



Memorandum of Understanding

THIS Memorandum of Understanding is made the day of 2020

BETWEEN: TAUNGURUNG LAND AND WATERS COUNCIL, of 37 High St, Broadford
VIC 3658
("TLaWC")

AND: STRATHBOGIE SHIRE COUNCIL of 109a Binney Street, Euroa VIC 3666
("Council")

1. **Background**

- 1.1 The Council is local government body responsible for the administration of the municipal area of Shire of Strathbogie under the *Local Government Act 1989*.
- 1.2 TLaWC is the corporate representative of the Taungurung people, the first nation and Traditional Owners of the lands north of the Dividing Range, bounded by the Campaspe River in the west, the Ovens River in the east.
- 1.3 Those areas administered by the Council, and the traditional lands of the Taungurung, overlap and correspond, meaning that both parties have an interest in caring for country, and in building a relationship of trust and resilience.
- 1.4 The Council also acknowledges and is committed to meeting Australia's obligations arising out of the United Nations Declaration on the Rights of Indigenous Peoples as reproduced in Annexure 1
- 1.5 In a spirit of reconciliation and partnership, the Council and TLaWC enter into this MOU, to govern their interactions, and to build practical and mutually beneficial connections.

2. **Definitions and Interpretations**

- 2.1 In this MOU, unless the context otherwise requires:
 - (a) **Aboriginal Cultural Heritage** has the same meaning as in the Victorian Aboriginal Heritage Act 2006 (Vic).
 - (b) **Council** means the Strathbogie Shire Council, being the local government body responsible for the administration of the municipal area of Shire of Strathbogie under the Local Government Act 1989.
 - (c) **MOU** means this Memorandum of Understanding.
 - (d) **Principles** means those guiding principles forming the basis of the mutual commitment and relationship between the parties and set out in clause 3.1.
 - (e) **Registered Aboriginal Party** has the same meaning as in the Victorian Aboriginal Heritage Act 2006 (Vic).
 - (f) **Taungurung Country** for the purposes of this MOU, means that land for which TLaWC is the appointed Registered Aboriginal Party, as shown in the map at Annexure 2.
 - (g) **TLaWC** means the Taungurung Land & Waters Council.

3. **Principles**

- 3.1 This MOU is underpinned by the Principles, which establish the basis for the mutual commitment and relationship between the parties. The Principles are as follows:
 - (a) The Taungurung people are acknowledged as the first peoples, and Traditional Owners of Taungurung Country.

- (b) The arrival of non-aboriginal people to Taungurung Country brought massive change to the landscape and way of life of the Taungurung people.
- (c) The Council desires to address the past and embrace the process of reconciliation.
- (d) TLaWC and the Council are committed to working together to support the Taungurung people's self-determination.
- (e) The Council respect, and hold in strong regard the Aboriginal Cultural Heritage, traditions, customs and beliefs of the Taungurung people.
- (f) The parties agree that improvements in Aboriginal participation, health and wellbeing outcomes will realise long term benefits for the community as a whole.

4. Acknowledgement of legal rights and obligation

4.1 TLaWC acknowledges that the Council has legal rights and obligations:

- (a) in its role as a local government body under the *Local Government Act 1989* and as a *Planning Authority* and *Responsible Authority* under the *Planning and Environment Act 1987*; and
- (b) by its appointment as the committee of management for various parcels of Crown Land, under the *Crown Land (Reserves) Act 1978*, and potentially other Victorian legislation.

4.2 The Council acknowledges that TLaWC has legal rights and obligations:

- (a) with respect to the management and protection of Aboriginal Cultural Heritage through its appointment as the Registered Aboriginal Party under the *Victorian Aboriginal Heritage Act 2006 (Vic)*; and
- (b) with respect to native title rights and interests and has entered into a Recognition and Settlement Agreement (RSA) with the State of Victoria under the *Traditional Owner Settlement Act 2010*, which provides it certain rights with respect to the development and use of Crown Land.

4.3 The parties agree to:

- (a) respect the legal rights and obligations of the other; and
- (b) work together in good faith, and where possible, to assist the other party to meet its legal obligations, and realise its rights, under legislation.

5. Specific Acknowledgements and Commitments

5.1 Consistent with the Principles, TLaWC and the Council each make the following specific acknowledgements and commitments to each other:

- (a) **TLaWC:**
 - (i) acknowledges and respects the ongoing interests and rights of all

- (ii) peoples in the Shire of Strathbogie;
will work with Council in developing accessible and appropriate local government services for the benefit of Aboriginal people and therefore the whole community;
- (iii) will work together with Council so that programs and services have a greater opportunity to create sustainable change;
- (iv) will work together with, and educate, Council on local Aboriginal Cultural Heritage matters and opportunities for improved Council practice; and
- (v) will act to comply in good faith with all relevant legislation, including the:
 - (A) *Native Title Act 1993* (Cth);
 - (B) *Traditional Owner Settlement Act 2010* (Vic); and
 - (C) *Victorian Aboriginal Heritage Act 2006* (Vic).

(b) **Council:**

- (i) acknowledges and respects the ongoing interests and rights of the Taungurung people;
- (ii) is committed to working with TLaWC and supporting the efforts of non-Aboriginal people in understanding Aboriginal culture and values;
- (iii) will advocate for the rights and interests of the Taungurung people and promote the principles of reconciliation;
- (iv) will promote Taungurung cultural heritage in a way that is desired by and respectful to Taungurung People;
- (v) is committed to working towards the implementation of all the actions listed in schedule 5 'Local Government Engagement Strategy' of the RSA, as reproduced in annexure 3;
- (vi) will consult with TLaWC prior to any proposed high or low impact works being undertaken by the Council within Aboriginal Sensitivity zones and commits to adopting any reasonable advice provided by TLaWC arising from these consultations (*and both parties will work towards developing agreed guidelines for providing exemptions for some low impact works with standard conditions, within 12 months of signing this MOU*);
- (vii) will ensure any planning permit application proposing high or low impact works to be undertaken in Aboriginal Sensitivity zones will require the planning permit applicant consult with TLaWC, and adopt any TLaWC's reasonable advice consistent with relevant legislation which may arise from these consultations, as a pre-condition to the Council granting approval for any such planning permit (*and both parties will work towards developing agreed*

guidelines for providing exemptions for some low impact works with standard conditions, within 12 months of signing this MOU);

- (viii) is committed to working towards establishing a framework to support increased participation by the Taungurung people in Council decision-making;
- (ix) commits to ensure the consideration of local Taungurung issues as part of any review process for Council programs and services;
- (x) will acknowledge traditional owners of the land before each Council meeting and at civic receptions;
- (xi) will permanently fly the Aboriginal flag at each Council office, building and service centre;
- (xii) will act to comply in good faith with all relevant legislation, including the:
 - (A) *Native Title Act 1993 (Cth)*;
 - (B) *Traditional Owner Settlement Act (2010) (Vic)*; and
 - (C) *Victorian Aboriginal Heritage Act 2006 (Vic)*.

6. **Procurement**

6.1 In an order to:

- (a) support TLaWC's aspirations to achieve economic independence for the Taungurung people; and
- (b) support local business, and local jobs;

the Council will provide TLaWC with the opportunity to apply for contracts providing works or services to the Council and develop a "weighting system" within its procurement guidelines to assist TLaWC in achieving goals (a) and (b) above, while acknowledging Council's obligations to ensure value for money under the Local Government Act 1989, the need to comply with the provisions of Council's

Procurement Policy and Council's obligations to comply with the National Competition Policy and Principles.

6.2 TLaWC will provide the Council with information in writing as to what service it is able to provide, and following receipt of this information, the Council will provide TLaWC (or any subsidiary of TLaWC) with:

- (a) an opportunity to provide a quote, as part of any broader competitive quotation or tender process; and
- (b) opportunities to undertake any such contract in accordance with 6.1 above;

for any works or services Council requires, and which TLaWC can provide at the same or similar standard, quality and price to other providers of those works or services.

7. **Implementation of the MOU**

7.1 The responsibility for ensuring the implementation, progression and fulfilment of this MOU is held by the Chief Executive Officer of each party on behalf of their respective organisations.

7.2 Each party nominates the person below to be the principal contact responsible for the day to day management of the MOU, and who will additionally be responsible for monitoring and reporting on the MOU's progress:

Party	Principal Contact
TLaWC	Mathew Burns CEO 37 High St, Broadford VIC 3658 CEO@Taungurung.com.au (03) 5784 1433
Council	[Name] [Title] [Address, email, Phone number]

8. **Resourcing and engagement**

8.1 The parties agree to provide reasonable resourcing to the nominated principal contact to ensure that coordination and day-to-day management of the MOU can be achieved.

8.2 In keeping with best practice on engaging with Traditional Owners in Victoria, meetings will be conducted to review the relationship on the following terms:

- (a) the nominated principal contacts from each party commit to meeting once each quarter;
- (b) the Chief Executive Officer from each party commit to meeting twice annually; and
- (c) the elected Councillors of the Council, and the TLaWC board of directors, commit to meeting annually.

9. **Marketing and publicity**

- 9.1 *For any public information that requires mention of either party, the requesting party shall obtain the other's prior approval to ensure compliance with any relevant policy or procedure.*

10. **Exchange of information**

- 10.1 From time to time either party may request from the other access to documents or information relating to issues relevant to either the party, and each party will assist the other to meet the request, so far as is reasonably practicable and provided that the request is consistent with the provisions of the Privacy and Data Protection Act 1994 and Council's Privacy and Data Protection Policy.
- 10.2 This does not apply to documents subject to privilege, any privacy laws, which are commercial-in-confidence, or information that was provided to either party in confidence.

11. **Settlement of disputes**

- 11.1 If any party is dissatisfied with any decision or action of the other regarding the implementation of this MOU, the identified principal contacts must notify the Chief Executive Officer of each party in writing.
- 11.2 Should the dispute remain unresolved by discussions between the parties, the matter will be referred to an independent Mediator agreed to by the Chief Executive Officers or referred to the Dispute Settlement Centre of Victoria for resolution if a suitable Mediator is not found.

12. **Evaluation and evolution**

- 12.1 The MOU will be jointly evaluated for progress on an annual basis by the principal contact of each party, and an annual progress report will be prepared respectively by each party. The annual progress report will be submitted to each party's board or Council for noting.
- 12.2 A review of the MOU will be undertaken in every two years, whereby:
 - (a) minor adjustments will be allowable by mutual written agreement of the Chief Executives Officer of each party, and adopted by Council, provided the spirit and substance of the MOU is not materially altered;
 - (b) any proposed changes that would materially alter the spirit or substance of the MOU will require formal approval by both the TLaWC board of directors, and the elected Councillors of the Council.
- 12.3 The parties additionally agree to build on the momentum gained by implementing this MOU by progressing the development of a Reconciliation Action Plan within 24

months of the execution of this document and affixation of Council's Common Seal by way of Council resolution.

13. Termination of the MOU

- 13.1 The MOU may be terminated at any time by either party, in writing and where endorsed by a valid resolution of the TLaWC board of directors, or the elected Councillors of the Council.

This Memorandum of Understanding is brought into effect this day _____ of _____ 2020:

Signed by **Taungurung Land & Waters Council**)
(ABN 47 145 916 168) in accordance with section)
 99-5 of the *Corporations (Aboriginal & Torres Strait*)
Islander) Act 2006 (Cth):)

 Signature of Director

 Full Name of Director (Printed)

 Date

 Signature of Director

 Full Name of Director (Printed)

 Date

Signed by [**Council**] in accordance with the *Local*)
Government Act 1989:)

Common Seal clause needs including

 Signature of Mayor

 Full Name of Mayor (Printed)

 Date

 Signature of CEO

 Full Name of CEO (Printed)

 Date

Annexure 1

United Nations

A/RES/61/295



General Assembly

Distr.: General
2 October 2007

Sixty-first session
Agenda item 68

Resolution adopted by the General Assembly on 13 September 2007

[without reference to a Main Committee (A/61/L.67 and Add.1)]

61/295. United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,¹ by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

107th plenary meeting
13 September 2007

Annex

United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

¹ See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53)*, part one, chap. II, sect. A.

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights² and the International Covenant on Civil and Political Rights,² as well as the Vienna Declaration and Programme of

² See resolution 2200 A (XXI), annex.

Action,³ affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

³ A/CONF.157/24 (Part I), chap. III.

⁴ Resolution 217 A (III).

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the

community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those

living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

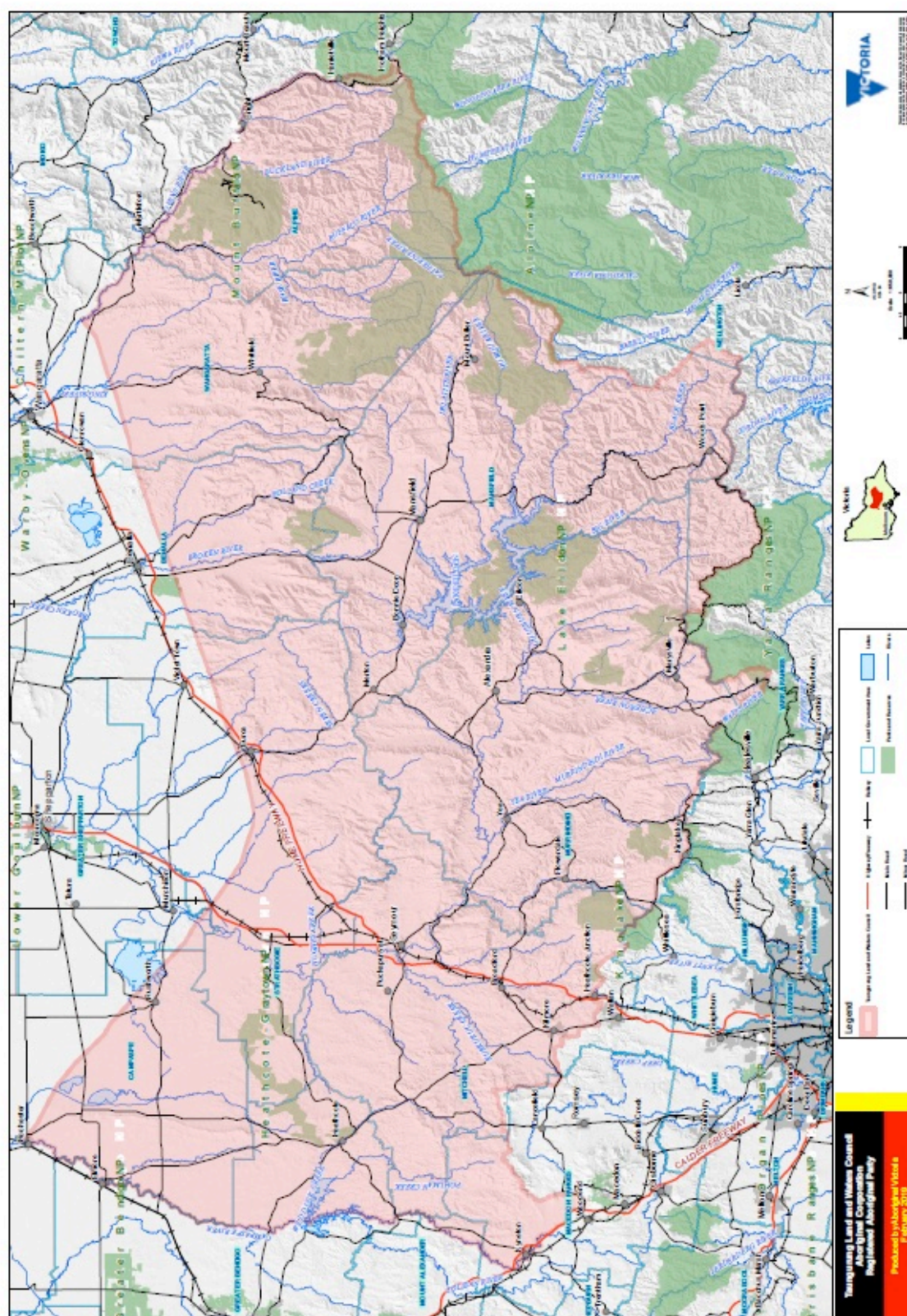
Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

Annexure 2



Annexure 3

Recognition and Settlement Agreement

Schedule 5 Local Government Engagement Strategy (Clause 3.5)

Schedule 5 Local Government Engagement Strategy (Clause 3.5)

1. Local governments have the means to offer significant on-ground and practical opportunities by which to improve the economic and social standing of Aboriginal people and communities within their municipal boundaries.
2. The State must facilitate the development of relationships, both formal and informal, between local governments (councils) and Aboriginal people and communities. At the time of commencement of the Recognition and Settlement Agreement, the State department with primary responsibility for local government is the Department of Environment, Land, Water and Planning (DELWP).
3. The Taungurung Recognition and Settlement Agreement area (Agreement Area) encompasses parts of fifteen different council areas. Where the Taungurung Clans Aboriginal Corporation (Corporation) seeks to engage with any or all of those councils, the State must facilitate initiating contact and the development of a relationship.
4. After commencement of the Recognition and Settlement Agreement, at a time that is reasonably acceptable to the State and the Corporation (but within twelve months of the Effective Date), representatives of the Corporation and DELWP (or other relevant department) will meet to commence discussions for the development of a plan for DELWP, where reasonably practicable, to facilitate the Corporation to develop relationships with relevant local councils for the purposes of discussing the actions as listed in Table A.

Table A

Action
(A) Local government compliance with relevant legislation and agreements in relation to public and private land management, including the Land Use Activity Agreement and the <i>Aboriginal Heritage Act 2006</i> (including through training of local government personnel).
(B) Educating local government in relation to the role of the Corporation as the Registered Aboriginal Party under the <i>Aboriginal Heritage Act 2006</i> for the Agreement Area and building partnerships for the maintenance and protection of significant sites.
(C) Engagement by local government with the Corporation in relation to the management of parks, reserves and other crown land for which relevant councils are the land manager.
(D) Development of a Reconciliation Action Plan with the assistance of Reconciliation Australia.
(E) Contracting by local government of the Corporation and/or its subsidiaries to perform natural resources management, cultural awareness training, or other work for which the Corporation and/or its subsidiaries have relevant expertise.

EXECUTION VERSION

Recognition and Settlement Agreement

Schedule 5 Local Government Engagement Strategy (Clause 3.5)

Action
(F) Flying the Aboriginal flag.
(G) Acknowledging the Taungurung as the traditional owners of relevant areas in official documents and websites and seeking welcomes to country for council events (by adoption of the Protocol on Acknowledgements and Welcomes to Country contained in the Recognition and Settlement Agreement).
(H) Adoption of traditional Taungurung names for new local roads, bridges and public spaces in relevant council areas in consultation with the Corporation.
(I) Installation of appropriate signage, keeping places and interpretive information to recognise the Taungurung as the traditional owners for the Agreement Area following appropriate consultation between Taungurung and relevant councils.
(J) Support for the development of cultural awareness strategies and projects (such as local history research, language preservation).
(K) Mandate the use of the strategic planning tools available within the planning system to protect places of significant Aboriginal cultural heritage.
(L) Education of the broader community about the Taungurung people and their customs, language, spirituality and history.
(M) Employment of Indigenous Liaison Officers in consultation with Taungurung Clans Aboriginal Corporation.

EXECUTION VERSION

37

DRAFT ONLY