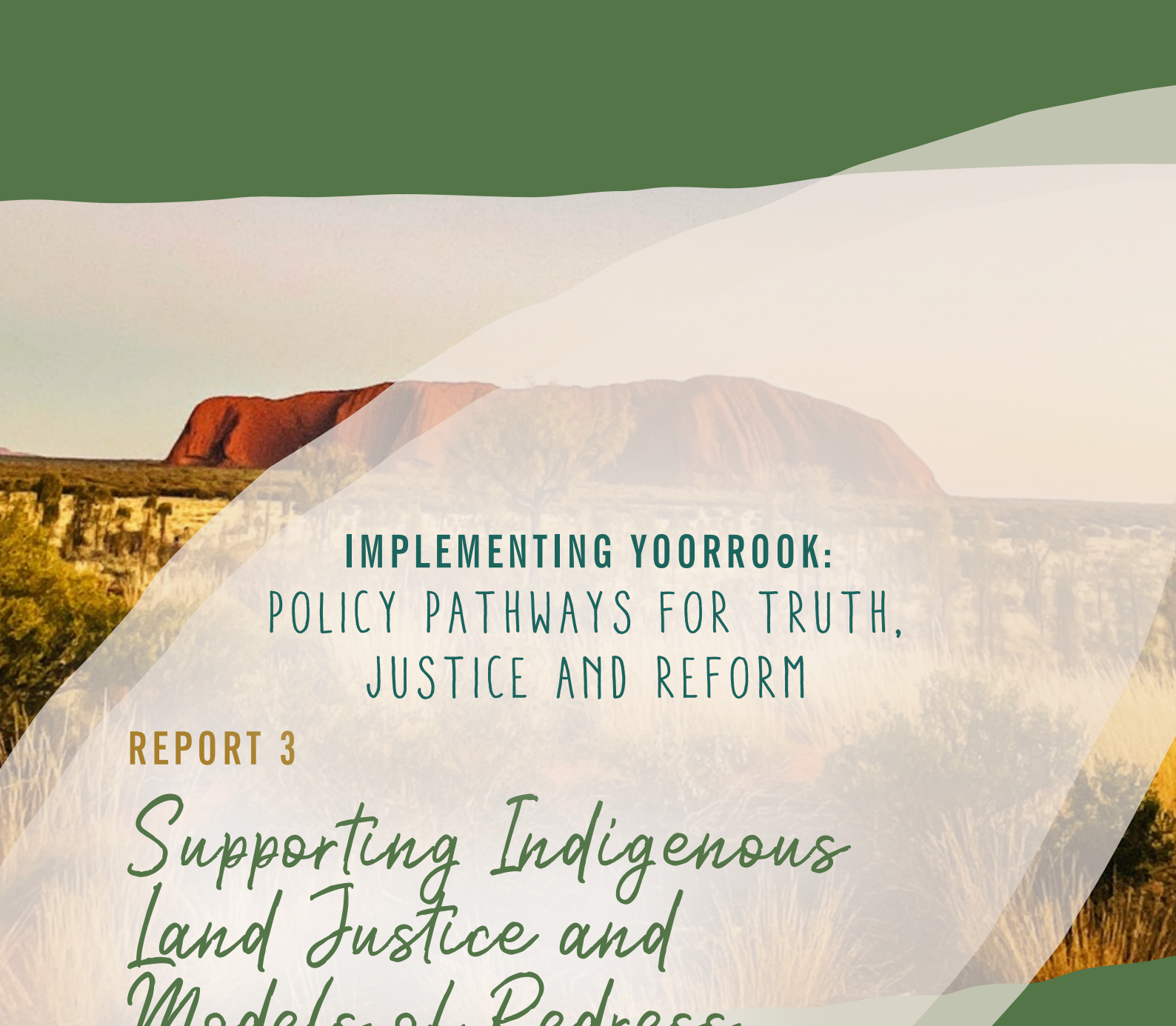

IMPLEMENTING YOORROOK:
POLICY PATHWAYS FOR TRUTH, JUSTICE AND REFORM

REPORT 3

Supporting Indigenous Land Justice and Models of Redress

RMIT UNIVERSITY,
SCHOOL OF LAW

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Context Warning:

Readers should be advised that this report contains references to Aboriginal and Torres Strait Islander persons who have passed away.

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IMPLEMENTING YOORROOK: POLICY PATHWAYS FOR TRUTH, JUSTICE AND REFORM FOREWORD

The origins of this project can be traced to conversations with Yoorrook Commissioner Professor Sue-Anne Hunter, who emphasised the importance of ensuring that Yoorrook's findings were not confined to the pages of a final report, but translated into meaningful institutional and community engagement.[1] Those discussions shaped an approach grounded not only in implementation, but in responsibility: how universities, legal institutions, and mainstream organisations might contribute constructively and ethically to the ongoing process of truth-telling, repair, and structural reform.[2] As Commissioner Hunter observed, the challenge was to ensure that Yoorrook's work did not simply 'sit on a shelf'. It was from this shared commitment that these reports emerged. They proceed from the belief that the recommendations of the Yoorrook Justice Commission should not remain solely the concern of Indigenous Victorians, governments, lawyers or policy specialists, but can also provide a foundation for broader engagement across Victorian institutions and civil society.

From its inception, the project sought to proceed in a manner consistent with principles of Indigenous self-determination and ethical collaboration.

Indigenous partnership and guidance were therefore embedded at the centre of the work. At RMIT University, the project was undertaken in close collaboration with Gheran-Yarraman Steel, whose leadership and expertise were integral to the framing and direction of the research.

The project was led and co-authored by Dr Jeremie M Bracka (RMIT University School of Law) and supported through the Malcolm Moore Industry Research Grant. The research was further strengthened by the contribution of Associate Professor Amanda Porter (University of Melbourne), whose expertise in criminal law and criminology informed key aspects of the project. The work was further strengthened through partnership with the Jumbunna Institute for Indigenous Education and Research at the University of Technology Sydney, an Indigenous-led research institute with longstanding expertise in community-led and justice-oriented research. The authors also gratefully acknowledge the contribution of industry partners Simon Thomas and Jennifer Keene McCann of the International Commission of Jurists (Victoria), and Steven Castan, Ariane Dozer, Naomi Lai and Jacinta Wright of the National Justice Project, whose research and engagement helped shape the

[1] Conversation with Professor Sue-Anne Hunter, Commissioner, Yoorrook Justice Commission, prior to the commencement of the project, concerning the importance of broader institutional and community engagement with the implementation of the Yoorrook Justice Commission's work.

[2] Australian Institute of Aboriginal and Torres Strait Islander Studies, AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research (2020).

development of the project. The authors are further grateful to Stan Winford and the Centre for Innovative Justice for their encouragement and support. The project also benefited from consultation and review by Barry Firebrace-Briggs of the First Peoples' Assembly of Victoria, whose guidance and feedback informed the development of all three reports.

The methodology underpinning the project was informed by the principles articulated in the AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research, including integrity, reciprocity, accountability, impact, and Indigenous self-determination.[3] Particular care was taken to ensure that the project complemented, rather than displaced, Indigenous-led processes already underway. Extensive consultation occurred through follow-up discussions involving practitioners, academics, community advocates, and representatives connected to the First Peoples' Assembly of Victoria and broader Aboriginal community-controlled sectors.

A major project roundtable convened in September 2025 in partnership with the Jumbunna Institute for Indigenous Education and Research, National Justice Project, and the International Commission of Jurists (Victoria), bringing together Indigenous leaders, legal practitioners, researchers, and policy stakeholders to discuss implementation pathways for the Yoorrook Justice Commission's recommendations. More than twenty participants contributed to the discussion, including representatives of the First Peoples' Assembly of Victoria, Aboriginal legal organisations such as the Victorian Aboriginal Legal Service and First Nations Legal and Research Services, members of the judiciary and legal profession, and representatives from the Coroners Court of Victoria. The roundtable helped inform the priorities and recommendations explored throughout this report series.

The project was conceived not as an attempt to speak for Indigenous communities, but as a modest contribution to supporting and amplifying the work already being undertaken by First Peoples and the Yoorrook process itself.[4] Intellectually, the project was also informed by Professor Martin Nakata's conception of the 'cultural interface': the complex and often contested space in which Indigenous and Western knowledge systems, institutions, and modes of governance intersect.[5]

These reports are situated consciously within that interface. They seek to engage mainstream legal, governmental, and educational institutions while remaining attentive to the limits, responsibilities, and power imbalances inherent in that engagement. In this respect, the reports do not claim neutrality. Rather, they proceed from the position that ethically grounded partnerships, reflexivity, and Indigenous leadership are essential preconditions for any meaningful implementation agenda.

Ultimately, these reports are offered as a practical contribution to ongoing processes of truth-telling, institutional accountability, and historical repair in Victoria. They recognise that the work of truth-telling and historical repair is necessarily long-term, incomplete, and at times uncomfortable. Yet they also proceed from the belief that the implementation of Yoorrook's recommendations presents a rare and important opportunity: not only for legal and policy reform, but for deeper forms of institutional listening, accountability, and transformation across Victorian society.

THE REPORTS DO NOT CLAIM NEUTRALITY. RATHER, THEY PROCEED FROM THE POSITION THAT ETHICALLY GROUNDED PARTNERSHIPS, REFLEXIVITY, AND INDIGENOUS LEADERSHIP ARE ESSENTIAL PRECONDITIONS FOR ANY MEANINGFUL IMPLEMENTATION AGENDA.

[3] Ibid

[4] Martin Nakata, 'The Cultural Interface' (2007) 36(Supplement) The Australian Journal of Indigenous Education 7.

[5] National Justice Project and Jumbunna Institute for Indigenous Education and Research, Letter of Support for the 'Implementing Truth-Telling: Yoorrook Justice Commission Final Report' Malcolm Moore Industry Research Grant (17 March 2025).

> THEIR RESPECTIVE ROLES IN IDENTIFYING HARM, PROPOSING SOLUTIONS, MONITORING IMPLEMENTATION, AND REPRESENTING FIRST PEOPLES ARE CENTRAL TO ENSURING THAT REDRESS IS SELF-DETERMINED AND GROUNDED IN LIVED EXPERIENCE.

EXECUTIVE SUMMARY

Victoria now stands at a critical juncture in translating the findings of the Yoorrook Justice Commission into meaningful and lasting redress. Yoorrook has made clear that land justice is inseparable from all other forms of justice, and that redress must be self-determined, comprehensive and grounded in the rights affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples ('UNDRIP')*.

This report addresses a central question: **how Victoria can practically resource and implement land justice redress in a durable and sustainable manner aligned with Treaty**. It is intended to support, not prescribe. Authority over the form and content of redress rests with the **First Peoples' Assembly of Victoria**, consistent with Yoorrook's findings and the Statewide Treaty framework. Drawing on the September 2025 Roundtable, comparative practice, and Victoria's emerging Treaty architecture, the report identifies three core insights.

1. Sustainable redress requires a long-term financial architecture.

While the Treaty framework establishes institutions for truth-telling, healing, and self-determination, the power to raise and allocate resources remains with government. Durable land justice therefore depends on funding mechanisms that extend beyond annual budget cycles and are insulated from political change.

2. Treaty institutions play distinct and complementary roles.

The report highlights how the institutions of the Gellung Warl, including the First Peoples' Assembly and related Treaty bodies, can collectively shape, advocate for, and oversee redress. Their respective roles in identifying harm, proposing solutions, monitoring implementation, and representing First Peoples are central to ensuring that redress is self-determined and grounded in lived experience.

3. A range of viable funding models is available.

Comparative examples demonstrate that governments can resource reparative measures through diversified and innovative mechanisms, including targeted industry levies, public–private partnerships, revenue-sharing arrangements, and the strategic use or transfer of public assets. These approaches provide practical pathways for financing redress at scale.

IMMEDIATE PRIORITIES FOR REFORM

This report identifies the following immediate priorities for the Victorian Government:

A. Funding architecture

- Establish a secure, long-term financial framework for land justice redress
- Ensure funding mechanisms are insulated from short-term political cycles

B. First Peoples' control and governance

- Guarantee First Peoples' leadership in determining the allocation and governance of redress
- Embed self-determination at all stages of design and implementation

C. Diversified resourcing

- Develop multiple revenue streams, including targeted levies and revenue-sharing agreements
- Facilitate negotiated contributions from private and corporate actors

D. Land-based redress

- Identify and transfer surplus or underutilised public land to Traditional Owners
- Align land transfers with broader Treaty-based settlement processes

SUMMARY OF KEY RECOMMENDATIONS

This report advances five core recommendations for the Victorian Government. It should:

1. Establish a dedicated Land Justice Redress Fund, in negotiation with the First Peoples' Assembly of Victoria
2. Ensure First Peoples' control over the allocation and governance of that Fund
3. Develop diversified revenue streams to resource redress, including targeted levies and revenue-sharing agreements with industries operating on traditional lands
4. Facilitate voluntary and negotiated contributions from private actors and industries that have historically benefitted from land dispossession
5. Conduct a comprehensive audit of surplus or underutilised public land, with a view to transferring appropriate parcels to Traditional Owners as part of Treaty-based redress

This report does not seek to define the content of redress. Rather, it provides a practical framework to support the Assembly's ongoing leadership in shaping durable, just, and self-determined outcomes. Meaningful land justice will require sustained commitment, structural reform, and the resourcing necessary to give full effect to the vision articulated by Yoorrook.

INTRODUCTION

The Yoorrook Justice Commission ('Yoorrook') has set out a clear vision for land justice in Victoria. Translating that vision into practice requires practical, community-informed pathways for implementing its recommendations. To help identify those pathways, a September 2025 roundtable brought together community practitioners, legal experts and representatives from Aboriginal organisations to consider how Yoorrook's findings might be operationalised.

Participants highlighted three foundational considerations for advancing land justice. First, land justice is inseparable from broader justice outcomes for First Peoples and must therefore underpin any meaningful system of redress. Secondly, conventional common-law approaches to compensation are inadequate to capture First Peoples' relationships to land, waters and sky, and must be reconsidered through the lens of self-determination. Thirdly, Victoria must begin preparing now for how both economic and non-economic redress will be assessed, resourced and sustained in ways that are not dependent on short-term political cycles.

The broader legal framework for redress has already been extensively developed by the First Nations Legal Research Services ('FNLRS'), whose submissions informed key Yoorrook reports.[1] These submissions draw on international reparations jurisprudence, the domestic application of the *United Nations Declaration on the Rights of Indigenous Peoples ('UNDRIP')*, and comparative experience in jurisdictions such as Aotearoa New Zealand and Canada.[2] Building on this foundation, the present Report focuses on a narrower practical question: how Victoria might resource and implement land justice redress in a durable and sustainable manner aligned with Treaty principles.

The Report therefore:

1. Summarises Yoorrook's key findings on redress;
2. Examines the institutional and resourcing framework established by the *Statewide Treaty Act 2025* (Vic), including the role of the Gellung Warl and the extent to which financial authority remains with the Victorian Government; and
3. Explores potential revenue-raising and financing mechanisms that could support reparative measures beyond exclusive reliance on the Victorian Consolidated Fund.

This report is intended to support, not prescribe. The authority to determine how redress should be conceived and implemented rests with the First Peoples' Assembly of Victoria and the Treaty process.

In consultation on this report, First Peoples' Assembly member Barry Firebrace-Briggs emphasised that redress cannot be reduced to monetary compensation alone. He reflected that when his mother, a member of the Stolen Generation, received financial compensation, the payment did little to address the deep emotional and intergenerational harm she carried and instead *'reanimated trauma rather than restoring dignity'*. Had she instead received land, he suggested, the outcome may have been profoundly different. Land, unlike money, anchors identity, restores belonging and creates intergenerational security. The example underscores Yoorrook's insistence that restitution of land must be the starting point of redress.

The purpose of this Report is to contribute to the broader conversation on how Victoria can meaningfully realise Yoorrook's vision for land justice and support the Assembly's work toward a just Treaty settlement. A list of relevant Yoorrook recommendations appears in the Appendix.

[1] First Nations Legal Research Services, 'Submission to the Yoorrook Justice Commission Inquiry into Land, Water and Sky' (Submission No 345 to the Yoorrook Justice Commission, 27 November 2023) ('*FNLRS Submission*').

[2] First Nations Legal Research Services, 'Technical Paper on the Methods of Calculating Economic Compensation and Reparations' (Addendum to Submission No 345, Yoorrook Justice Commission, 17 January 2024) ('*Calculating Economic Compensation and Reparations*'); First Nations Legal Research Services, 'Technical Paper on the Methods of Establishing Non-Economic Reparations' (Addendum to Submission No 345, Yoorrook Justice Commission, 17 January 2024) ('*Establishing Non-Economic Reparations*').

I. YOORROOK'S FINDINGS ON REDRESS

What Yoorrook Means by 'Redress'

Yoorrook uses the term redress to describe the measures the Victorian Government must take through both Statewide and Traditional Owner Treaties, to address the injustices of colonisation, including invasion, dispossession, and the resulting economic, cultural and social harm.[3]

Although the term reflects Yoorrook's Terms of Reference,[4] the Commission notes that reparations may be more accurate in some contexts, particularly where this aligns with comparative or international practice. Importantly, redress is different from benefit-sharing arrangements, curriculum inclusion, or support from the new Infrastructure Fund. These initiatives matter, but Yoorrook distinguishes them because they relate to ongoing entitlements, not to repairing historical and continuing harm.

Principles for Designing and Calculating Redress

Yoorrook Recommendation 100 makes clear that redress must align with Articles 8(2)(b) and 28 of *UNDRIP*.[5] These provisions affirm that redress is not discretionary: it is a right held by First Peoples and an obligation on the State. Drawing on extensive evidence and submissions from the FNLRS, Yoorrook identified several core principles for any redress process:[6]

Self-determined: First Peoples must lead decisions about what form of redress appropriately responds to the harms they have endured. Redress cannot be imposed.

Comprehensive: Redress must account for both economic loss: past, ongoing and future and non-economic harms such as cultural, spiritual and social damage. Interest should be applied where appropriate to reflect the passage of time.

Full and Fair: Redress should aim to restore people as closely as possible to the position they would have held had colonisation-related harm not occurred, while also helping prevent future violations.

Restitution First: In alignment with *UNDRIP* art 28(1), the starting point is the return of traditional lands. Where return is not possible, equivalent land, monetary compensation, or other agreed forms of redress must be negotiated.

Case-by-Case: Redress is inherently complex. It requires careful assessment with affected groups, recognising the diversity of experiences, losses, and aspirations across different First Peoples.

FNLRS emphasises that *UNDRIP* sets the minimum standard for land justice,[7] including a right to restitution as the primary form of redress and, where restitution is not possible, to 'just, fair and equitable' compensation.[8] The FNLRS submission to Yoorrook demonstrates that existing Native Title and Traditional Owner Settlement Act ('TOSA') frameworks fall short of *UNDRIP* standards in critical respects.[9] Native title requires proof of continuous connection since sovereignty, denies compensation for extinguishment prior to 1975, and provides only limited, non-commercial rights.[10] The TOSA regime, while forward-looking, does not provide a structured mechanism for 'just, fair and equitable' compensation for past dispossession and does not fully embed free, prior and informed consent.[11] These structural deficiencies underscore why Treaty-based redress, aligned with *UNDRIP* Articles 26–28, is essential.

[3] Yoorrook Justice Commission, *Yoorrook for Transformation* (Third Interim Report, June 2025) vol 5, 145 ('*Yoorrook for Transformation* vol 5').

[4] Victoria, *Victoria Government Gazette*, No S 217, 14 May 2021.

[5] Yoorrook Justice Commission, *Yoorrook for Transformation* (Third Interim Report, June 2025) vol 1, 82 ('*Yoorrook for Transformation* vol 1'); *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) arts 8(2)(b), 28 ('*UNDRIP*').

[6] See generally *Yoorrook for Transformation* vol 5 (n 3); *FNLRS Submission* (n 1).

[7] *Calculating Economic Compensation and Reparations* (n 2) 4.

[8] *UNDRIP* (n 5) arts 25-8.

[9] *FNLRS Submission* (n 1) 16; *Native Title Act 1993* (Cth) ('Native Title'); *Traditional Owner Settlement Act 2010* (Vic) ('TOSA').

[10] *FNLRS Submission* (n 1) 17.

[11] *Establishing Non-Economic Reparations* (n 2).

II. THE STATEWIDE TREATY ACT AND THE RESOURCING OF REDRESS

Redress Through Treaty

Yoorrook Recommendation 100 frames redress as something to be delivered *'through Statewide and Traditional Owner treaties'* a reminder that redress must flow from self-determined Treaty processes rather than ad hoc programs.[12] With the passage of the *Statewide Treaty Act 2025* (Vic) (*'Statewide Treaty Act'*),[13] Victoria now has the legal infrastructure for this work.

This section considers how the roles and resourcing arrangements created under the Act may shape the development and implementation of redress. It reflects the Roundtable's focus on ensuring that the Assembly and the broader *Gellung Warl* have the tools, authority and resourcing necessary to give effect to Yoorrook's vision.

The Gellung Warl: Structure and Funding

The Act establishes the ***Gellung Warl*** as the primary Treaty governance body. It comprises three interconnected arms (s 10(2)):[14]

1. **The First Peoples' Assembly**
2. **Nginma Ngainga Wara – Outcomes and Justice Commission**
3. **Nyerna Yoorrook Telkuna – Office of Truth-telling and Healing**

Under s 144, the *Gellung Warl* is funded through the **Consolidated Fund**, including the costs of performing its functions and exercising its powers.[15] This provides a stable baseline of funding but does not yet guarantee the resources required for large-scale reparative measures.

How Each Arm Supports the Redress Agenda

1. First Peoples' Assembly of Victoria: As the representative body for First Peoples, the Assembly is empowered to:[16]

- represent and make decisions on behalf of First Peoples (s 18(1)(a))
- advocate for their interests to Parliament, government and service providers (s 18(1)(d))
- support community capacity-building, including promoting human rights and self-determination (s 18(1)(k))
- manage and allocate funds provided to, or generated by, the Gellung Warl (s 18(1)(k)(iv)).

Relevance to redress: The Assembly's democratic legitimacy and advocacy mandate position it as the primary voice capable of articulating what self-determined redress should look like. Its existing financial management functions could also allow it to administer reparative funding – *if* sufficient resources are transferred to it through Treaty.

[12] *Yoorrook for Transformation vol 1* (n 5) 82.
[13] *Statewide Treaty Act 2025* (Vic) (*'Statewide Treaty Act'*).
[14] Ibid s 10(2).
[15] Ibid s 144.
[16] Ibid s 18(1)(a), (d), (k), (k)(iv).

2. Nginma Ngainga Wara – Outcomes and Justice Commission

This body is tasked with:[17]

- monitoring the impacts of government actions on First Peoples (s 94(1)(a)).
- monitoring implementation of Yoorrook's recommendations (s 94(1)(b))
- proposing solutions and making recommendations to the Assembly (s 94(1)(f))
- liaising across entities to advance its work (s 94(1)(g))

Relevance to redress: By tracking progress on Yoorrook's recommendations – including Recommendation 100 – this Commission can identify gaps, propose next steps, and ensure that redress remains a priority across government.

3. Nyerna Yoorrook Telkuna – Office of Truth-telling and Healing

Its functions include:[18]

- promoting ongoing healing and reconciliation (s 121(1)(d))
- supporting continued truth-telling processes (s 121(1)(j))

Relevance to redress: Continued truth-telling will surface further harms, including site-specific or community-specific injustices requiring redress. This arm of the Gellung Warl ensures redress remains grounded in lived experience, not abstract policy.

Forward-Looking Framework — But Limited Redress Powers

Together, the three arms of the *Gellung Warl* create a strong, forward-looking governance structure for Treaty, truth-telling and accountability. Each has a clear role in shaping, evidencing and advocating for redress:

- identifying harms,
- monitoring progress,
- advising on solutions, and
- representing First Peoples in negotiations.

However, as the Act is currently drafted, **none of the three arms has explicit authority to raise, allocate or manage the scale of resources needed for reparative measures.** Their powers largely concern future entitlements and ongoing self-determination, not the administration of redress for past and continuing harm.

At this stage, the power to resource redress remains with the Victorian Government. This highlights the importance of designing Treaty mechanisms that:

- ensure adequate and ongoing funding, and
- enable First Peoples to exercise real decision-making authority over redress.

FNLRS has proposed that Treaty negotiations may also benefit from an independent, *UNDRIP*-aligned benchmark for assessing both economic loss and cultural and spiritual harm.[19] Such benchmarks would not determine outcomes but could assist the Assembly in grounding its redress advocacy in clear, expert-informed assessments.

[17] Ibid s 94(1)(a), (b), (f), (g).

[18] Ibid s 121(1)(d), (j).

[19] See generally *Calculating Economic Compensation and Reparations* (n 2).

Why Identifying Funding Options Matters

While the responsibility to raise resources for redress ultimately sits with the State, identifying credible and realistic options will strengthen the *Gellung Warl's* ability to advocate effectively. This is especially important for Nginma Ngainga Wara, whose recommendations must, under s 96(3) of the *Statewide Treaty Act*,[20] consider 'budgetary impacts and available resourcing' and be 'practical and capable of implementation by State government'.

What counts as *practical* is guided by principles in s 143, which, though drafted for general funding arrangements offer a useful framework for thinking about redress. These include self-determination, sufficiency, stability, flexibility, transparency, accountability, simplicity, and, critically, sustainability and affordability. Together, they signal that funding arrangements should be robust, long-term, and designed to support First Peoples' autonomy.[21]

The FNLRS submission to Yoorrook also highlights that current *Native Title* and TOSA processes do not provide First Peoples with an effective right of redress consistent with *UNDRIP* standards.[22] The absence of timely, fair and comprehensive remedies reinforces the need for Treaty-based funding mechanisms that are robust, durable and capable of delivering redress at scale.

The *Statewide Treaty* itself anticipates a flexible and adaptive funding environment.[23] Clause 13(c) provides that nothing prevents the Gellung Warl from receiving funds beyond the special appropriation or other State-agreed funding under the Act.[24] This means the Gellung Warl may pursue supplementary funding streams such as partnerships, grants, philanthropic investment, or other negotiated arrangements as part of a broader strategy for sustainable redress.

Exploring innovative and diversified funding options therefore strengthens the pathway to redress. It ensures the Assembly can engage with the State from an informed position, clearly articulate what is required, and secure a financial architecture capable of supporting meaningful and lasting reparative outcomes.

[20] *Statewide Treaty Act* (n 13) s 96(3).

[21] Ibid s 143.

[22] *FNLRS Submission* (n 1) 16; see generally *UNDRIP* (n 5).

[23] *Statewide Treaty*, First Peoples' Assembly of Victoria-State of Victoria, signed 13 November 2025 (entered into force 12 December 2025).

[24] Ibid cl 13(c).

III. INNOVATIONS IN FUNDING REDRESS

Exploring innovative funding models is essential to ensuring that redress under Treaty is sustainable, self-determined and capable of meeting the full and fair standard set by Yoorrook. While responsibility for raising resources rests with the State, international and local examples show how governments can design creative, targeted, and durable mechanisms that align with public purpose and long-term reparative goals. The examples below are not prescriptive. They illustrate a range of strategic options: many of them already tested in other jurisdictions that could inform Victoria's approach to funding land justice and broader redress measures.

Redress Is Not Synonymous with Compensation

Before turning to specific revenue models, it is important to clarify a central principle that emerged from the Roundtable: funding redress is not the same as delivering justice. As Barry Firebrace-Briggs reflected, financial compensation alone does not necessarily restore dignity, belonging or intergenerational security. Lump-sum payments may acknowledge harm, but without land, housing, resource rights or long-term asset foundations, they risk addressing symptoms rather than structural dispossession.

Redress must therefore be understood not merely as a fiscal exercise, but as a process of restoring land, rebuilding economic autonomy, and strengthening community control over resources. Funding mechanisms matter because they enable these outcomes – not because money itself constitutes justice. With this distinction in mind, the following examples illustrate how Victoria might resource forms of redress that are transformative rather than symbolic.

1. Industry-Specific Levies and Taxes

Targeted industry levies can create stable, long-term revenue streams for reparative initiatives. They are particularly effective when linked to sectors with strong, predictable or emerging revenue bases.

Sustained Revenue Sources

Mining Levies (Democratic Republic of Congo)

The Democratic Republic of Congo funds its *Fonds National de Réparation des Victimes de Violences Sexuelles et des Crimes Connexes ('FONAREV')* through an obligatory 'mining fee'.[25] Mining accounts for over 95% of the country's exports,[26] and an 11% levy on mining royalties now generates roughly USD 27 million annually for victims of sexual violence and related crimes.[27] This model demonstrates how directing a small portion of an established industry's revenue can create a significant, dedicated pool for redress.

Transport Levies (France and others)

In 2006, France introduced an airline ticket levy' to support global health initiatives through Unitaid.[28] The levy is embedded within normal airport taxes and varies by destination and travel class.[29] Since then, nine additional countries have adopted the model, with several now introducing a 'premium flyers' levy on business-class, first-class and private jet travel to support climate mitigation.[30] These levies highlight the potential of modest, broadly distributed charges to fund pressing social goods.

[25] *Décret n°23/32 du 26 août 2023 précisant les modalités de recouvrement et de répartition de la redevance minière* [Decree No 23/32 of August 26, 2023, specifying the procedures for the collection and distribution of mining royalties] (Democratic Republic of Congo).

[26] International Monetary Fund, *Democratic Republic of the Congo: Staff Report for the 2022 Article IV Consultation, Second Review Under the Extended Credit Facility Arrangement, Request for Modifications of Performance Criteria, and Financing Assurances Review* (Country Report No 22/210, July 2022) 11.

[27] Global Survivors Fund, *Democratic Republic of the Congo* (Country Briefing, April 2025) 5; 'RDC-FONAREV: l'ODEP dénonce une gestion opaque de 27 millions $ issus de redevances minières' [DRC-FONAREV: ODEP denounces opaque management of $27 million from mining royalties], Actualite.cd (Web Page, 22 November 2024).

[28] '*What is a solidarity levy?*', Global Solidarity Levies Task Force (Web Page, 29 April 2026); 'About Us', *Unitaid* (Web Page).

[29] 'Unitaid welcomes new air levy coalition, building on its legacy of successful innovative health financing', *Unitaid* (News Release, 2 July 2025).

[30] 'Eight countries launch Premium Flyers Solidarity Coalition', *Global Solidarity Levies Task Force* (Press Release, 30 June 2025).

Emerging Revenue Sources

Cannabis Taxation for Reparations (United States)

As new regulated markets emerge, governments have redirected a portion of revenue toward reparations. In Evanston, Illinois, a pioneering housing-based reparations program is funded through a 3% municipal cannabis tax, with the first USD 10 million committed to supporting Black residents harmed by discriminatory housing policies between 1919 and 1969.[31]

The program offers USD 25,000 grants for homeownership, mortgage support or repairs. It is explicitly aimed at rebuilding intergenerational wealth.[32] Under Evanston City Council Resolution 126-R-19, the city 'committed the first $10 million dollars of the City's Municipal Cannabis Retailers' Occupation Tax (3 percent on gross sales of cannabis)' to the effort, which also receives public donations.[33] A similar proposal has been approved in Amherst, Massachusetts and other municipalities.[34]

Strategic Resource Export Levies

Victoria possesses significant reserves of minerals essential to global battery production and renewable energy technologies. As demand for lithium, rare earth elements and related inputs accelerates, the State is positioned to benefit from participation in the global energy transition.

A modest levy on the export or extraction of critical battery minerals could generate a dedicated revenue stream for Treaty-based land redress. Such a levy would align with international practice where resource-rich jurisdictions allocate a portion of extractive industry revenue to reparative or sovereign wealth funds. Linking redress to the exploitation of natural resources is consistent with *UNDRIP* Article 28 and reflects the principle that benefits derived from land should contribute to repairing historical dispossession.

Resource Agreements and Asset-Based Redress

Barry Firebrace-Briggs pointed to a recent mining agreement in the Bendigo region where direct arrangements between Traditional Owners and resource companies enabled Indigenous families to access housing.[35] Such agreements demonstrate that redress need not be confined to State-funded compensation. Where mining, energy, or extractive industries operate on unceded lands, negotiated equity participation, land transfers, housing packages, or revenue-sharing arrangements may provide practical forms of restitution consistent with *UNDRIP* principles.

Similarly, financial institutions could contribute to redress through preferential lending schemes – for example, low-interest or guaranteed home loans for Indigenous families. Access to housing and land ownership is directly linked to restoring dignity, autonomy and economic stability. Asset-based redress models recognise that justice must rebuild material foundations, not merely acknowledge harm.

[31] Jacquelyne Germain, 'The fight for reparations has stalled in Congress. Here's what they look like in state and local governments', *Cable News Network* (Web Page, 14 July 2022).

[32] Sara Safransky, Elsa Noterman and Madeleine Lewis, 'Land reparations are possible – and over 225 US communities are already working to make amends for slavery and colonization', *The Conversation* (Web Page, 1 April 2025).

[33] *Establishing a City of Evanston Funding Source Devoted to Local Reparations*, Evanston, Ill, Res 126-R-19 (25 November 2019).

[34] Scott Merzbach, 'Reparations effort moves forward with Amherst council OK', *Amherst Bulletin* (Web Page, 8 July 2025).

[35] 'Bakaru wayaparrangu', DJAARA (*Dja Dja Wurrung Clans Aboriginal Corporation*) (Web Page).

2. Public–Private Collaboration

Partnerships between governments and industry can create powerful avenues for shared responsibility, particularly where private actors have benefitted from historical injustice.

Germany's Foundation for Remembrance, Responsibility and Future

In 2000, the German Government and more than 6,500 companies jointly created the *Foundation for Remembrance, Responsibility and Future* to compensate people subjected to forced labour during World War II.[36] Despite initial resistance from some corporations, approximately 6,500 companies ultimately participated.[37] A matched contribution model eventually raised EUR 5.2 billion in capital. This dual-responsibility approach illustrates how governments and industries can co-resource reparative programs at scale. Roundtable participants discussed the relevance of potential land tax on Victorian universities, which might also provide a link to compensatory principles based on tort or unjust enrichment.[38]

Corporate Equity Contribution Model (United States)

One academic proposal in the United States suggests a national reparations trust fund capitalised by requiring publicly traded companies to transfer a small portion of their equity shares into a fund for descendants of enslaved people.[39] Because the contribution is made in shares rather than cash, it allows rapid capitalisation without increasing government debt or inflationary pressure. This model offers insight into how wealth held in corporate assets, not only revenue streams, can be mobilised for redress.

3. Repurposing Underused Public Assets

Governments can also deliver redress by reallocating existing, underutilised public assets to First Peoples.

City-to-Nation Land Transfers (United States)

In 2023, the City of Minneapolis, Minnesota transferred two vacant city lots to the Red Lake Nation for USD 1 per lot.[40] The parcels had been sold to developers who never built on them; once reacquired by the city, they were redirected to their rightful custodians. It reacquired the land in February 2023 and wrote off the remaining value when completing the transfer in October 2023.[41] This model highlights how governments can use surplus, dormant or reclaimed land to support community-determined reparative initiatives.

These comparative examples illustrate that durable redress mechanisms are both feasible and widely used internationally. The following recommendations outline practical steps Victoria could take to begin translating these possibilities into a Treaty-aligned funding architecture.

[36] 'History of the EVZ Foundation', *Foundation for Remembrance, Responsibility and Future* (Web Page).

[37] Martin Behrens, 'Forced labour compensation scheme faces difficulties', *European Foundation for the Improvement of Living and Working Conditions* (Web Page, 27 February 2001); 'The Federal Government and the Foundation Initiative of the German industry', *Foundation for Remembrance, Responsibility and Future* (Web Page).

[38] A Mechele Dickerson, *'Designing Slavery Reparations: Lessons from Complex Litigation'* (2020) 98 Texas Law Review 1255;

[39] Jeremy Bearer-Friend, *'Paying for Reparations: How to Capitalize a Multi-Trillion Reparations Fund'* (2023) 67 Howard Law Journal 1:1-50.

[40] *Sale of City-Owned Property at 2931 and 2937 Bloomington Ave S to Red Lake Band of Chippewa Indians*, City of Minneapolis, RCA No 2023-01091 (2023).

[41] Jon Collins, 'City of Minneapolis plans to sell two lots to Red Lake Nation for $1 each', *MPR News* (Web Page, 21 September 2023).

CONCLUSION

Yoorrook has made clear that redress must be self-determined, comprehensive and fair, addressing the full spectrum of economic, cultural, spiritual and social harms caused by colonisation. Redress is not discretionary; it is a right held by First Peoples and therefore a legal and moral obligation of the State.

The Statewide Treaty Act establishes a strong institutional foundation for First Peoples to determine what redress should look like. Yet the power to raise and allocate resources, the practical engine of redress, remains with the Victorian Government. This places a significant responsibility on the arms of the Gellung Warl to articulate what constitutes 'sustainable and affordable' redress while ensuring that such measures remain grounded in self-determination and consistent with Yoorrook's vision.

This Report offers a non-exhaustive starting point for that work. By outlining innovative and durable funding options, it aims to support the Gellung Warl as it engages with the State, negotiates Treaty, and seeks to embed redress mechanisms that are insulated from political cycles. Ultimately, the goal is to help create a practical, well-resourced and enduring framework through which Yoorrook's recommendations can be implemented, allowing Victoria to take meaningful steps toward land justice and the broader project of truth-telling, healing and repair.

"ULTIMATELY, THE GOAL IS TO HELP CREATE A PRACTICAL, WELL-RESOURCED AND ENDURING FRAMEWORK THROUGH WHICH YOORROOK'S RECOMMENDATIONS CAN BE IMPLEMENTED, ALLOWING VICTORIA TO TAKE MEANINGFUL STEPS TOWARD LAND JUSTICE AND THE BROADER PROJECT OF TRUTH-TELLING, HEALING AND REPAIR.

IV. RECOMMENDATIONS FOR ADVANCING LAND JUSTICE REDRESS

ACTION 1: ESTABLISH A TREATY-BASED LAND JUSTICE REDRESS FUND

The Victorian Government, in negotiation with the First Peoples' Assembly of Victoria, should **establish a dedicated Land Justice Redress Fund** to support restitution, compensation and other reparative measures arising from Treaty negotiations.

The Fund should:

- be insulated from short-term political cycles
- provide long-term, stable financing for redress
- support both economic and non-economic forms of reparations consistent with *UNDRIP* Articles 26–28.

ACTION 2: EMBED FIRST PEOPLES' DECISION-MAKING AUTHORITY OVER REDRESS FUNDING

Any financial mechanisms established to resource land justice redress should **ensure meaningful First Peoples' control over the allocation and governance of funds.**

This may include:

- enabling the First Peoples' Assembly to administer or co-govern redress funding
- establishing independent governance arrangements within the Gellung Warl
- ensuring transparency and accountability mechanisms aligned with Treaty principles.

ACTION 3: DEVELOP DIVERSIFIED REVENUE STREAMS TO RESOURCE REDRESS

The Victorian Government should explore **innovative and diversified funding sources** to support land justice redress beyond reliance on the Consolidated Fund.

Potential mechanisms may include:

- targeted levies on resource extraction industries
- contributions linked to emerging sectors such as battery minerals and renewable energy supply chains
- negotiated revenue-sharing agreements with industries operating on traditional lands.

ACTION 4: ENABLE PUBLIC–PRIVATE CONTRIBUTIONS TO REPARATIVE FUNDING

The Victorian Government should facilitate **voluntary and negotiated contributions from private actors and industries that have historically benefitted from land dispossession.**

Possible models include:

- matched public–private contributions to reparations funds
- corporate equity participation in redress trusts
- negotiated settlement agreements supporting land, housing or community infrastructure.

ACTION 5: IDENTIFY AND TRANSFER UNDERUSED PUBLIC LAND FOR RESTITUTION

The Victorian Government should **conduct a comprehensive audit of surplus or underutilised public land** with a view to transferring appropriate parcels to Traditional Owners as part of Treaty-based redress.

This may include:

- vacant or dormant government land
- reclaimed development sites
- strategically significant land capable of supporting cultural, housing or economic initiatives.

APPENDIX A: YOORROOK JUSTICE COMMISSION RECOMMENDATIONS REFERENCED

RECOMMENDATION 99

The Victorian Government must:

A. Officially acknowledge the responsibility of its predecessors for laws, policies and practices that contributed to systemic injustices against Victorian First Peoples;

B. Make official apologies to First Peoples in Victoria; and

C. Negotiate with the First Peoples' Assembly of Victoria a form of words for official apologies to First Peoples individuals and communities.

RECOMMENDATION 100

Through both Statewide and Traditional Owner treaties, the Victorian Government must provide redress for injustice which has occurred during and as a result of the colonial invasion and occupation of First Peoples' territories and all consequent damage and loss, including economic and non-economic loss for genocide, crimes against humanity and denial of freedoms.

In respect of the redress obligations for the taking of land, waters and resources from First Peoples, the Victorian Government must act consistently with the principles in *UNDRIP* Articles 8(2)(b) and 28, including the following:

- Redress for economic loss including past loss, loss of opportunities and loss to future generations;
- Interest on economic loss;
- Redress for non-economic loss including cultural loss, assessed as at the date of extinguishment; and
- Interest on non-economic loss.

Redress should take the form of:

- Restitution of traditional lands, waters and natural resources ownership rights to First Peoples;
- Monetary compensation;
- Tax relief; and
- Such other financial or other benefits as may be requested by the First Peoples' Assembly of Victoria or the local Treaty bodies in Treaty negotiations.

'Redress' does not, in principle, include equitable benefit-sharing of natural resources or the revenue or other benefits derived from the use or exploitation of natural resources. First Peoples have a separate right to equitable benefit-sharing from the exploitation or use of the natural resources on their territories. Notwithstanding this, the First Peoples Assembly of Victoria and local Treaty bodies should not be prohibited from allocating additional benefit share to meet redress obligations for historical wrongs.

YOORROOK
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