

# Guide for Traditional Owners

How to start a  
Traditional Owner Treaty



**TREATY**  
AUTHORITY

# Acknowledgement of Country

The Treaty Authority acknowledges First Peoples as sovereign peoples throughout the lands and waters now known as Victoria and across Australia. We pay deep respect to all Traditional Owners, their lands, waters and skies, their Elders and ancestors, languages, family and clan groups, and their Law, Lore, customs and traditions.

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# The Treaty journey



## Gather information

Traditional Owner groups gather information to understand if Treaty is right for them.



## Yarn with us

Yarn with the Treaty Authority to discuss your path to Treaty.

Step 1

Step 2

Step 3

Step 4

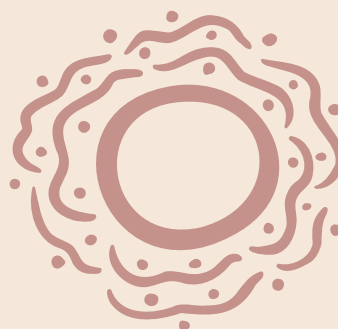
## You decide

Traditional Owner Group decision making processes on whether Treaty is right for it.



## Minimum Standards

Traditional Owner Group self-determines that it meets Minimum Standards & goes on Negotiations Database.





**Delegation formed**

Traditional Owner Groups form a single Delegation over Country to negotiate Treaty.



**Commence negotiations**

Delegation and State agree on the subject matter of Treaty negotiations, and how negotiations will be conducted.

Step 5

Step 6

Step 7

Step 8

**State meets Minimum Standards**

Treaty Authority assesses the State's compliance with Minimum Standards — if the State complies they are entered on the Database.

**Finalise a Treaty**

Delegation and the State agree on a Treaty, including how to enforce it.



# Part 1

Introduction to this guide



## Before we begin

This guide provides information for Traditional Owner Groups who have decided that Treaty is right for them. The Treaty Authority know that different Groups will be at different stages. Some groups may require further information to understand if Treaty is the path for them.

If your Traditional Owner Group would like information, get in touch. The Treaty Authority can provide information and guidance about what's involved in the Treaty process.

## What is this guide?

This guide was developed by the Treaty Authority for Traditional Owners of Country in the land and waters now known as Victoria. It provides practical information on how to start the process to negotiate a Traditional Owner Treaty.

The guide is based on the rules for Treaty-making set out in the Treaty Negotiation Framework (also known as the 'Framework' in this guide).

The guide focuses on the first part of the Treaty process, which is about how Traditional Owners can be entered on the Negotiations Database by the Treaty Authority.

Although entry on the Negotiations Database does not automatically entitle a group to negotiate a Treaty, it is the gateway to Treaty negotiations.

This is the first guide for Traditional Owners about the Treaty journey. Additional guides will be published about the next stages of negotiating a Traditional Owner Treaty. Key terms used in this guide are set out in Attachment 1.

**The first step is to get in touch for a Yarn**  
(see page 11)

### Treaty facts

A local *Traditional Owner Treaty* can be negotiated with the State of Victoria by Traditional Owners about their aspirations and priorities over their own Country.

The *Negotiations Database* is managed by the Treaty Authority and is where information is held about Treaty negotiations. This includes public information about who is negotiating a Treaty, the Country it will cover and the status of negotiations.

## Who is the guide for?

This guide is for all Traditional Owners of Country in the land and waters now known as Victoria. It doesn't matter whether your group has rights under the *Aboriginal Heritage Act 2006 (Vic)*, *Traditional Owner Settlement Act 2010 (Vic)* or the *Native Title Act 1993 (Cth)* — the Treaty process is inclusive and welcomes all Traditional Owners to get involved.

All Traditional Owners in Victoria can have a Yarn with the Treaty Authority about what they need to do to be entered on the Negotiations Database to start the Treaty journey.

## What is the role of the Treaty Authority?

The Treaty Authority is the independent body that oversees Treaty-making in Victoria. It is led by five respected Aboriginal Treaty Authority Members.

The Treaty Authority is independent of the State of Victoria, the First Peoples' Assembly of Victoria, Traditional Owners and other First Peoples' groups.

When it comes to getting entered on the Negotiations Database, the Treaty Authority has a specific role to support the self-determination and empowerment of Traditional Owners.

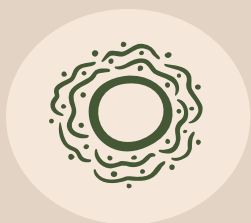
The process in this guide is the gateway for you to have a seat at the table in Treaty negotiations. The Treaty Authority's role is to guide and support you on the way.

## The Treaty Authority's work is guided by its values and principles

The Treaty Authority's values guide the way it supports Traditional Owners:



Fairness



Responsibility



Honour



Connection

The Treaty Authority is also guided by the following principles:

- We uphold self-determination and empowerment
- We treat all people with respect and professionalism
- We have culturally strong, safe and trauma informed processes
- Our processes are conducted in good faith to advance Treaty
- We ensure all interested parties have the opportunity to be heard
- We are independent and free from interference
- We are impartial (our decisions and actions are fair and culturally sound)
- We observe and uphold Aboriginal Lore, Law and Cultural Authority, and respect Elders
- We uphold Indigenous Data Sovereignty and Governance
- We recognise the operating context of all parties
- We act compatibly with human rights.





## What support is available for Traditional Owners?

### i. Support from the Treaty Authority

The Treaty Authority is here to support you.

If you want to enter the Negotiations Database, the Treaty Authority will assign you with:

- A lead Treaty Authority Member who will guide and support you on your Treaty journey
- A staff member who will be your main support and contact person.

Throughout the journey, the Treaty Authority is happy to Yarn with you anytime — in person, by phone or over email. Where possible, we will meet with you in person and on Country.

**The first step is to get in touch for a Yarn** (see page 11).

### ii. Referrals to other services and organisations

In some cases, other services and organisations may be able to provide you with support the Treaty Authority can't (such as funding). We can make warm referrals to other supports that you may need — such as referrals to **the Self-Determination Fund**.

#### Treaty facts

**The Self-Determination Fund** is a resource to support First Peoples' aspirations in determining their own future by ensuring equal footing in the Treaty negotiation process and building wealth and prosperity, now and into the future.

**The Self-Determination Fund** can support Traditional Owners to get Treaty ready. This includes funding Traditional Owners to form their aspirations for Treaty and take the steps needed to get entered on the Negotiations Database.

## Where can I get more information?

This guide provides some practical information about how you can start the Treaty process.

If you want more information, the **Treaty Negotiation Framework** sets out the detailed rules for Treaty-making, including how Traditional Owners can be entered on the Negotiations Database.

The First Peoples' Assembly of Victoria have also published a short explainer on the Treaty Negotiation Framework called **'Get to know the Treaty Negotiation Framework'**. This includes information for First Peoples and answers important questions about the Framework.

You can also have a Yarn with the Treaty Authority if you have any questions. Call us on **1300 133 033** or email us at **info@treatyauthority.au**.



# Part 2

## How to enter the Negotiations Database



## What is the process for being entered on the Negotiations Database?

If your group wants to negotiate a Traditional Owner Treaty, the first thing you need to do is be entered on the Negotiations Database by the Treaty Authority.

Entry on the Negotiations Database does not automatically give your group the right to negotiate a Treaty and is not a determination by the Treaty Authority about who are the right people for Country. Instead, it shows that you have self-assessed that your group has met the Minimum Standards to be a Traditional Owner Group for an area. It also means that you will be notified if other Traditional Owners for the same area intend to negotiate a Treaty.

Find out more about the Minimum Standards on page 12 of this guide.

Being on the Negotiations Database is the first important step on the journey. The next steps on the pathway to Treaty are set out on page 23.

The Treaty Authority's role is to guide and support you along the way, which is why the first step is to **get in touch with the Treaty Authority for a Yarn**.



## Step 1 Contact the Treaty Authority for a Yarn

### 1.1 The first step is to get in touch to set up an initial Yarn

If you are interested in negotiating a Traditional Owner Treaty or you want to find out more information, you can get in touch with the Treaty Authority to set up an initial Yarn.

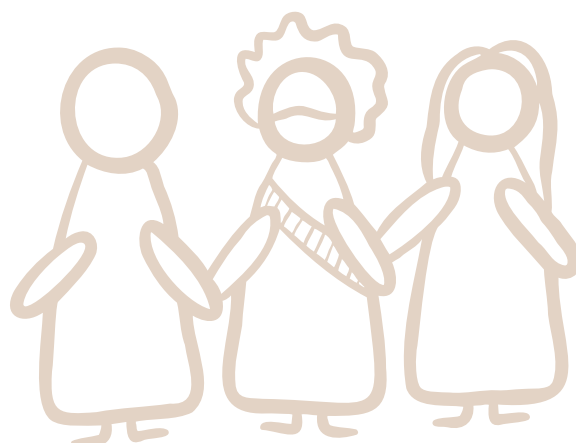
#### Get in touch with the Treaty Authority

Call **1300 133 033** or email us at [info@treatyauthority.au](mailto:info@treatyauthority.au).

Once you get in touch, you will be assigned:

- A lead Treaty Authority Member who will guide the process and work with you to ensure the process is culturally strong and safe
- A staff member who will be your main support and contact person at the Treaty Authority.

The Treaty Authority will then get in touch with you to organise a Yarn. Where possible, the initial Yarn will be in person and on Country. This stage may include more than one Yarn.



## 1.2 The Treaty Authority will Yarn with you about the process

The purpose of the initial Yarn is to begin a relationship together and make sure that your group understands the Treaty process and how the Treaty Authority can support you.

As well as any questions you may have, the Treaty Authority will Yarn with you about:

- The process for getting entered on the Negotiations Database
- What entry on the Negotiations Database means for your group
- What the Minimum Standards are and how you can show you have met them
- What support is available for your group to get ready for Treaty
- The pathway to Treaty once you are on the Negotiations Database
- How Members will be allocated to oversee negotiations and disputes
- Our approach to privacy and your data.

## 1.3 Yarning will also help the Treaty Authority understand your Treaty aspirations

When we Yarn with you, the Treaty Authority wants to hear from you about:

- Your group, your members and your rights and responsibilities to Country
- Your group's Lore, Law and Cultural Authority, how you exercise this and how you wish to incorporate it into the process
- Your aspirations for Treaty and what you are seeking from the process.

At this stage, we can Yarn about whether your group needs any further supports and whether we can refer you to any other services (including to apply for any financial support that may be available through the Self-Determination Fund).

## Step 2 Notify us that you meet the Minimum Standards

### 2.1 The second step is to notify the Treaty Authority that you meet the Minimum Standards

Once we have had a Yarn, the next step is to notify the Treaty Authority that your group meets the Minimum Standards (known as a 'notification' in the Framework).

#### Treaty facts

##### What are the Minimum Standards?

The Treaty Negotiation Framework sets out the criteria, known as 'Minimum Standards', that Traditional Owner groups have to meet to be entered on the Negotiations Database.

The Minimum Standards are grouped into four categories:

- Land and waters — this standard is about the Country the Treaty will relate to
- Community — this standard is about your group, membership and governance structure
- Leadership — this standard is about your negotiating team and decision-making processes
- Inclusivity — this standard is about having inclusive processes in place.

To notify us that you meet the Minimum Standards, you need to:

1. Self-assess whether you meet the Minimum Standards (page 13)
2. Let us know you have met the Minimum Standards using our online form (page 13)
3. Provide us with supporting information (pages 14-16).

The Treaty Authority can provide specific guidance to your group on the steps that might be needed to make sure your notification meets the requirements under the Framework.

Later down the track, the State of Victoria will also have to meet Minimum Standards before it can enter negotiations for a Traditional Owner Treaty.

**Get to know the Treaty rules:** See clauses 8.3 and 13.2 of the Framework.

## 2.2 Your group will self-assess whether you meet the Minimum Standards

### Traditional Owner Groups with Existing Status

If you are a Traditional Owner Group with Existing Status under relevant laws, you will automatically satisfy the Minimum Standards for the areas where your Group has Existing Status.

#### Treaty facts

The term 'Existing Status' is used in the Treaty Negotiation Framework to refer to a Traditional Owner Group that has existing status under the following Western laws:

- *Aboriginal Heritage Act 2006* (Vic)
- *Traditional Owner Settlement Act 2010* (Vic)
- *Native Title Act 1993* (Cth).

The next step for your Group is to notify the Treaty Authority.

Importantly, if you want to negotiate a Treaty over any land or waters outside of the areas where you have Existing Status, you will need to self-assess whether you meet the Minimum Standards for that additional area (see below).

**Get to know the Treaty rules:** See *clause 8.4(a) of the Framework*.

### Traditional Owners without Existing Status

If your group does not have Existing Status under Western law, you have the opportunity to self-assess whether you meet the Minimum Standards.

#### Remember!

Your group can approach the Self-Determination Fund at any time to apply for funding, including for activities to help you meet the Minimum Standards.

The Treaty Authority will not determine whether your group has met the Minimum Standards. This is a self-determined task that upholds your group's self-determination and empowerment.

The Treaty Authority's role is to guide and support you through your self-assessment. To do this, the Treaty Authority:

- Has developed guidance on the types of information that can help you to complete your self-assessment and show you have met the Minimum Standards (Attachment 2)
- Can also provide specific guidance to your group on meeting the Minimum Standards (if requested), including the steps your group might need to take to meet the Minimum Standards.

Once you are satisfied that you meet the Minimum Standards, the next step is to notify the Treaty Authority (page 6).

**Get to know the Treaty rules:** See *clauses 8.4(b)-(e) of the Framework*.

## 2.3 You can notify the Treaty Authority using our online form

All groups have to notify the Treaty Authority that they have met the Minimum Standards (including groups with and without Existing Status under law).

The notification is made by filling out an online form on the Negotiations Database.

As part of your notification, you will need to provide the Treaty Authority with:

- **Supporting information** to show how you meet the Minimum Standards, including a map and description of Country (pages 14-16).
- **A summary of your notification** to include on the Negotiations Database (pages 17-18).

If your group is entered on the Negotiations Database, only some of the information you provide will be public, including the summary of your notification (page 17).

## 2.4 Your notification must include supporting information

When you fill out your form, you will need to provide the Treaty Authority with supporting information. The type of information you need to provide will depend on whether you are a:

- Traditional Owner Group **with** Existing Status (page 14).
- Group **without** Existing Status (page 15).

The purpose of providing supporting information is not so that the Treaty Authority can determine whether your Group has met the Minimum Standards (this is a self-determined process). Instead, our role is to consider whether your notification is complete and genuine before we can enter you on the Negotiations Database. You can find out more about this process in Step 3 (page 19).

**Get to know the Treaty rules:** See clause 9.1 of the Framework.

## (a) Supporting information for Groups with Existing Status

The Treaty Negotiation Framework recognises and protects the rights of Traditional Owner Groups with Existing Status under law. This includes by creating a streamlined process for Groups with Existing Status to be entered on the Negotiations Database.

## 2.5 Supporting information to show how you meet the Minimum Standards

If your Group has Existing Status, you automatically meet the Minimum Standards for the areas where your Group has Existing Status.

You do not need to provide the Treaty Authority with any supporting information to show how you meet the Minimum Standards, other than evidence of your Existing Status (for example, a copy of the decision of the Victorian Aboriginal Heritage Council to register your Group as a Registered Aboriginal Party under the *Aboriginal Heritage Act 2006* (Vic)).

**Get to know the Treaty rules:** See clause 9.1(c)(i) of the Framework.

### Remember!

If your group wants to negotiate a Treaty over any land or waters outside of the areas where you have Existing Status, you will need to self-assess whether you meet the Minimum Standards for that additional area. You will also need to provide supporting information to show how you meet the Minimum Standards for that area (page 15).



Framework requirement	Suggested types of information
Identification of the land and waters over which your Group has Existing Status and in respect of which you intend to negotiate a Treaty — <i>Clause 9.1(c)(ii)</i>	— Description of the land and waters you want to negotiate a Treaty over (and a map showing the area where your Group has Existing Status)
A description of how your Group identifies collectively (for example, describing your Group’s family, clan or language group/s) — <i>Clause 9.1(c)(iii)</i>	— Name of your Traditional Owner Group — Description of your Group’s collective identity, such as your family group, clan, tribe, language group or nation
Evidence of your Group’s decision-making processes (such as a rule book) — <i>Clause 9.1(c)(iv)</i>	— Rule book or other documents which show how decisions are made by your Traditional Owner Group
Confirmation that your Group has recorded your decision to enter into Treaty negotiations using your decision-making processes — <i>Clause 9.1(c)(v)</i>	— Minutes of meeting or other evidence of the decision being made to enter into Treaty negotiations according to your decision-making processes
Contact details for your Group’s representatives who have been authorised using your decision-making processes — <i>Clause 9.1(c)(vi)</i>	— Name, phone number and email address of at least one authorised representative for your Group

## 2.6 Additional requirements for Groups with Existing Status

You also need to provide some additional information required by the Framework. The Framework also allows the Treaty Authority to seek other existing materials from you that you used to obtain your Existing Status (see *clause 9.1(c)(vii)*).

**Get to know the Treaty rules:** See *clause 9.1(c)(ii)-(vii)* of the Framework.

### (b) Supporting information for groups without Existing Status

## 2.7 Supporting information to show how you meet the Minimum Standards

If your group does not currently have Existing Status, you will need to provide supporting information to show how you meet the Minimum Standards.

Although your group self-determines whether you meet the Minimum Standards, providing the Treaty Authority with supporting information will help us to consider whether your notification is complete and genuine, before we can enter you on the Negotiations Database (Step 3, page 19).

The Treaty Authority has developed guidance (see Attachment 2) with suggested types of information to show how you meet the Minimum Standards. This guidance is intended to support you to gather enough information to be entered on the Negotiations Database.

### We are flexible about how you provide your supporting information

The Treaty Authority recognises that as a result of the ongoing impacts of colonisation and dispossession, gathering all the information you need to meet the Minimum Standards may take time. We are flexible about how you provide supporting information for each standard (for example, you may like to provide a video sharing stories from your Country). Get in touch if you want to Yarn about the types of supporting information you might use.

Importantly, the Treaty Authority prioritises its time, support and resources for groups who are likely to need it most, including groups who currently do not have Existing Status under law. This is to make sure that the journey to negotiating a Traditional Owner Treaty is strong and fair.

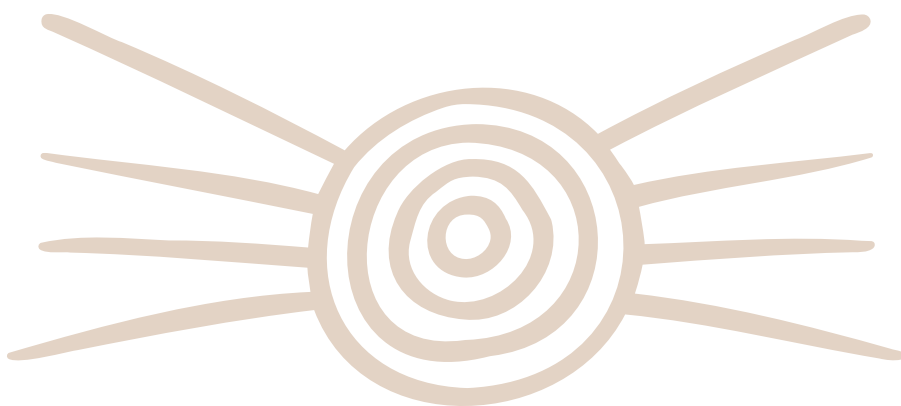
## 2.8 Additional requirements for groups without Existing Status

You also need to provide us with some additional information required by the Framework:

Framework requirement	Suggested types of information
A description of how your group identifies collectively (for example, describing your group's family, clan or language group/s) — <i>Clause 9.1(d)(ii)</i>	<ul style="list-style-type: none"> <li>— Name of your Traditional Owner group</li> <li>— Description of your collective identity, such as your family group, clan, tribe, language group or nation</li> </ul>
Confirmation that your group has recorded your decision to enter into Treaty negotiations using your decision-making processes — <i>Clause 9.1(d)(iii)</i>	<ul style="list-style-type: none"> <li>— Minutes of meeting or other evidence of the decision being made to enter into Treaty negotiations according to your decision-making processes</li> </ul>
Contact details for your group's representatives who have been authorised using your decision-making processes — <i>Clause 9.1(d)(iv)</i>	<ul style="list-style-type: none"> <li>— Name, phone number and email address of at least one authorised representative for your group</li> </ul>

The Framework also allows the Treaty Authority to seek other existing materials from you which support your group's identity and interest over your Country (clause 9.1(d)(v)).

**Get to know the Treaty rules:** See *clause 9.1(d) of the Framework*.





## 2.9 All groups have to provide a summary of their notification

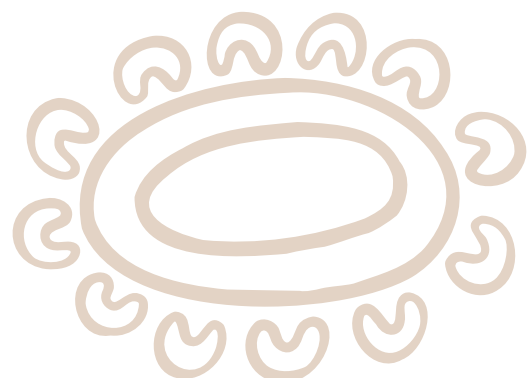
When you notify the Treaty Authority that you have met the Minimum Standards (page 12), you will need to provide the Treaty Authority with a summary to make public on the Negotiations Database.

The summary of your notification needs to address the following requirements (left column), which you can choose to write in the way that you would like to:

Requirement	Examples (these are suggestions only)
<p><b>A summary of how your group meets the Minimum Standards</b></p>	<p><b>For Groups with Existing Status:</b></p> <p>‘Our Native Title was recognised in 1995’ (and you could include the case name and citation).</p> <p><b>For groups without Existing Status,</b> you should include a summary of the most important information for each of the Minimum Standards. Below are some examples:</p> <p><b>‘Land and Waters:</b> We intend to negotiate a Treaty in the X region, in the area bounded by the River X in the west, the mountain range X in the east, the X road in the north and the X river in the south.’</p> <p><b>‘Community:</b> We are X mob. We represent X clan and descend from X apical ancestors. We are Traditional Owners of the area we intend to negotiate Treaty over. We are an unincorporated Traditional Owner group, but we are governed by our Traditional Lore, Law and Custom.’</p> <p><b>‘Leadership:</b> We appointed the leadership of the group by consensus at a group meeting held on X date. Our group has different processes to make decisions relating to Treaty.</p> <p>We hold group meetings every 6 months and all members over 18 years are invited to the meetings and are able to participate in decisions.’</p>
	<p>‘We make decisions by consensus at our group meetings. We make the following decisions at group meetings:</p> <ul style="list-style-type: none"> <li>— decisions to appoint group leaders</li> <li>— decisions related to appointing Members to a Treaty Committee and to delegating day-to-day decisions to the Treaty Committee</li> <li>— decisions related to the group’s Treaty aspirations, priorities and objectives</li> <li>— decisions related to Treaty outcomes and what we will agree to.</li> </ul>

Requirement	Examples (these are suggestions only)
	<p>Day-to-day decisions relating to Treaty negotiation strategy are delegated to a Treaty committee made up of the group leaders and other appointed group members.'</p> <p><b>'Inclusivity:</b> our group represents and is inclusive of all people descended from our apical ancestors. Our apical ancestors had five children and we include all people who can show how they are descended. We have done our own research and made family trees based on the stories and knowledge of our Elders so we know how everyone is connected and have made sure they all know about group meetings. But if a new person came to us and could explain how they were connected, they would be accepted as a member of the group.</p> <p>We have also sought the views of other First Peoples living on our Country who are not members of the group by going to local events and organisations and having Yarns with people. We held a community BBQ on X date and invited anyone in the community along to Yarn about Treaty. We also plan to hold another community event later in the year.'</p>
<p><b>A description of how your group identifies collectively</b></p>	<p>For example:</p> <p>'We are X family group'</p> <p>'We are a family group that identifies as part of X tribe'</p> <p>'We are representatives of X language group or tribe or nation'</p> <p>'We are X peoples'</p> <p>'We are descendants of X ancestors'</p>
<p><b>The date and process used by your group to decide to enter into Treaty Negotiations</b></p>	<p>For example, 'Our Board made the decision to enter into Treaty negotiations at our meeting on X date, using the decision-making process in our rule book'.</p>
<p><b>General contact information</b></p>	<p>For example, a front desk phone number or your group's general email address (not an individual's contact details).</p>

The Treaty Authority can provide guidance and feedback to your group to make sure your summary contains enough information and is ready to publish.



### Step 3 Get entered on the Negotiations Database

#### 3.1 The final step is for the Treaty Authority to consider your notification

Once you have notified the Treaty Authority that your group meets the Minimum Standards and have provided any supporting information, the Treaty Authority will consider whether we have everything we need to enter your group on the Negotiations Database.

Before the Treaty Authority enters your group on the Negotiations Database, we will consider whether your notification is complete and genuine (see below).

The Treaty Authority's role is not to assess whether your group meets the Minimum Standards (this is a self-determined process). Instead, our role is to consider whether your notification is genuine, and we have all the information we need to enter your group on the Negotiations Database. This is a requirement under the Framework to uphold the integrity of the Treaty process. It is an important task that the Treaty Authority Members are responsible for.

When the Treaty Authority Members consider your notification, they will look at the materials you have provided and apply their experience, expertise and cultural knowledge.

**Get to know the Treaty rules:** See clauses 9.2 and 9.3(a) of the Framework.

#### 3.2 The Members will consider whether your notification is complete

The first thing the Treaty Authority Members will consider is whether your notification and any supporting information is complete. This is not an assessment of the quality of your information — instead, the Members will consider whether any information is missing from your notification.

In doing this task, the Members will consider whether your notification covers all the information required by the Framework (set out in **Step 2**). For groups without Existing Status, the Members will also consider whether your supporting information aligns with our suggested types of information that show how you meet the Minimum Standards (**Attachment 2**).

#### 3.3 The Members will also consider whether your notification is genuine

The second thing the Treaty Authority Members will consider is whether your notification is genuine. For example, a notification will not be considered genuine if it:

- Is from an individual rather than a group
- Is from a group that are not Traditional Owners in Victoria
- Contains false information
- Contains mischievous or repeat claims made in bad faith.

#### 3.4 The Treaty Authority will seek more information or clarification if needed

If the Treaty Authority Members consider that your notification is not complete or genuine, we may refuse to enter your group on the Negotiations Database.

If the Treaty Authority is considering not entering your group on the Negotiations Database, we will always seek more information from you or give you a chance to clarify or amend your notification. Our aim is to support your group to be on the Negotiations Database — so we will always work with you to make sure you provide all the information we need to enter your group on the Negotiations Database.

After you receive a request for more information from the Treaty Authority, the Treaty Authority Members may decide not to enter your group on the Negotiations Database if they:

- Still consider that your notification is not complete or genuine; or
- If you haven't provided the information requested in the time we requested.

#### How do the Treaty Authority Members make decisions?

It is important for the Treaty Authority to be accountable for our decisions. That's why when the Treaty Authority Members make decisions, they take an evidence-based approach, use their commonsense and experience, and apply their cultural knowledge in an impartial way.

If the Members decide not to enter your group on the Negotiations Database, the Treaty Authority will provide you with confidential reasons for the decision.

**Get to know the Treaty rules:** See clause 9.3(a) of the Framework.

### 3.5 The final step is to enter your group on the Negotiations Database

If your notification is complete and genuine, the Treaty Authority will enter your group on the Negotiations Database.

Importantly, the decision to enter your group on the Negotiations Database is not a determination by the Treaty Authority about who are the right people for Country. Instead, it means your group is ready to take the next steps towards negotiating a Traditional Owner Treaty by forming a Treaty Delegation for the area indicated in your notification (page 23).

#### What information will be publicly available?

##### The Negotiations Database will include some public information about your Group

When the Treaty Authority enters your Group on the Negotiations Database, the following information will be publicly available on the database:

- The name of your Traditional Owner Group
- A description of the Country you intend to negotiate a Treaty over (and a map indicating the location of that Country without hard boundaries)
- The summary of your notification you provided us with (pages 17-18).

All other information in your Group's notification (including any supporting information) will not be made public or appear on the public database.

After your Group is entered on the Negotiations Database and you take the next steps towards negotiating a Treaty (page 23), further information may be published on the Negotiations Database. For example, when you notify the Treaty Authority that you intend to form a Treaty Delegation, we will also publish a map showing the boundaries of the Country where you want to negotiate a Treaty.

The Framework explains that the purpose of including public information on the Negotiations Database is to uphold the guiding principle of transparency and accountability. When you provide information, the Treaty Authority will let you know what information will be public and ensure you understand how your information will be used and agree for it to be used in that way.

The Framework also has special rules to protect your Group's cultural knowledge.

**Get to know the Treaty rules:** See clause 4.5(b) of the Framework.

### Your Group's information and knowledge will be safeguarded

The Treaty Negotiation Framework empowers the Treaty Authority to protect the information and knowledge of Traditional Owner Groups, taking into account:

- Your Group's Lore, Law and Cultural Authority, including protocols around sharing cultural knowledge
- Indigenous Data Sovereignty and Governance principles (See page 21).

The Treaty Authority asks Traditional Owner Groups to identify whether cultural knowledge they provide is sacred and needs greater protection by the Treaty Authority.



## How the Treaty Authority safeguards your information and knowledge

If you want to participate in Treaty negotiations, you will need to provide the Treaty Authority with information and knowledge (known as 'data') at different points in the process.

When the Treaty Authority manages your data, we will observe and uphold Australia's Indigenous Data Sovereignty and Indigenous Data Governance principles to the fullest extent possible having regard to applicable laws.<sup>1</sup>

**Indigenous Data Sovereignty** is about First Peoples' rights to the collection, ownership and application of their data. When you provide the Treaty Authority with your data, you will retain ownership and control of your data. Your data will also be stored securely.

**Indigenous Data Governance** is about First Peoples' practices of ownership. Decisions about your data will only be made by First Peoples, including in the Treaty Authority.

When the Treaty Authority manages your data, we are committed to:

- **Trust** — We will keep your data secure and use practices that build your trust and protect your culture and knowledge.
- **Transparency** — We will explain how your data is needed to participate in the Treaty process and seek your agreement to collect and manage your data.
- **Self-determination** — We will build your control into each stage of the 'data lifecycle' including when your data is created, managed and applied.
- **Community benefit** — Our practices enable you to decide how your data is used to protect your culture, knowledge and interests, and support community benefit.

**Get to know the Treaty rules:** See clause 4.5(f)(ii) and 4.5(g) of the Framework.

## The Treaty Authority will also notify the public that your Group has entered the Negotiations Database

The Treaty Authority publishes a public notice every time a Traditional Owner Group is entered on the Negotiations Database.

The purpose of a public notice is to make sure the Treaty process is transparent, and that other mobs are aware when a Traditional Owner Group wants to negotiate a Treaty.

If your Group has been entered on the Negotiations Database, the public notice will state that your Group has been entered on the database and include:

- Your Group's name
- A description of the Country you intend to negotiate a Treaty over
- A link to the summary of your notification on the Negotiations Database (page 17).

The public notice will also include general information about the Minimum Standards process and what it means for a Traditional Owner Group to be entered on the Negotiations Database.

The public notice will be published on the Treaty Authority Website. The Treaty Authority will promote the notice to make sure the right people know about it through our social media, mailing lists, notices in newspapers and other channels.

**Get to know the Treaty rules:** See clause 9.4 of the Framework.

# Part 3

## Next steps for starting negotiations



## The next step is to form a Treaty Delegation

Being entered on the Negotiations Database is the gateway to entering Treaty negotiations.

However, before negotiations for a Treaty can begin, a few things still need to happen:

- You will need to notify the Treaty Authority that you intend to form a Treaty Delegation
- Your Group will need to form a Treaty Delegation
- Your Treaty Delegation will need to be entered on the Negotiations Database
- The State will need to be invited to begin Treaty negotiations.

Although being entered on the Negotiations Database does not automatically entitle your Traditional Owner Group to negotiate a Treaty, it means your Group is ready to take the next step on the pathway to negotiating a Treaty — forming a Treaty Delegation.

### Treaty facts — What is a Treaty Delegation?

A Traditional Owner Treaty must be negotiated by what is known as a 'Treaty Delegation'.

A Treaty Delegation may include one Traditional Owner Group or multiple Groups who come together to form a single Treaty Delegation in the same area.

There can only be one Delegation to negotiate a Traditional Owner Treaty for Country. This means if more than one Traditional Owner Group is entered on the Negotiations Database for the same area, they have to form a single Treaty Delegation to negotiate with the State.

The Treaty Authority recognises that for some Traditional Owner Groups, forming a single Delegation to negotiate a Treaty over the same Country may take time. It won't always be easy to work through the ongoing impacts of colonisation and dispossession, so Groups will have the time and support they need to self-determine who will negotiate a Treaty in the same area.

### Get to know the Treaty rules:

- See Part 10 of the Framework on forming a Treaty Delegation
- See Part 11 of the Framework on entering a Delegation on the Negotiations Database
- See Part 12 of the Framework on inviting the State to begin Treaty negotiations.

### The Treaty Authority will publish guidance on the next steps

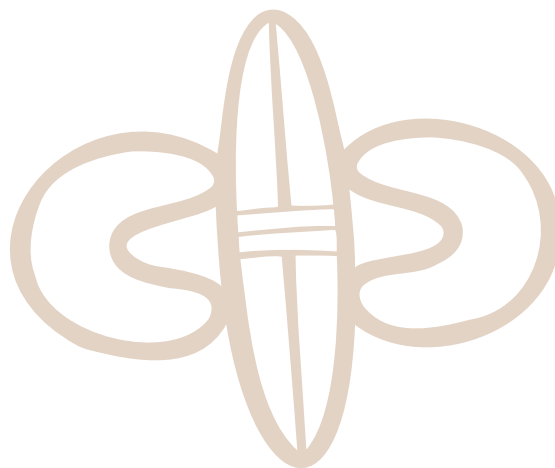
The Treaty Authority will publish additional guidance on the next steps so that your Traditional Owner Group can continue on your journey towards negotiating a Treaty. This will include guidance on forming a Treaty Delegation, having your Delegation entered on the Negotiations Database, and inviting the State to begin Treaty negotiations.

The Treaty Authority will also publish guidance on what happens once Treaty negotiations begin, including how negotiations will be conducted, and how a Treaty can be formalised and enforced.

### Get in touch with the Treaty Authority

The Treaty Authority would love to have a Yarn with you.

Get in touch with the Treaty Authority on **1300 133 033** or email us at [info@treatyauthority.au](mailto:info@treatyauthority.au).



# Attachment 1

## Key terms

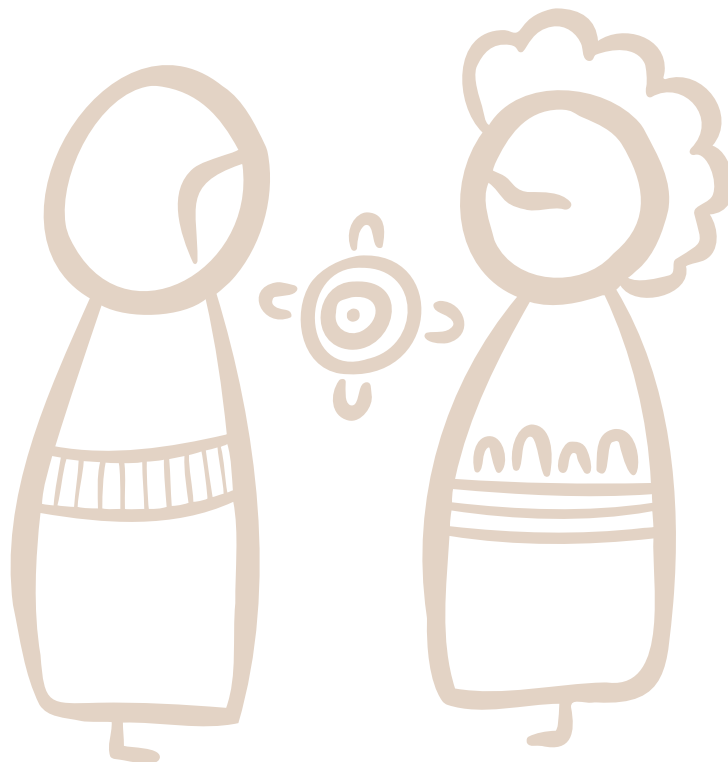
The following key terms are used in this guide.

References to ‘clauses’ are references to sections of the Treaty Negotiation Framework.

Key term	Explanation
Existing Status ( <i>Clause 8.2</i> )	<p>This is the term used in the Treaty Negotiation Framework to mean a Traditional Owner Group has existing rights under the:</p> <ul style="list-style-type: none"> <li>— <i>Aboriginal Heritage Act 2006</i> (Vic)</li> <li>— <i>Traditional Owner Settlement Act 2010</i> (Vic), or</li> <li>— <i>Native Title Act 1993</i> (Cth).</li> </ul>
Minimum Standards ( <i>Clause 8.3</i> )	<p>The Treaty Negotiation Framework sets out the criteria, known as ‘Minimum Standards’, that all Traditional Owners have to meet to be entered on the Negotiations Database.</p> <p>The Minimum Standards are grouped into four categories:</p> <ul style="list-style-type: none"> <li>— Land and waters (the Country the Treaty will relate to)</li> <li>— Community (your group, members and governance structure)</li> <li>— Leadership (your negotiating team and decision-making processes)</li> <li>— Inclusivity (having inclusive processes in place).</li> </ul> <p>The State of Victoria also has to meet Minimum Standards before it can enter negotiations for a Traditional Owner Treaty (<i>Clause 13.2</i>).</p>
Negotiations Database ( <i>Clause 4.5</i> )	<p>This is the electronic database managed by the Treaty Authority which holds public and private information about Treaty negotiations. This includes public information about who is negotiating a Treaty, the Country it will cover and the status of negotiations.</p>
Notification ( <i>Clause 9.1</i> )	<p>A ‘notification’ is the term used in the Treaty Negotiation Framework and this guide to describe how a group lets the Treaty Authority know that it has met the Minimum Standards.</p>
Traditional Owner Group or ‘Group’ ( <i>Clause 3.7</i> )	<p>This is the term defined in the Treaty Negotiation Framework to mean a group that can satisfy the Minimum Standards to be entered on the Negotiations Database.</p>
Treaty Negotiation Framework or ‘the Framework’	<p>The Treaty Negotiation Framework is the landmark agreement between the First Peoples’ Assembly of Victoria and the Victorian Government. It sets out the rules for Treaty-making in Victoria.</p>



Key term	Explanation
Traditional Owner Treaty (Part B)	A local Traditional Owner Treaty can be negotiated under the Treaty Negotiation Framework by Traditional Owners of Country in the land and waters now known as Victoria (by a Treaty Delegation). This type of Treaty is about Traditional Owners' aspirations and priorities over their Country, including their traditional lands and waters.
Treaty Delegation or 'Delegation'	A Traditional Owner Treaty can be negotiated with the State of Victoria by what is known as a 'Treaty Delegation'. A Delegation can include one Traditional Owner Group or multiple Groups who come together to form a single Treaty Delegation in the same area.



# Attachment 2

## Guidance on meeting the Minimum Standards

The Treaty Authority has developed the following guidance on the types of information that a Traditional Owner group may provide to show how they have met the Minimum Standards.

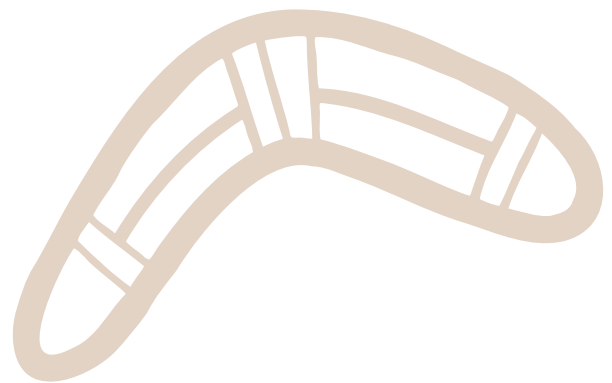
This guidance is for groups who do not have Existing Status under the *Aboriginal Heritage Act 2006* (Vic), *Traditional Owner Settlement Act 2010* (Vic) or the *Native Title Act 1993* (Cth). Although these groups self-assess whether they have met the Minimum Standards, they have to provide supporting information to the Treaty Authority about how they meet them.

The following is guidance only, intended to assist groups to identify the types of information that might be useful to support their notification. The Treaty Authority does not expect groups will provide all the information in the tables below.

References to ‘clauses’ are references to sections of the Treaty Negotiation Framework.

### Minimum Standard 1: Land and waters

Framework requirement	Suggested types of information
Your group must identify its Country, by description and map, being the area of land and waters over which your group intends to negotiate a Treaty Clause 8.3(a)	<ul style="list-style-type: none"> <li>— Map in form prescribed by the Treaty Authority — can include a mix of hard boundaries and soft boundaries to reflect Existing Status boundaries and other traditional boundaries (required)</li> <li>— Description of your Country (required)</li> <li>— Description of rights, interests and obligations over different areas of your Country</li> <li>— Video or images of your Country including visits to or walking Country</li> </ul>



## Minimum Standard 2: Community

Framework requirement	Suggested types of information
<p>Your group must identify your name, including how you identify collectively, and list of your members (if any) Clause 8.3(b)(i)</p>	<ul style="list-style-type: none"> <li>— Name of your group (required)</li> <li>— Description of your group’s collective identity, such as family group, clan, tribe, language group or nation (required)</li> <li>— Your group’s membership — if any (required)</li> </ul>
<p>Your group must identify how your members are Traditional Owners in connection to the Country you intend to negotiate a Treaty over Clause 8.3(b)(ii)</p>	<p>Groups may wish to provide information under three broad themes of connection:</p> <p><b>1. Bloodlines:</b></p> <ul style="list-style-type: none"> <li>— Names of the pre-colonisation ancestors of your group’s members from whom they trace rights to Country</li> <li>— The identity of ancestors from which they trace rights to Country, through a statement, historical records or other documentation</li> <li>— Statement that all members are the descendants of the pre-colonisation ancestors (or are otherwise adopted in accordance with your group’s law and custom)</li> <li>— How you know about your group’s connection to Country through First Peoples’ knowledge systems such as oral history from Elders, or through Western knowledge systems</li> <li>— Documentation (for example from the Stolen Generations Reparations Panel, Link-Up, Connecting Home) that demonstrates a person’s connection to their Traditional Owner group</li> </ul>
	<p><b>2. Recognition:</b></p> <ul style="list-style-type: none"> <li>— Written or oral acknowledgement by Aboriginal people or Aboriginal organisations from your area or neighbouring areas that you are Traditional Owners for the area identified in the notification</li> <li>— Written or oral acknowledgement from other Traditional Owners of the area or neighbouring areas</li> </ul>

**3. Connection and cultural practice:**

- Description of your group's connection and culture, including:
  - That current members live on Country
  - Examples of practising ceremony and customs
  - Holding, conducting or participating in community gatherings
  - How you teach younger generations about their culture and their cultural obligations
  - Descriptions of cultural protocols or oral traditions
  - How you exercise self-determination as Traditional Owners of Country
  - Examples of meetings and events that take place on Country as Traditional Owners
  - Kinship relationships and obligations
  - Rights and responsibilities to Country
  - Caring for Country, such as
    - Protecting or restoring health to Country and waterways
    - Protecting or restoring secret and sacred sites
    - Managing and exercising guardianship of tangible and intangible cultural heritage
    - Returning ancestors to Country
    - Involvement in policy and advocacy processes on Country or in relation to Country
- Other ways to demonstrate connection to Country
- Description of cultural and spiritual knowledges and practices, including law/lore, stories, song, art, and any other ways of knowing and being or cultural practices that are appropriate to be shared
- Historical information that includes Aboriginal ways of providing knowledge from Elders that could include written or verbal accounts, photographs, personal letters, diaries, cultural objects, artefacts, artworks, clothing, other documentation or personal materials

## Framework requirement

Your group must identify the governance structure by which your group is constituted, whether by incorporation, co-operative, partnership or other self-determined method Clause 8.3(b)(iii)

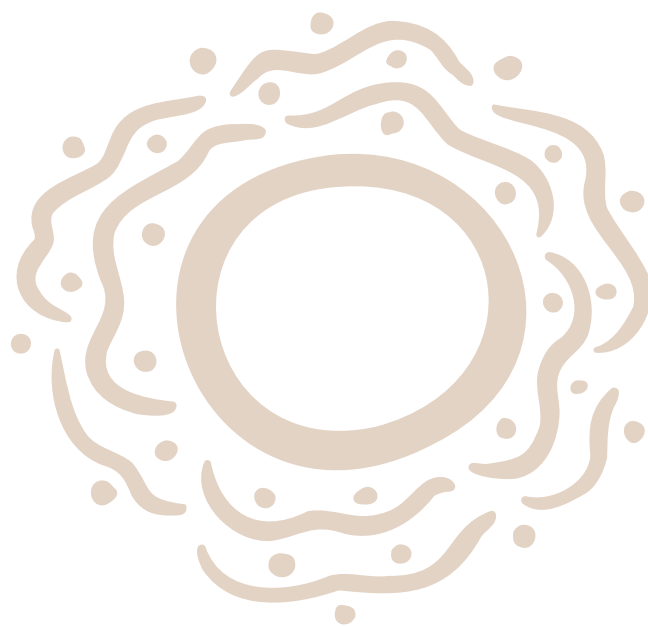
## Suggested types of information

### **Incorporated groups can provide:**

- Certificate of incorporation and rule book (required)
- A description of your group's governance structures
- Copies of your group's corporate governance policies and procedures such as cultural protocols, meeting protocols, dispute resolution and conflicts of interest policies
- How you make decisions about cultural heritage management or land and resource management (if applicable)

### **Groups that are not incorporated can provide:**

- Group roles and responsibilities
- Decision-making processes or procedures
- Group meetings, including how often they take place, when and where they take place and how members are notified that meetings will take place
- How membership of the group is determined and by whom
- How the group is transparent and accountable to members of the group and how members of the group are informed about decisions of the group
- Operational and decision-making aspects of Cultural Authority, i.e. who has the right to speak for whom, and over what parts of Country



## Minimum Standard 3: Leadership

Framework requirement	Suggested types of information
<p>Your group must:</p> <ul style="list-style-type: none"> <li>(i) identify the process by which representatives will be chosen to participate in Treaty negotiations, noting those persons may change during Treaty negotiations</li> <li>(ii) ensure those persons have the appropriate authority to negotiate a Treaty</li> <li>(iii) identify the decision-making processes by which your group makes decisions in respect of Treaty negotiations (or such decisions as your group considers require group decision-making) Clause 8.3(c)</li> </ul>	<p>In relation to the process, details of:</p> <ul style="list-style-type: none"> <li>— Meetings and meeting procedures for how decisions related to Treaty negotiations will be made and how representatives are selected</li> <li>— What authority the representatives have, i.e. what decisions representatives are allowed to make and what decisions must come back to the broader group</li> <li>— Who has a say and can be involved in Treaty discussions with the Treaty Authority, the State or other parties</li> <li>— Who is entitled to make decisions (i.e. representatives or other members or a broader group of members) and a description of any processes, for example, voting or other processes</li> <li>— How members know the meetings will take place</li> <li>— How your group might change the described processes if necessary</li> </ul> <p>Your group could also include:</p> <ul style="list-style-type: none"> <li>— Copies of your group’s policies and procedures relating to corporate governance (if applicable) <ul style="list-style-type: none"> <li>— for example, policies relating to cultural and/or meeting protocols or policies for the handling of dispute resolution or conflicts of interest</li> </ul> </li> <li>— Copies of decision-making processes or procedures (if the rule book is not applicable)</li> <li>— Operational and decision-making aspects of cultural heritage management, land and resource management (if applicable)</li> </ul>



## Minimum Standard 4: Inclusivity

Framework requirement	Suggested types of information
<p>Your group must identify your processes in place to:</p> <ul style="list-style-type: none"> <li>(i) ensure you are inclusive of all members of the group</li> <li>(ii) uphold Cultural Authority</li> <li>(iii) educate your members regarding Treaty negotiations</li> <li>(iv) consult with your members regarding Treaty negotiations</li> <li>(v) make reasonable efforts to seek the views, during Treaty negotiations, of First Peoples who are not group members, but who have a contemporary, historical, social, or spiritual attachment to the land and waters over which you intend to negotiate a Treaty</li> <li>(vi) seek the Collective Support* of your members to the outcomes of Treaty negotiations, including Interim Agreements Clause 8.3(d)</li> </ul>	<ul style="list-style-type: none"> <li>— Evidence of who can qualify for membership and how membership is determined</li> <li>— Description of processes to consider and accept members who claim to be a part of the group but are not already members and any related complaints processes for people who are not accepted as part of the group</li> <li>— Description of efforts made and ongoing processes to ensure all members of the group are included</li> <li>— Description of the consultation carried out or planned to be carried out by the group's representatives with descendants of named ancestors, for example, through notices of meetings</li> <li>— Description of processes to uphold Cultural Authority, for example, how Eldership is determined or who are the keepers of knowledge and stories</li> <li>— Description of processes to identify and determine who has Cultural Authority to speak for Country and community, or who holds particular knowledge, rights or obligations to Country or community, including cultural practices, whether this is Elders, men's, women's or youth representatives, or otherwise</li> <li>— Information and evidence about how your group communicates, engages with, and represents its membership, such as community engagement plans and activities, newsletters or mailouts, consultations or websites</li> <li>— Presentation of a clear approach to identifying other groups and individuals who have attachments to the area and a process for engagement</li> <li>— Description of how you work with other Traditional Owners regarding the boundary of the area, such as agreements or previous or upcoming consultations</li> <li>— Description of how your group encourages all Traditional Owners of the area to become members of the group</li> <li>— Description of any other ways that the group is inclusive</li> <li>— Examples of meetings to which your group has invited other groups and individuals to attend and meeting invitations the group has accepted from other groups and individuals</li> <li>— The process for complaints for people who believe they have been excluded</li> </ul>

\* Note: The term 'Collective Support' is explained in clause 28 of the Treaty Negotiation Framework as the self-determined process to seek the freely offered support of members.

