



Yapenya – celebrating the settlement of Dja Dja Wurrung’s native title claim

L-R: Former State Attorney General, Robert Clark, Rodney Carter and Graham Atkinson, Dja Dja Wurrung, Former State Minister for Aboriginal Affairs, Jeanette Powell and the Hon. Damian Drum, MP

Resolving Native Title in Victoria

Pre budget submission 2017-2018

Native Title Services Victoria

Native Title Services Victoria (NTSV) is the legal body representing native title claimants in Victoria. In the wake of the 2002 High Court decision in *Yorta Yorta v Victoria* there was a common view that native title as a doctrine would have little application in Southern Australia. Since its creation in 2003, NTSV has proved this view wrong. Victoria now has four native title determinations and one settlement under Victoria's unique Traditional Owner Settlement Act 2010 - an alternative native title settlement processes in Australia. At present, NTSV is representing clients in four native title claims that are registered with the Federal Court and has lodged six threshold statements with the State of Victoria under the Traditional Owner Settlement Act.

This pre-budget submission sets out the priorities to facilitate the process of concluding native title within Victoria and ensure that the Budget, in the 25th anniversary year of the Mabo decision, delivers on Government's native title aspirations to provide meaningful economic and community development for Aboriginal People.

NTSV is a fully owned subsidiary of the Federation of Victorian Traditional Owner Corporations (the Federation). The Federation is an alliance of Traditional Owner Corporations that came together to advance policy solutions and support initiatives for growth and development and represents thousands of individual Traditional Owners across the State that have an interest in a solid economic plan for a reconciled future. This budget submission submitted on behalf of both our Traditional Owner Clients and members of the Federation.

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Priority: Resolving Native Title Settlements in Victoria

Within the next budget year, two Traditional Owner groups are expected to settle their native title claims with the State of Victoria; the Eastern Maar People of Southern Victoria whose traditional lands include the iconic Twelve Apostles and the Taungurung People of Central Victoria. This will bring the total percentage of Victoria covered by native title settlements to 55% and continue the course to largely resolving native title across the State by 2019 with the settlement of a further eight claims, including two claims over national parks, increasing the percentage to 90%.

Resolving native title across Victoria not only creates a foundation for reconciliation between the First People and the wider community, it will increase certainty for developers and stakeholders that they are dealing with the right people for country thus streamlining industry engagement and decision-making processes.

A financial commitment from the Federal Government will speed up the resolution of claims by managing expectations from the outset of negotiations.

The sooner native title is resolved, the sooner Australia will be able to move forward with its Closing the Gap targets. Traditional Owners with guaranteed rights and interests afforded under Native Title are able to seize the economic development opportunities of their traditional lands and create their own financial benefits through sustainable businesses. This investment could therefore be pivotal in assisting the Government in their key Closing the Gap goals of 'supporting communities to leverage their land assets for economic development as part of the mainstream economy' and creating 'big gains in Indigenous employment'.¹

In the 24 years since the commencement of the Native Title Act, Victorian Traditional Owners have not had any certainty on how the financial responsibility for native title settlements will be shared between the State and Commonwealth. In 2010 the Commonwealth Government made a financial contribution of \$6 million to settlements in Victoria. This provided around 50% of the cash component for the settlement of the Gunaikurnai claim.

Budget sought

A quantum of \$8m per settlement is sought. This figure was calculated in consideration of previous contributions, inflation and the recent compensation awarded in the *Griffiths v Northern Territory of Australia* case.² In addition, a further \$4 million per settlement of each national park is sought. The total budget sought is \$72 million.

A Commonwealth contribution of \$8 million per settlement would assist in the establishment of sustainable corporations by:

¹ <http://closingthegap.dpmc.gov.au/chapter-04/index.html>

² *Griffiths v Northern Territory of Australia (No 3)* [2016] FCA 900

- Delivering a stable income source for development and growth
- Enabling the corporations to meet governance, accountability and reporting requirements
- Enabling Corporations to invest in commercial, cultural and community activities to achieve their corporate goals
- Contributing to closing the gap targets

The funds, alongside the State contribution and participation strategies, would enable the groups to move more quickly and with certainty to an investment platform to leverage opportunities for enterprise, employment and greater regional economic contribution.

These sustainable corporations would manage the national parks; therefore a lesser budget of \$4 million per settlement is sought for the purpose of delivering land management and economic development outcomes.

The investment also represents a reduction in risk and Federal Court costs, which would be incurred by lengthy native title negotiations.

Result

The contribution sought from the Commonwealth is:

	2017/2018	2018-2019	2019-2020
Settlements	<ol style="list-style-type: none"> 1. Taungurung Peoples 2. Eastern Maar Peoples 	<ol style="list-style-type: none"> 1. First People of the Millewa Mallee 2. Wurundjeri Peoples 3. Gariwerd National Park 4. Wilson Promontory National Park 	<ol style="list-style-type: none"> 1. Wadwurrung Peoples 2. Yorta Yorta Peoples 3. Monero Peoples 4. Wadi Wadi Wamba Wamba Barapa Barapa
Commonwealth Contribution	\$16m	\$24m	\$32m

This final investment in native title could see full, final and efficient resolution of 90% of native title claims in Victoria in the next three years and absolve the Commonwealth of future compensation liability.