

# If treaty is like a marriage, state evaluation needs sustained deep work: Evaluation and Victoria's First Peoples Treaty



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**Artwork by Yorta Yorta and Gunnai man, Dixon Patten.**  
It depicts our department, its people and commitment to  
developing the economy by helping to create Aboriginal  
employment, inclusion and prosperity

## Today we'd like to share some bumbling lessons about state evaluation in the context of First Nations treaty-making

Drawing on recent evaluations of Aboriginal economic development programs, we'll cover...

- Treaty basics and what's happening in Victoria
- The marriage metaphor – its usefulness and challenges
- Doing the sustained, deep work – four inter-linked insights

1. Centre First Nations culture, safety, experience and priorities

2. Cultivate strong, trusting and expressive relationships

3. Grow the self-determination footprint through capability building

4. Never stop reflecting and decolonising the self

### Wayfinding in complexity

- Treaty-making relatively new in Australia, despite generations of First Nations activism
- Uncharted territory calling for wayfinding to realise stronger Aboriginal self-determination



## Theory and concepts

## Treaties are a legally binding agreement between two or more sovereigns. First Nations have fought long for their sovereignty to be recognised in treaty/s in (so called) Australia

Australian First Nations peoples recognise **many** co-existing and enduring sovereigns (nations)  
 In contrast, the Australian settler state is founded on **one, indivisible state sovereign**, established through settlement (invasion) of *terra nullius*

This creates a **sovereignty impasse\*** because the settler state seemingly isn't packing its bags

### Contemporary treaties can help address the impasse and must do three things...\*\*

1. Recognise Indigenous peoples as sovereigns
2. Settle historical claims via equally negotiated agreement, all in good faith
3. The State recognises/ resources culturally appropriate self-governance structures

### Contemporary treaty-making also...

- Establishes a new political relationship based on justice and equality
- Not an end point or 'divorce', rather a co-existent relationship between sovereigns
- Takes time, e.g., 1840 Treaty of Waitangi is still contested

# Positively, colonial 'settlerism' is undergoing structural change in Victoria, with Victoria's First Peoples commencing treaty negotiations with the state government in November 2024

## High-level treaty process

- ① **State-wide treaty** between First People's Assembly of Victoria and State of Victoria (sovereign bodies)
- ② **Local treaties** negotiated between the state, Traditional Owners and other Aboriginal Victorians
- ③ **Transfer of Aboriginal Affairs and resourcing** to Aboriginal sovereign bodies for self-governance

## Supportive infrastructure

Protective law -  
Advancing the  
Treaty Process  
with Aboriginal  
Victorians Act  
2018

Representative  
voice -  
First Peoples'  
Assembly of  
Victoria

Truth-telling -  
Yoorrook Justice  
Commission

Independent  
'Treaty Umpire' -  
Treaty Authority

Agreed rules  
and process -  
Treaty  
Negotiation  
Framework

Independent  
funding to  
support  
participation

## Now, we'd like to return to the idea of treaty as a marriage to understand how this framing can help settler state evaluators come into more correct relationship with First Nations

### The idea of treaty as a marriage

Coined by a Nisga'a First Nation citizen (in Blackburn, 2017) and popularised in Australia by Mick Dodson, previously the Northern Territory Treaty Commissioner (Dodson, 2021)

### Marriage has some useful attributes we can draw-down on

- Trust, commitment, reciprocity
  - Equal power balance
  - Resource sharing
- Strong communication, conflict management, caregiving
- Clear sense of closeness, balance of alone/ together time

### But we must acknowledge marriage's checkered history and that it hasn't been safe for all\*

- Historically, a site of women's oppression with limited legal rights
- Domestic violence
- Unequal/ gendered-division of labour
- Heterosexual-only marriage has oppressed non-heterosexual relationships



## **Practical insights for state evaluation in the context of Treaty**

## Our lessons come from an evaluation of two Aboriginal economic development programs which we evaluated in partnership with Aboriginal colleagues

### Programs designed and implemented by the...

Aboriginal Economic Development branch

\$23.5m/ 2 years

11 Traditional Owner Corporations

2 Aboriginal Community Controlled Organisations

Community used resources to design

**71 self-determined projects**

with Elder, youth and other community input/ participation

### Evaluated in partnership

- Questions around Aboriginal staff interests
- Central government priorities blended-in
- Self-determination and cultural safety principles embedded
  - Weekly check-ins
- Aboriginal staff consulted community, wrote-up site evaluations
- Many timeline variations

## Insight 1: Centre First Nations culture, safety, experiences and priorities to build a stronger evaluation and self-determination footprint

*Production of knowledge has historically been an act of colonisation that has advanced the interests of the West while misrepresenting and causing further oppression of First Nations people (Tuhiwai Smith, 2021)*

### RESPECT for Traditions and Knowledge

- ▶ Acknowledge, respect, learn about and work with First Nations' cultural context, country/ place, history, language, social norms, world views and values
- ▶ Challenge dominant deficit discourses
- ▶ Create a safe cultural space

### TAILOR Methods and Approach to Culture

- ▶ Journey just as important as the destination
- ▶ Adapting methods, processes and tools to be culturally appropriate/ responsive
- ▶ Yarning, *Dadirri* and narratives - deeper connection/ insights

### INCORPORATE Indigenous Knowledge

- ▶ Centre Indigenous knowledge systems and world views in questions and what's measured
- ▶ Reflecting on our biases
- ▶ Obtain permission to use and share Indigenous knowledge. Return/ feedback data to community

## Doing this work well means non-Aboriginal evaluators need to tune-in and keep a check on our own world views and decolonise our practices

### In 'Decolonising Methodologies', Linda Tuhiwai Smith (2022) explains how...

- Knowledge and the power to define what counts is at the core of colonialism
- Decolonising methodologies/ practices are about “working with colonial and Indigenous concepts of knowledge, decentring one while centring the other” (2022, p.xii)
- Difficult to do, long-term process



How do we approach and work with government evaluation requirements that value experimental, quantitative approaches?

What is the best way to fund and holistically evaluate Traditional Owners' work on Country, when the work is ceaseless (and government funding is time-bound)?

# Our on-ground experience aligns with Neale et al.'s (2019) insights about what works when decolonising settler state practices

## Enablers

Formal agreements help reduce political complexities (insufficient on their own)

Personal commitment of key senior managers at local level to make the relationship a success – going beyond, incl. outside work hours

Central actors establishing interpersonal relationships of trust, obligation and honesty – openness and vulnerability

Actors motivated by shared ideological commitment, incl. “Institutions owe a historical debt”

Traditional Owners given degree of independence in agencies

Appropriate and ‘work ready’ Aboriginal people with skills, qualifications, experience and interest

## Obstacles

Cultural distance between parties, incl. Aboriginal distrust of government and lack of belief in different world views

Largely ‘white’ spaces of government agencies: “You can walk into an office... no Aboriginal people, you feel like fish out of water”

Aboriginal people given the ridiculous task of being asked what Aboriginal people feel en masse

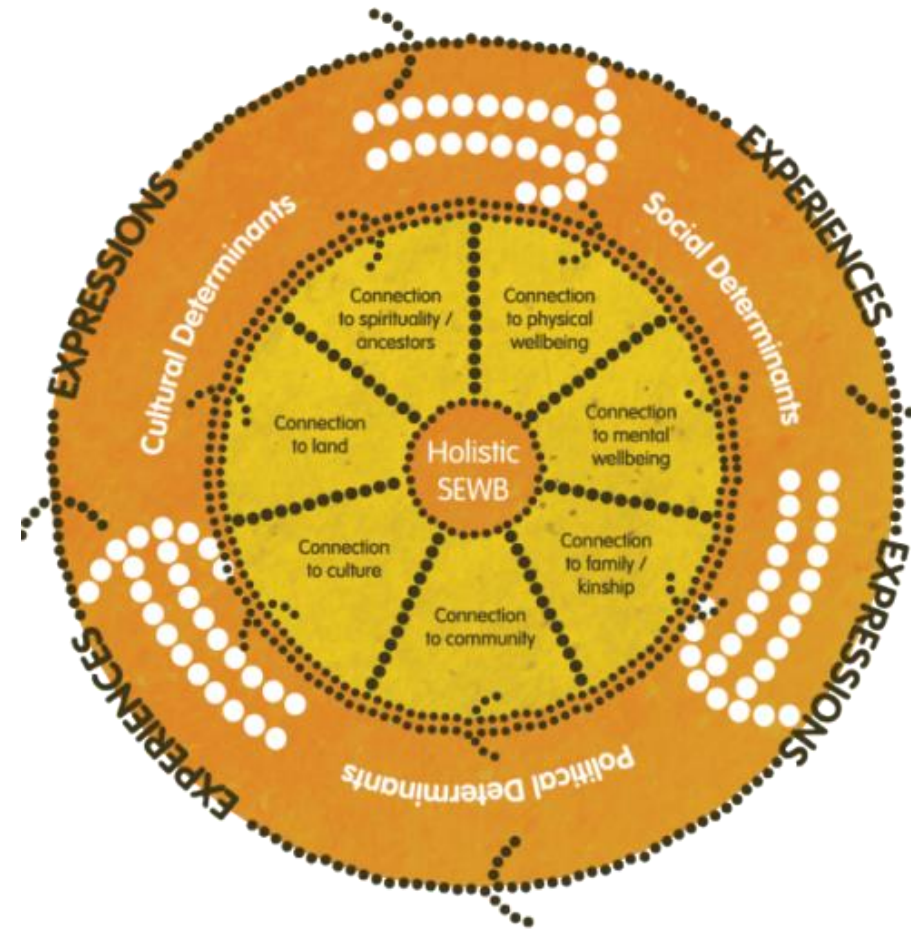
Government “mumbo jumbo... the [exhausting] vanilla governmental business”

Institutional and staff churn, creating partnership vulnerability

Underlying finances

## Holistic social and emotional wellbeing is a priority outcome for community which needs to be centred in program design and evaluation

We incorporated Gee et al.'s (2014) framework for Social and Emotional Wellbeing and Mental Health in measurement tools



**Traditional Owner evaluation results**

**The program had a positive impact on all connection factors with an average score of 8 out of 10**

## Insight 2: Cultivate strong, trusting, safe and expressive relationships towards stronger collaboration and evaluation in the treaty marriage

*“To achieve better policy outcomes, what Aboriginal people value, their expertise and lived experiences need to be reflected in what is evaluated, how evaluation is undertaken, and the outcomes policies seek to achieve. If the outcomes of policies are not what [they value] then the policies have limited value and little prospect of improving the lives” (Productivity Commission, 2020)*

- **Partnership:** Effective evaluation with First Nations people requires more than just technical expertise. It demands cultural humility, patience and a genuine partnership as in marriage
- **Community Centred Approach:** Centering First Nations people and their community/s in every aspect of the evaluation process contributes to more meaningful and sustainable outcomes

### Early and regular engagement

- Actively involving the community from the beginning and throughout, without overburdening
- Co-design using culturally and linguistically appropriate mechanisms

### Building Safety and Trust

- Strengthening long term relationships based on mutual respect, understanding and trust
- Genuine two-way commitment to community outcomes is vital for effective collaboration
- Non-Aboriginal evaluators play a critical role in building culturally safe spaces

## Checking our white privilege/ supremacy and fighting for the time it takes to do things right are also part of creating a culturally safe treaty marriage

### White privilege/ supremacy

- Peggy McIntosh (1989) and Layla F. Saad (2020)
- The unquestioned and unearned set of advantages, entitlements, benefits and choices given to white people because they're white
- White people generally unconscious of it
- Inseparable from racism – we see racism as a problem for First Nations without recognising the 'Siamese twin' of white advantage

### Evaluators can play a role in reminding organisational leaders to test dominant assumptions...

When our staff go to meetings with other agencies, we can be assured they'll be culturally safe

When arranging meetings with Aboriginal agencies we can be assured the meetings will be conducted in a way that reflects our cultural approach

Our organisation can develop a Reconciliation Action Plan without consulting the Aboriginal community

## Insight 3: Grow the self-determination footprint through building First Nations evaluation capability

### Key lessons

- ▶ **Capability building** – for Aboriginal evaluators, staff and community to lead evaluations in culturally safe ways – building skills and knowledge that can be used in future programs and evaluations
- ▶ **First Nations decision-making** – enabling and elevating Aboriginal decision-making to ensure Indigenous values, perspectives and voices are wholly incorporated. Create/ leverage formal governance structures

## Insight 4: Never stop learning-up, reflecting and decolonising yourself and the institutional structures around you

### Lifelong self-work

In the spirit of the AES First Nations Cultural Safety Framework:

- Self-reflection and checking our privilege
- First Nations friends/ colleagues aren't responsible for educating non-Aboriginal people about white privilege



### Build stronger connections

- Drop your ego, open your heart
- Toughen-up while being vulnerable
- Going 'off piste', building greater trust and understanding
- Build comfort in the unknown – treaty is uncharted

*"You can't push people to share knowledge – you just accept what they think you're ready for. Usually, knowledge keepers will withdraw if they sense narcissism in you... [if you've] approached this yarn in the wrong state of mind" (Yunkaporta, 2019, p.48)*

## So, if treaty is like a marriage, how can public sector evaluators help create an equal, strong treaty marriage?

**Our early-days experiences highlight that power lies in a deep, sustained focus on...**

1. Building strong, trusting relationships that thrive in the face of uncertainty and change

2. Challenging dominant settler state culture, practices and timelines

3. Two-way capability building to centre First Nations views and priorities

4. Individual self-work and learning to level-up as a marriage partner

If you'd like to connect with us about this presentation, don't hesitate to email or call

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## References

## The following references made an impact on our thinking

- Bonnice, J. (2018). *Identifying and Addressing Organisational and White Privilege*, Bendigo: Bendigo Reconciliation Committee
- Blackburn, C. (2007). 'Producing Legitimacy: Reconciliation and the Negotiation of Aboriginal Rights in Canada'. *Journal of the Royal Anthropological Institute*, Vol.13, No.3, pp.621-627
- Bruyneel, K. (2007). *The Third Space of Sovereignty*, Minneapolis: University of Minnesota Press
- Chambers, C. (2017). *Against Marriage: An Egalitarian Defense of the Marriage-Free State*. Oxford: Oxford University Press.
- Dodson, M. (2021), We dare to hope: Treaty-making in Australia, in A. Whittaker, H. Hobbs and L. Coombes, *Treaty-making*, Alexandria: The Federation Press
- Gee G, Dudgeon P, Schultz C, et al. (2014) Aboriginal and Torres Strait Islander Social and Emotional Wellbeing. In: Dudgeon P, Milroy H, Walker R (eds), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice*. Canberra, ACT, Australia: Commonwealth Government of Australia, pp. 55–58
- Gollan, S. and Stacey, K. (2021). *Australian Evaluation Society First Nations Cultural Safety Framework*. Carlton South: Australian Evaluation Society
- Neale, T., Hood, S., Hopson, R., and Frierson, H. (Eds.) (2014). *Continuing the Journey to Reposition Culture and Cultural Context in Evaluation Theory and Practice*. (Evaluation and Society). Information Age Publishing Inc.
- Productivity Commission (2020). *A Guide to Evaluation under the Indigenous Evaluation Strategy*
- Saad, L. (2020). *Me and White Supremacy: How to recognise your privilege, combat racism and change the world*. London: Quercus
- Street, C., Kendall, B., McGhie, T., O'Flaherty, L., & Schaeffer, D. (2023). A Culturally Adaptive Approach to First Nations evaluation consulting. *Evaluation Journal of Australasia*, Vol. 23, No.1, pp.6-22
- Tuhiwai Smith, L. (2022). *Decolonizing Methodologies: Research and Indigenous Peoples*, 3rd edition. London: Bloomsbury Academic
- Yunkaporta, T. (2019). *Sand Talk: How Indigenous thinking can save the world*. Melbourne, Wurrundjeri Country: Text Publishing Company