



## Yoorrook Justice Commission's Submission to the Joint Standing Committee on Aboriginal & Torres Strait Islander Affairs

The Yoorrook Justice Commission (Yoorrook) welcomes the opportunity to inform the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs regarding the proposed Truth and Justice Commission Bill 2024. As Australia's first formal truth-telling body, Yoorrook offers unique insights into the establishment, operations, and outcomes of a truth and justice process.

Yoorrook strongly supports the establishment of a First Peoples-led Truth and Justice Commission at the Commonwealth level. This submission provides an overview of Yoorrook's establishment and operations, highlighting key learnings and considerations relevant to a Commonwealth truth-telling process. Key points include that:

- a national commission must allow sufficient time, provide flexible resources, uphold self-determination principles, and support thorough and culturally safe processes
- Indigenous Data Sovereignty and trauma-informed practices are crucial for success
- a Commonwealth commission should complement and coordinate with existing state-level processes
- challenges specific to a national-level inquiry, such as engaging diverse First Nations and addressing Commonwealth laws and policies, must be anticipated and addressed.

### Why Yoorrook Justice Commission was established

*"[F]or Treaty to be meaningful, the Victorian community needs properly to understand the impetus for change – to understand why what has been done in the State for over two centuries has not served First Peoples and why the status quo cannot be maintained".*

- [Marcus Stewart \(Nira illim bulluk, Taungurung and former Co-Chair of the First Peoples' Assembly of Victoria\)](#)

It is essential that First Peoples share their experiences of systemic injustice. Chair, Professor Eleanor Bourke AM, stated 'Yoorrook's establishment is a result of the generational advocacy by Victorian First Peoples for recognition that our existence spans millennia, and that we have cultural offerings which can benefit all Victorians.'

Yoorrook's mandate is necessarily broad and far reaching, covering a timespan from colonisation to the present, which includes acts of colonisation and law-making – the Aboriginal Protection Act, Christianising, educating, exclusion from the Census and the Constitution, and acts of assimilation, integration and the welfare system.<sup>1</sup>

On 18 June 2020, the First Peoples' Assembly of Victoria called for a truth and justice inquiry. The Victorian Government agreed, recognising the need to formally acknowledge historical wrongs and address ongoing injustices.



## How Yoorrook was established

Yoorrook is the first formal truth-telling body for First Peoples in Australia.

Yoorrook was established on 14 May 2021 under the *Inquiries Act 2014* (Vic). Five Commissioners, including four First Peoples and one non-Indigenous member, were appointed through an open and transparent selection process designed jointly by the First Peoples Assembly of Victoria and the Victorian Government. The process included that shortlisted candidates were publicly announced, with a public comment period following the announcement. Commissioner appointments are reflected in the Letters Patent and its amendments.<sup>2</sup>

Initially set for a three-year term, Yoorrook's mandate was extended to four years, with the final report due in 2025.

Soon after Yoorrook's establishment, the First Peoples' Assembly of Victoria delivered its *Tyerri Yoorrook* report,<sup>3</sup> which provided Yoorrook with an understanding of community attitudes towards the truth-telling process, to aid in the interpretation of its mandate in the Letters Patent and to inform its work. The First Peoples' Assembly of Victoria continues to work closely with Yoorrook, though Yoorrook operates independently.

Additionally, Yoorrook will establish an official public record of First Peoples' accounts of systemic injustice in Victoria to develop a shared understanding of the impact of colonisation and intergenerational trauma within communities. This is an important outcome that distinguishes Yoorrook's functions from a standard Royal Commission.

## Yoorrook's operations

Yoorrook is **independent** from the Victorian Government. It has strong powers to compel government and others to produce documents and official records, and is supported in its operations by Counsel assisting,<sup>4</sup> King & Wood Mallesons as solicitors assisting, an Expert Advisory Committee<sup>5</sup> and a dedicated team of thirty-five staff, over 40% of whom are First Peoples.

The Yoorrook Justice Commission team consists of three teams: Legal, Policy and Research; Engagement and Communications; and Operations. As an independent organisation, Yoorrook's goal is to be a strong, inclusive, capable organisation that places First Peoples' culture, values and practices at the centre of everything it does. This has included:

1. establishing Yoorrook's home base in Collingwood as a welcoming, supportive and culturally safe space (instead of using a government-linked building that would not be culturally appropriate for participants)
2. prioritising the employment and leadership of First Peoples
3. nurturing a healthy workplace culture that reflects Yoorrook's values, cultural protocols and principles of social and emotional wellbeing
4. developing a clear, culturally appropriate organisational structure, roles, systems and processes that support Yoorrook's work



5. using Yoorrook's resources in ways that are mandate-related, culturally appropriate, and financially and environmentally sustainable.<sup>6</sup>

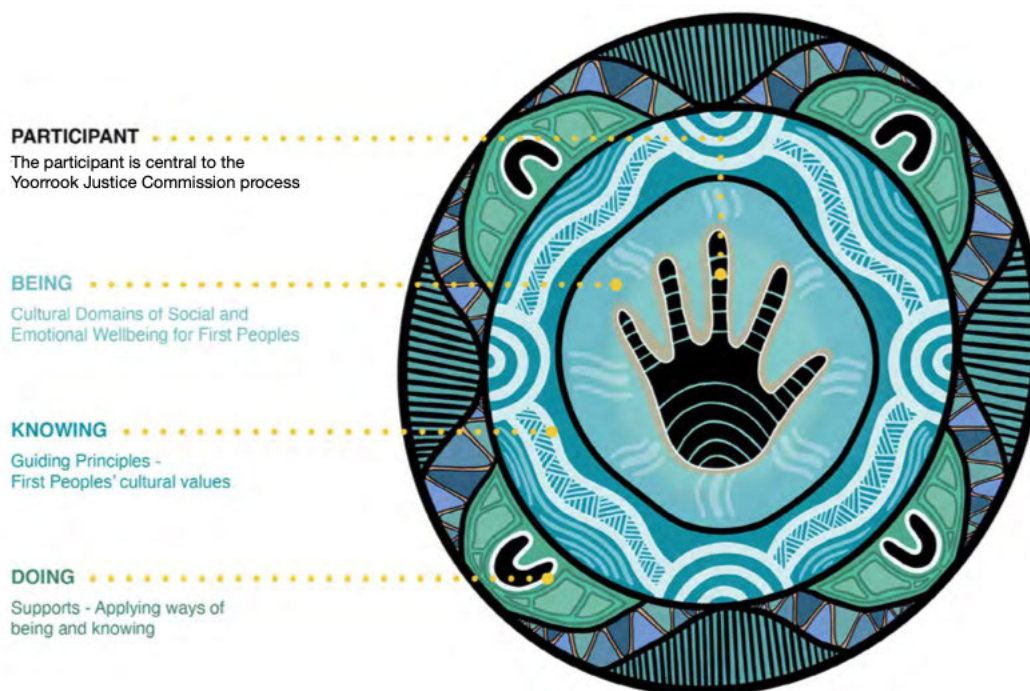
Yoorrook's **cultural values** guided the design, procurement and building of its website. After running a competition to design the logo, Yoorrook chose the winning design by artist Dixon Patten, a Gunnai, Gunditjmara and Yorta Yorta man who has bloodlines from Dhudhuroa/Jaithmathang, Djab Wurrung, Monaro, Wemba Wemba, Barapa Barapa, Wadi Wadi, Yuin and Wiradjuri. A detailed explanation of the logo is on Yoorrook's website.

Yoorrook procured a First Peoples-owned digital agency, Ngakkan Nyaguu to develop its website and procured a 'dot org' domain name. This ensured cultural integrity, and strengthening public perceptions, particularly First Peoples' perceptions, of its operational independence, which allows for Yoorrook to institute Indigenous data sovereignty practices.

**Engagement** with Yoorrook requires appropriate cultural safety and support. The *Tyerri Yoo-rrook* report recommended the need for culturally safe support services to accompany the truth-telling process for participants and the Yoorrook team. This aspect of the work is critical and core basis of Yoorrook's work. **Yoorrook provides free, confidential and independent social and emotional wellbeing support for participants. Yoorrook employs a strengths-based approach to minimise harm and re-traumatisation for First Peoples.** The framework used has three distinct areas that represent First Peoples' ways of being, knowing and doing for the work of Yoorrook, as depicted in the figure below. The approach follows the direction in Yoorrook's Letters Patent to 'Adopt practices and approaches to minimise harm and re-traumatisation for First Peoples.'<sup>7</sup> Support also includes legal support from the Lotjpa Independent Legal Services, run by the Victorian Aboriginal Legal Service and Victoria Legal Aid.

Due to the subject matter of inquiry, cultural safety considerations and relationship building, engagement and submissions can be resource intensive and can take time. It is therefore critical that there is sufficient duration to build the necessary trust and space to receive submissions and evidence with First Peoples.

Figure 1: Yoorrook's social and emotional wellbeing model. Artwork by Nakia Cadd.



The Letters Patent specify that Yoorrook must uphold the sovereignty of First Peoples over their knowledge and stories by consulting with First Peoples on how their information should be treated. Yoorrook has implemented robust **Indigenous Data Sovereignty** protocols, ensuring First Peoples retain ownership and control over their knowledge and stories shared with Yoorrook.

Yoorrook has recommended amendments to the Victoria records regimes under the *Inquiries Act 2014* (Vic), *Freedom of Information Act 1982* (Vic) and *Public Records Office Victoria Act 1973* (Vic) to ensure that First Peoples' records are only accessible in a manner consistent with Indigenous Data Sovereignty principles once Yoorrook's term has concluded. The Victorian Government has supported this recommendation.

## Yoorrook's vision and goals

Yoorrook's vision is 'a transformed Victoria, based on truth and justice, and grounded in First Peoples' enduring spirit, cultures and self-determination.' This vision is underpinned by three interconnected goals:

1. Truth: Creating a lasting public record of past and present injustices, their causes, and responsible parties.
2. Understanding: Enabling the broader Victorian community to understand the links between past, present and future through deep listening to First Peoples' voices.
3. Transformation: Proposing changes to laws, institutions, and systems to remedy injustices against First Peoples.



## Yoorrook's approach

Yoorrook has undertaken a continuous reflection and strategic planning process, adapting its approach based on community needs and learnings. Key priorities include:

- Laying strong foundations for trust and cultural legitimacy
- Honouring First Peoples' Elders and preserve knowledge
- Establishing a comprehensive picture of systemic injustices against First Peoples
- Promoting a coherent and holistic reform agenda.<sup>8</sup>

Six priority themes that informed its work were: political organisation, resistance, and self-determination; lore and law; culture, language and heritage; people, society and wellbeing; country, sky and waters; and dislocation and economics.

Its second phase, during July 2022 to 2024, saw a stronger focus on the goals of 'Understanding' and 'Transformation', with 'Truth' remaining a central tenet. The second phase set the following four overarching strategies:

- open truth-telling
- strategic communications
- fostering understanding
- reform and transformation.<sup>9</sup>

The second phase also established priority workstreams of criminal justice system, child protection system, support for the treaty-making process, and land justice.

## Yoorrook's methodology

As a First Peoples-led Commission, Yoorrook's unique methodology guides all aspects of its work. This includes:

- Aboriginal ways of knowing, being, and doing
- Self-determination principles
- Indigenous Data Sovereignty
- First Peoples' Nation Building.<sup>10</sup>

Figure 2: Yoorrook's methodological framework. Artwork by Anjee-Lee Bamblett.

## YOORROOK'S METHODOLOGY

As an Aboriginal-led Commission, Yoorrook's unique methodology guides all aspects of its work. This includes how it gathers information and from what sources, how it supports First Peoples' choices to participate and treats their knowledge, how it interprets its mandate and uses its powers and how it recommends changes.

### CENTRE CIRCLE

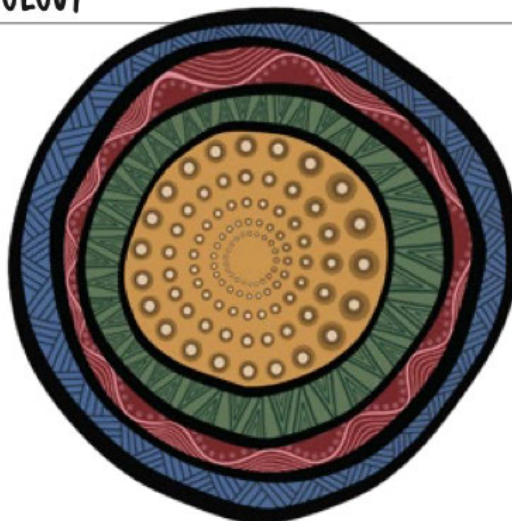
#### Letters Patent

Historic and ongoing systemic injustices  
Causes and consequences  
Who/what is responsible  
Redress and reform

### SECOND CIRCLE

Priority themes based on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and other human rights standards, focus on:

Political organization, resistance and self determination  
Lore and Law  
Culture, language and heritage  
People, society and wellbeing  
Country, sky and waters  
Dislocation and economics



### THIRD CIRCLE

**Truth:** create a record of truth and who or what is responsible

**Understanding:** create broader Victorian community understanding of First Peoples and the links between past, present and future

**Transformation:** support change to remedy injustice against first Peoples in Victoria

### OUTSIDE CIRCLE

**Aboriginal ways of knowing, being and doing** – understand cultural practice, respect lore and protocols, care and custodianship, safety and support, minimise harm and allow healing to occur

**Self-determination** – follow lead of communities, ensure Aboriginal participation and free prior and informed consents are included in all processes

**Indigenous data sovereignty** – ensure First Peoples' continued ownership, control and determination of how First Peoples' knowledge is treated/protected

**First People's Nation Rebuilding** – restore dignity of participants, use Language, uphold accountability of the state and those responsible, profile strength and survival, contribute to treaty

This development of this methodology was led by Commissioner Sue-Anne Hunter.

Other useful guides include Yoorrook's *General Guidelines on Information Gathering and Evidence*,<sup>11</sup> *Language Policy*,<sup>12</sup> *Media Guidelines*,<sup>13</sup> and *Guiding the path to Yoorrook*.<sup>14</sup>

Importantly, throughout its work, Yoorrook has supported the **treaty-making process** between First Peoples and the State of Victoria, including through:

- building a shared understanding of systemic injustice affecting First Peoples
- highlighting the causes and consequences of systemic injustice
- highlighting priorities identified by First Peoples in their engagement with Yoorrook
- recommending ways to address ongoing systemic injustice and redress past injustice including the critical importance of self-determination
- recommending other potential subject-matter for inclusion in a treaty or treaties; and
- gathering evidence on different ways to implement treaty objectives.<sup>15</sup>

## Yoorrook's key learnings and challenges

There have, and continue to be, many learnings that inform Yoorrook's work. In its first year of operations, there were many complex design and conceptional decisions about its model design. This continually involved an evaluation of the **cultural appropriateness** of how a Royal Commission



'ordinarily' operates, and then adaptation to Yoorrook's mandate of upholding self-determination principles, being trauma-informed and First Peoples-led.

**Time and Resource Requirements:** Building a new organisation that actively and critically examines its own **colonial foundations and assumptions** requires dedicated time for consultation, planning, design and feedback. Repeated rounds of reflective practice are essential to adapt and iterate. **Structural Racism and Unconscious Bias:** Yoorrook encountered misunderstandings and resistance in some interactions, highlighting the ongoing need to address systemic biases.

**COVID-19 Impact:** Public health restrictions delayed in-person meetings and community engagement, necessitating flexible approaches to truth-telling processes.

**Jurisdictional Limitations:** Yoorrook's limited ability to inquire into Commonwealth decision-making, such as Native Title outcomes, highlights the need for comprehensive Commonwealth involvement in truth-telling processes.

**Balancing Transparency and Cultural Safety:** Managing sensitive information while maintaining public transparency requires careful consideration and robust protocols.

It is important that First Peoples' truths on matters of Commonwealth injustices are included in the terms of reference in any future truth telling bodies, so there are no jurisdictional gaps in inquiries and that any Commonwealth inquiry is complementary to existing state and territory truth-telling inquiries.

## Yoorrook's reporting

Following its launch and ceremonial sitting in March 2022, Commissioners held 29 yearning circles with 200 Elders across Victoria, to hear Elders' truths and priorities. In addition, there were public hearings with Elders, along with the initial evidence of the First Peoples' Assembly of Victoria and Victorian Government.

Yoorrook has delivered two interim reports:

- *Yoorrook with Purpose* (September 2022): Recommended extension of Letters Patent and legislative changes regarding First Peoples' information.<sup>16</sup>
- *Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems* (August 2023): Provided 46 recommendations across five categories, including urgent reforms to child protection and criminal justice systems.<sup>17</sup>

Hearings relating to land, sky and water, as well as health, education and housing, and economic prosperity were held in 2024. Yoorrook's final report and work will be delivered by June 2025 and will include an official public record on systemic injustices experienced by First Peoples in Victoria.

Yoorrook's records provide resources and materials to better understand First Peoples' contemporary cultural practices, laws and lore and how communities have thrived despite systemic injustice.



These truths fill critical gaps and provide important information for the public, governments and others in working towards treaty. Yoorrook's work provides for an improved environment and better foundation for ongoing truth-telling and healing.

## **Implications for a Commonwealth commission**

### ***National vs. State-level considerations***

A Commonwealth Truth and Justice Commission would face unique challenges and opportunities compared to state-level processes:

- Broader scope: A national commission would need to address a wider range of historical injustices across diverse First Nations communities.
- Cross-border issues: Many injustices and their impacts span state borders, requiring a coordinated national approach.
- Commonwealth policies: A national commission could more effectively examine the impact of Commonwealth laws and policies, such as those related to the Stolen Generations or the Native Title Act.
- Diverse engagement: Engaging with the multitude of First Nations across the country will require significant resources and culturally appropriate strategies.

### ***Interaction with state processes***

A Commonwealth commission should complement and coordinate with existing state-level processes by:

- establishing clear communication channels with state-based truth-telling bodies
- sharing best practices and methodologies
- addressing national-level policies and their impacts while avoiding duplication of state-level inquiries
- providing a platform for addressing cross-jurisdictional issues.

## **Recommendations for a Commonwealth Commission**

Based on Yoorrook's experience, we recommend the following for a Commonwealth Truth and Justice Commission:

- A. Ensure strong First Peoples leadership and self-determination principles throughout the process
- B. Allow sufficient time and resources for establishment, community engagement, and culturally appropriate processes
- C. Implement robust Indigenous Data Sovereignty protocols at a national level



- D. Deliver public education that brings all the community, including First Peoples, along with the process and that this whole-of-community engagement is embedded through the whole process
- E. Develop comprehensive strategies for engaging hard-to-reach communities across the country
- F. Establish strong powers that provide authority to compel evidence from Commonwealth agencies, institutions, and people as necessary and relevant
- G. Create flexible support systems that can adapt to diverse community needs and cultural protocols
- H. Anticipate and plan for the challenges of managing sensitive information across multiple jurisdictions
- I. Balance the need for public transparency with cultural safety and trauma-informed practices
- J. Include (without limitation) the following as focus areas of a Commonwealth inquiry:
  - (i) Environmental provisions for water and sea country
  - (ii) Soldier settlement schemes
  - (iii) The cross-border role of native police forces in the colonies
  - (iv) Commonwealth procurement processes and policies
  - (v) Free trade agreements and role of First Peoples' businesses
- K. Establish a process to transfer funding for redress at a national level, with State contribution.

## Conclusion

Yoorrook strongly supports the establishment of a federal First Peoples-led Truth and Justice Commission. Our experience demonstrates the transformative potential of truth-telling processes in addressing historical injustices and building a shared understanding between First Peoples and the broader community.

A Commonwealth commission has the potential to address systemic injustices at a national level, complementing and enhancing the work of state-based inquiries. By learning from Yoorrook's experiences and adopting culturally appropriate, trauma-informed, and self-determined approaches, a Commonwealth Truth and Justice Commission can play a crucial role in Australia's journey towards reconciliation and justice for First Peoples.

Yoorrook stands ready to share further insights and collaborate with the proposed Commonwealth commission to ensure its success in this vital national undertaking.



<sup>1</sup> Yoorrook Justice Commission, *Interim report* at viii. At <https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/07/Yoorrook-Justice-Commission-Interim-Report.pdf>

<sup>2</sup> Commissioner biographies are available at <https://yoorrookjusticecommission.org.au/commissioners/>

<sup>3</sup> First Peoples' Assembly of Victoria at [https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/11/Tyerri-Yoo-rook-Seed-of-truth-Report-2021\\_Final-1.pdf](https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/11/Tyerri-Yoo-rook-Seed-of-truth-Report-2021_Final-1.pdf)

<sup>4</sup> Counsel Assisting were appointed in accordance with the Inquiries Act 2014 (Vic) and two were First Nations – Anthony McAvoy SC – Wirdi man; Timothy Goodwin – Yuin man.

<sup>5</sup> Established in July 2021 following receipt of expressions of interest, and in line with the requirement in para 4(e) of the *Letters Patent*. More information is available at <https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/03/FINAL-APPROVED-Terms-of-Reference-Expert-Advisory-Committee.pdf>

<sup>6</sup> Yoorrook Justice Commission, *Strategic Plan 2022-2024* at 11. At [https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/12/Yoorrook-StratPlan\\_ONLINE\\_singles.pdf](https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/12/Yoorrook-StratPlan_ONLINE_singles.pdf)

<sup>7</sup> *Letters Patent*, para 4(g). At <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/03/Yoo-rrook-Justice-Commission-Letters-Patent-14-05-21-1.pdf>

<sup>8</sup> See Yoorrook Justice Commission, *Strategic Priorities*. At <https://yoorrookjusticecommission.org.au/wp-content/uploads/2021/10/Yoo-rrook-Strategic-Priorities.pdf>

<sup>9</sup> Yoorrook Justice Commission, *Strategic Plan 2022-2024*. At [https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/12/Yoorrook-StratPlan\\_ONLINE\\_singles.pdf](https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/12/Yoorrook-StratPlan_ONLINE_singles.pdf)

<sup>10</sup> Image and explanation at Yoorrook Justice Commission, *Yoorrook's Methodology*. At <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/06/methodology.pdf>

<sup>11</sup> <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/03/Yoo-rrook-Justice-Commission-Letters-Patent-14-05-21-1.pdf>

<sup>12</sup> [https://yoorrookjusticecommission.org.au/key-documents/?\\_paged=3](https://yoorrookjusticecommission.org.au/key-documents/?_paged=3)

<sup>13</sup> [https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/02/Yoorrook-Media-Guidelines\\_20-Feb-2023.pdf](https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/02/Yoorrook-Media-Guidelines_20-Feb-2023.pdf)

<sup>14</sup> At <https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/11/Guiding-the-Path-to-Yoorrook-v2.pdf>

<sup>15</sup> At 9. [https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/12/Yoorrook-StratPlan\\_ONLINE\\_singles.pdf](https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/12/Yoorrook-StratPlan_ONLINE_singles.pdf)

<sup>16</sup> At <https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/07/Yoorrook-Justice-Commission-Interim-Report.pdf>

<sup>17</sup> At <https://yoorrookjusticecommission.org.au/wp-content/uploads/2023/09/Yoorrook-for-justice-report.pdf>