

STATEMENT

On 17 Feb 2005 a meeting of delegates of the Traditional Owner Groups of Victoria, who are listed below, developed and endorsed in-principle the following statement to Minister Hulls and Minister Jennings representing the State of Victoria.

Delegates were present from the following Traditional Owner Groups:

Yorta Yorta, Dja Dja Wurrung, Wergaia, Yapagulk, Gunditjmara, Kirrae Wurrung, Taungurung, Gunai/Kurnai, Wamba Wamba, Barapa Barapa, Boonerwrung, Bangerang, Dhuudhuroa, Monaro, Robinvale, Wadi Wadi, Wathaurong, Way Wurru, Nyeri Nyeri and Wotjobaluk.

1. NEED FOR A COMPREHENSIVE LAND JUSTICE SETTLEMENT

- 1.1 The Traditional Owners call on the State of Victoria to finally address the fundamental need for land justice in Victoria. Victorian Aboriginal people are recognised by the State as being owners of approx 0.01% of the land that was once all theirs. Justice demands an immediate resolution of this.
- 1.2 The involvement of Traditional Owners in land and resource management does not remove the need for comprehensive land and natural resource justice for Traditional Owners.
- 1.3 In addition to the return of ownership of land and natural resources to Traditional Owners, providing land justice to Traditional Owners requires the State to immediately establish a compensation package funded on an ongoing basis from State revenue.
- 1.4 A State wide agreement as a mechanism to deliver land and natural resource justice to Traditional Owners must be pursued by the State immediately.

2. INFORMED CONSENT OF TRADITIONAL OWNERS

- 2.1 The State must recognise that it is the traditional and human rights of Traditional Owners that are affected by the way in which land and natural resource management occurs.
- 2.2 The State must take immediate steps to develop partnerships with Traditional Owners in relation to land and natural resource management and to ensure that their traditional and human rights are recognised and protected by the State.
- 2.3 Measures to involve Aboriginal people in land and natural resource management must be negotiated with Traditional Owners and proceed with their informed consent.

3. RECOGNITION OF CUSTOMARY AND NATIVE TITLE INTERESTS

- 3.1 Proof of native title is not a precondition to the recognition of the rights of Traditional Owners in land and natural resources. The State must recognise and accommodate the customary rights of Traditional Owners regardless of whether they are capable of being recognised as native title rights and interests under the requirements of the *Native Title Act* 1993 (C'th).**
- 3.2 An equitable and sustainable land and natural resource management regime must be capable of accommodating native title rights and interests where they are recognised.**

4. PROTECTION OF ABORIGINAL CULTURAL HERITAGE

- 4.1 Traditional Owners have Traditional and human rights and responsibilities for protecting their cultural heritage in their country.**
- 4.2 A new Aboriginal cultural heritage protection regime must be developed by Traditional Owners and then negotiated with the State. Under that regime new/existing incorporated bodies of Traditional Owners would control and administer Aboriginal cultural heritage in their country. Under this new regime, there must be no weakening of the protection for Aboriginal cultural heritage that is currently available under the Part IIA of the *Aboriginal and Torres Strait Islander Heritage Protection Act* 1984 (C'th). The organisations listed on the Schedule under that federal Act could continue to deliver services other than cultural heritage.**
- 4.3 Legislation to protect Aboriginal cultural heritage must require all developers, city councils, shire councils and any person proposing earth disturbing works to seek an Aboriginal cultural heritage clearance from the relevant traditional owner group before proceeding with any development or earth disturbing works. The Planning legislation may be the most appropriate place for this requirement. This legislation must contain very strong sanctions for breach by corporations or individuals and effective prosecution provisions.**
- 4.4 Until the new cultural heritage scheme comes into operation, in areas where the Minister currently holds power to make decisions to protect or destroy Aboriginal cultural heritage, he must hand control of cultural heritage in those areas to Traditional Owners immediately.**
- 4.5 Legislation for the protection of Aboriginal cultural heritage must ensure that Traditional Owners are adequately resourced to carry out their responsibilities to protect Aboriginal cultural heritage.**

5. REAL AND EFFECTIVE INVOLVEMENT OF NATURAL RESOURCE MANAGEMENT

- 5.1** Managing the use and exploitation of natural resources is a fundamental aspect of the right and responsibility of Traditional Owners to look after their country.
- 5.2** The involvement of Traditional Owners in natural resource management must not be tokenistic. It needs to ensure *effective participation* and be based on partnerships with Government.
- 5.3** In order to ensure *effective participation* Traditional Owners need to be adequately resourced to participate.

6. CROWN LAND, STATE FORESTS AND NATIONAL PARKS

- 6.1** The State must immediately identify all Crown Land, including State Forests, National Parks, Marine Parks, Reserves and other conservation areas that are to be transferred to Traditional Owners and take steps to ensure that they are transferred.
- 6.2** Where Crown Land and State Forests cannot be transferred, the State must introduce joint management partnerships with Traditional Owners for the area in which those Crown lands and State Forests are located.
- 6.3** The State must immediately legislate to provide for the transfers of National Parks and Marine Parks to the Traditional Owners for the area where those parks are located.
- 6.4** National Parks and Marine Parks must be the subject of equitable lease back arrangements and the subject of management partnerships whereby Traditional Owners form a majority of the Boards of Management for the parks.

7. TRADITIONAL HUNTING, GATHERING AND FISHING ACTIVITIES

- 7.1** Hunting, fishing and gathering of natural resources are fundamental to the cultures of Aboriginal people.
- 7.2** The State must immediately provide for the recognition and protection of the inherent right of Aboriginal people to hunt, fish and gather.
- 7.3** Crown land, State Forests, National Parks, Marine Parks, reserves and other conservation areas must be made available to Traditional Owners for the purpose of traditional hunting, fishing and gathering.
- 7.4** Mechanisms must be put in place to enable Aboriginal people to access privately owned lands for the purpose of hunting, fishing and gathering, similar to those in place in other States.

7.5 The manner in which hunting, fishing and gathering occurs in a particular area must be determined by Traditional Owners.

8. **AN EQUITABLE SHARE OF COMMERCIAL RESOURCES**

8.1 Traditional owners must be provided with a guaranteed equitable share of commercially exploitable native flora and fauna.

8.2 Share-quota management of commercial use of resources must not be introduced in relation to any resource unless Traditional Owners have been provided with an equitable share of the resource.

8.3 The State must recognise that the continued allocation of private interests in natural resources while the land and resource grievances of Traditional Owners remain unresolved is an act of bad faith and a continuation of the processes that alienate Traditional Owners from their country.

9. **WATER**

9.1 The management of water must occur in partnership with Traditional Owners. Traditional owners must be adequately represented on Catchment Management Authorities.

9.2 There must be a designated allocation of water set aside for Aboriginal cultural flows. A designated allocation of tradeable water must also be made available to Traditional Owners.

9.3 A 'water trust' needs to be established to enable Traditional Owners to purchase water allocations where required.

10. **STATE'S COMMITMENT**

10.1 Representatives of the Traditional Owners of Victoria call upon the State to commit to a process of negotiation with the Traditional Owners of Victoria to achieve the outcomes set out in this Statement. Such a process must be adequately resourced to ensure effective participation.