Paula Gerber and Melissa Castan (eds), (n 3) , 339. [↑](#footnote-ref-5)
6. See, eg, Megan Davis, ‘Constitutional recognition for Indigenous Australians must involve structural change, not mere symbolism’, *The Conversation* (18 February 2020) <<https://theconversation.com/constitutional-recognition-for-indigenous-australians-must-involve-structural-change-not-mere-symbolism-131751>>. [↑](#footnote-ref-6)
7. For an explanation of the dialogues see, Referendum Council (Final Report, 30 June 2017) ch 2. [↑](#footnote-ref-7)
8. Megan Davis, ‘Constitutional Recognition: Two Decades On’, *Indigenous Constitutional Law* (Blog Post, 1 March 2021) <<https://www.indigconlaw.org/home/constitutional-recognition-two-decades-on>>. [↑](#footnote-ref-8)
9. Megan Davis and George Williams, *Everything You Need to Know About the Uluru Statement from the Heart* (NewSouth Publishing, 2021) 151-2. See also Anne Twomey, ‘Why an Indigenous Voice would not be 'third chamber' of Parliament’, *The Sydney Morning Herald* (online, 28 May 2019) <<https://www.smh.com.au/national/why-an-indigenous-voice-would-not-be-third-chamber-of-parliament-20190526-p51r7t.html>>. [↑](#footnote-ref-9)
10. Twomey (n 9). [↑](#footnote-ref-10)
11. Australian National Indigenous Australians Agency, ‘Indigenous Voice’ (Web Page) <<https://www.niaa.gov.au/indigenous-affairs/indigenous-voice>>. [↑](#footnote-ref-11)
12. Ibid. [↑](#footnote-ref-12)
13. Marcia Langton and Tom Calma, ‘Indigenous Voice Co-Design Process’ (Final Report, July 2021) ch 1-2. [↑](#footnote-ref-13)
14. Ibid 11 (emphasis added). [↑](#footnote-ref-14)
15. *Native Title Act 1993* (Cth) s 223. [↑](#footnote-ref-15)
16. Harry Hobbes and George Williams, ‘The Noongar Settlement: Australia's First Treaty’ (2018) 40(1) *Sydney Law Review* 1. See *Native Title Act 1993* (Cth). [↑](#footnote-ref-16)
17. Australian Law Reform Commission, *Connection to Country: Review of the Native Title Act 1993 (Cth)* (ALRC Report 126) [3.19]-[3.40]. [↑](#footnote-ref-17)
18. See eg, *Traditional Owner Settlement Act 2010* (Vic); ‘Native Title’, *Victorian Government Department of Justice and Community Safety* (Web Page) <https://www.justice.vic.gov.au/your-rights/native-title>. See also the *Aboriginal (Northern Territory) Land Rights Act* 1976 (Cth); *Aboriginal Land Rights Act 1983* (NSW). [↑](#footnote-ref-18)
19. First Peoples’ Assembly of Victoria, ‘Treaty in Victoria’, *First Peoples - State Relations* (Web Page) <<https://www.firstpeoplesrelations.vic.gov.au/treaty>>. [↑](#footnote-ref-19)
20. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) preamble. See also *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 1. The Act also contains guiding principles for the treaty process in ss 20-26. [↑](#footnote-ref-20)
21. First Peoples’ Assembly of Victoria (n 16). [↑](#footnote-ref-21)
22. Ibid. The Assembly is made up of 31 members (11 reserved seats representing formally recognised Traditional Owner groups, and 21 general member seats) to reflect diverse First Nations voices. [↑](#footnote-ref-22)
23. Ibid. [↑](#footnote-ref-23)
24. First Peoples’ Assembly of Victoria, ‘The Assembly’(Web Page) <<https://www.firstpeoplesvic.org/about/the-assembly/>>. [↑](#footnote-ref-24)
25. First Peoples’ Assembly of Victoria, ‘Treaty Negotiation Framework’(Web Page) <<https://www.firstpeoplesvic.org/our-work/treaty-negotiation-framework/>>. [↑](#footnote-ref-25)
26. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) ss 30-31. [↑](#footnote-ref-26)
27. Ibid. See also, *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) ss 27, 30, 35. [↑](#footnote-ref-27)
28. A permanent body to provide ‘guidance, wisdom and cultural oversight’ to the work of the Assembly. See First Peoples’ Assembly of Victoria*,* ‘Elders’ Voice’ (Web Page) <<https://www.firstpeoplesvic.org/our-work/elders-voice/>>; First Peoples’ Assembly of Victoria, ‘Interim Model Guiding Document’ (Web Page) <<https://www.firstpeoplesvic.org/committees/elders-voice/elders-voice-interim-model-guiding-document/>>. [↑](#footnote-ref-28)
29. Intended to facilitate negotiations ‘on an equal standing’ between Aboriginal groups and the Victorian Government. See, First Peoples’ Assembly of Victoria, ‘Self-Determination Fund’ (Web Page) <<https://www.firstpeoplesvic.org/our-work/self-determination-fund/>>. The Fund will also provide independent resources to ‘support capacity, wealth and prosperity building’, and support any other function agreed by both the parties [↑](#footnote-ref-29)
30. Intended to be ‘Aboriginal-led, culturally strong and underpinned by the principles of Aboriginal self-determination). See First Peoples’ Assembly of Victoria, ‘Treaty Authority’ (Web Page) <<https://www.firstpeoplesvic.org/our-work/treaty-authority-2/>>. The Authority will ensure timely, just and fair negotiations through effective and independent oversight of the treaty process and the parties in negotiations. [↑](#footnote-ref-30)
31. Yoorrook Justice Commission, *Letters Patent* (12 May 2021) <<https://yoorrookjusticecommission.org.au/wp-content/uploads/2021/09/Letters-Patent-Yoo-rrook-Justice-Commission-signed-10-1.pdf>>. [↑](#footnote-ref-31)
32. Yoorrook Justice Commission, ‘Overview and Timeline’ <<https://yoorrookjusticecommission.org.au/overview/>>. [↑](#footnote-ref-32)
33. Hobbs and Williams (n 16) 31. [↑](#footnote-ref-33)
34. Ibid. The Noongar Settlement is recognised by statute in the *Land Administration (South West Native Title Settlement Act 2016* (WA). [↑](#footnote-ref-34)
35. Hobbs and Williams (n 16) 18. [↑](#footnote-ref-35)
36. Ibid 34-7. [↑](#footnote-ref-36)
37. Harry Hobbs, 'The Noongar Settlement: Two Lessons for Treaty Making in Australia’, *AusPubLaw* (Blog, 24 October 2010) < https://auspublaw.org/2018/10/the-noongar-settlement-two-lessons-for-treaty-making-in-australia/>. [↑](#footnote-ref-37)
38. Malcolm Turnbull, ‘Response to Referendum Council’s Report on Constitutional Recognition’ (Media Release, 26 October 2017) <https://www.malcolmturnbull.com.au/media/response-to-referendum-councils-report-on-constitutional-recognition>. [↑](#footnote-ref-38)
39. Paul Karp, ‘Scott Morrison Claims Indigenous Voice to Parliament Would be a Third Chamber’, *The Guardian* (online, 26 September 2018) <https://www.theguardian.com/australia-news/2018/sep/26/scott-morrison-claims-indigenous-voice-to-parliament-would-be-a-third-chamber>. Anne Twomey has rejected this claim: see, Anne Twomey (n 9). [↑](#footnote-ref-39)
40. Amy Remeikis, ‘Barnaby Joyce “Apologises” for Calling Indigenous Voice a Third Chamber of Parliament’, The Guardian (online, 18 July 2019). <https://www.theguardian.com/australia-news/2019/jul/18/barnaby-joyce-apologises-for-calling-indigenous-voice-a-third-chamber-of-parliament>. Despite later apologising for this statement, he still does not support a constitutionally enshrined Voice. [↑](#footnote-ref-40)
41. Amy Remeikis, ‘Peter Dutton rules out voice to parliament, labelling it a 'third chamber'’, *The Guardian* (online, 12 July 2019) <<https://www.theguardian.com/australia-news/2019/jul/12/peter-dutton-rules-out-voice-to-parliament-labelling-it-a-third-chamber>>. [↑](#footnote-ref-41)
42. See above Part 2.1. [↑](#footnote-ref-42)
43. James Massola, ‘Albanese to ramp up pressure for constitutional Voice to Parliament on Uluru trip’, *The Sydney Morning Herald* (online, 25 April 2021) <<https://www.smh.com.au/politics/federal/albanese-to-ramp-up-pressure-for-constitutional-voice-to-parliament-on-uluru-trip-20210423-p57lr6.html>>. [↑](#footnote-ref-43)
44. Shahni Wellington and Kiristie Wellauer, ‘Indigenous Voice to Parliament Plan Revealed After Years of Lobbying, but Labor Gives it a “Fail”’, *ABC News* (online, 17 December 2021) <https://www.abc.net.au/news/2021-12-17/indigenous-voice-to-parliament/100708186>. [↑](#footnote-ref-44)
45. Davis (n 7). [↑](#footnote-ref-45)
46. See eg, Anne Twomey, ‘There Are Many Ways to Achieve Indigenous Recognition in the Constitution – We Must Find One We Can Agree On’, *The Conversation* (online, 8 July 2020) <<https://theconversation.com/there-are-many-ways-to-achieve-indigenous-recognition-in-the-constitution-we-must-find-one-we-can-agree-on-142163>>. [↑](#footnote-ref-46)
47. Langton and Calma (n 13) 7, 14. See also Ron Levy and Ian McAllister, ‘Our Research Shows Public Support for a First Nations Voice is Not Only High, It’s Deeply Entrenched’, *The Conversation* (online, 9 December 2021) <<https://theconversation.com/our-research-shows-public-support-for-a-first-nations-voice-is-not-only-high-its-deeply-entrenched-172851>>; Francis Markham and William Sanders, ‘What Do We Know About Public Attitudes to a First Nations Voice?’ (Blog Post, 15 May 2021) <https://www.indigconlaw.org/home/what-do-we-know-about-public-attitudes-to-a-first-nations-voice>. [↑](#footnote-ref-47)
48. Jacob Deem, AJ Brown and Susan Bird, ‘Most Australians support First Nations Voice to parliament: survey’, *The Conversation* (online 9 April 2021) <<https://theconversation.com/most-australians-support-first-nations-voice-to-parliament-survey-157964>>. [↑](#footnote-ref-48)
49. Cameron Gooley, ‘Wyatt walks back timeline on Indigenous Voice’, *The Sydney Morning Herald* (online, 2 August 2021) <<https://www.smh.com.au/politics/federal/wyatt-walks-back-timeline-on-indigenous-voice-20210730-p58ehu.html>>. [↑](#footnote-ref-49)
50. Megan Davis, ‘The Truth About Truth-Telling’ (*The Monthly*,December 2021-January 2022) 12. [↑](#footnote-ref-50)
51. See further, First Peoples’ Assembly of Victoria, *Tyerri-Yoorrook (Seed of Truth): Report to the Yoo-rrook Justice Commission from the First Peoples’ Assembly of Victoria* (Report, June 2020). [↑](#footnote-ref-51)
52. Hobbs and Williams (n 16) 27. [↑](#footnote-ref-52)
53. Ibid. [↑](#footnote-ref-53)
54. Australian Law Reform Commission, *Connection to Country: Review of the Native Title Act 1993 (Cth)* (Final Report No 126, April 2015) 42 [1.34]. [↑](#footnote-ref-54)
55. In this context ‘treaty’ is used to refer to agreements between the State and First Nations people labelled as such and leaves aside the Noongar Settlement. [↑](#footnote-ref-55)
56. *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Vic) s 38. [↑](#footnote-ref-56)
57. First Peoples’ Assembly of Victoria, ‘The Treaty Journey so Far’ (Web Page) <https://www.firstpeoplesvic.org/about/the-treaty-journey-so-far/>. [↑](#footnote-ref-57)
58. First Peoples’ Assembly of Victoria, ‘Historic Step Towards Treaty with Signing of the Dispute Resolution Process’ (Web Page, 8 February 2021) <https://www.firstpeoplesvic.org/news/historic-step-towards-treaty-with-the-signing-of-the-dispute-resolution-process/>. [↑](#footnote-ref-58)
59. Ibid. [↑](#footnote-ref-59)
60. First Peoples’ Assembly of Victoria, ‘Setting the Rules for Treaties Negotiations’ (Web Page) <https://www.firstpeoplesvic.org/our-work/treaty-negotiation-framework/>. [↑](#footnote-ref-60)
61. See ‘Home’, *National Native Title Tribunal* (Web Page) <http://www.nntt.gov.au/aboutus/Pages/default.aspx>. See also ‘Native Title’, *Federal Court of Australia* (Web Page) <https://www.fedcourt.gov.au/law-and-practice/national-practice-areas/native-title/more>. [↑](#footnote-ref-61)