TREATY IN SOUTH AUSTRALIA

WHAT IS TREATY?
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What is Treaty?

Treaty is, at its very core, an agreement.

Treaty involves three elements: recognition of Indigenous people as polities, negotiation and lastly is a settlement of claims.

There is no one type of treaty, but a diverse variety of agreements establishing and governing a collection of interrelationships.

The Vienna Convention on the Law of Treaties provides that a treaty is ‘an international agreement concluded between States in written form and governed by international law’.

In South Australia, discussions began between the South Australian Government and three Aboriginal nations aimed at finalising a Treaty from 2016 to 2017. These discussions culminated to the Buthera Agreement, which was signed in 2018. However, after the Marshall Liberal government was elected, treaty negotiations stopped.

The Buthera Agreement was the first significant step towards a state-based Treaty in South Australia, focused on policy areas of health, justice and education.

References

Click to view resource online (if supported)
1. SBS, Explainer: What is a Treaty?
3. The Buthera Agreement
4. NITV, Treaty for Dummies
History of Treaty in South Australia

1981

The Pitjantjatjara Land Right Act commenced operation granting certain rights to the Anangu Pitjantjatjara Yankunytjatjara in South Australia. Rights included the direct grant of inalienable freehold land. However 'absent any legally enforceable right to land, these settlements remained essentially ad hoc, limited in utility for other First Nations peoples and predicated on a supportive political environment.

2017

In February 2017, Dr Roger Thomas was appointed Treaty Commissioner for South Australia to lead the initial discussions for treaty across the state.

Following a report by Dr Thomas in July 2017, the State commenced negotiations with three Aboriginal nations - the Ngarrindjeri, Narungga and Adnyamathanha.

2016

The South Australian Minister for Aboriginal Affairs and Reconciliation, Kyam Maher, announced that the SA government would commit $4.4 million over five years towards the establishment of up to 40 treaties across South Australia.

2018

In February 2018, the then Labor government signed the Buthera Agreement with the First Peoples of the Yorke Peninsula, the Narungga nation.

However, the incoming Marshall Liberal Government paused the treaty negotiation process and stated that they wanted to focus on ‘practical outcomes’. Treaty discussions have now stopped and the role of Treaty Commissioner ceased in July 2018.

References

Click to view resource online (if supported)
1. Treaty and Aboriginal Regional Authority Policy [March 2016]
Where are we up to?

In 2018, treaty negotiations took place with the Narungga, Adnyamathanha and Ngarrindjeri nations, which resulted in the Buthera Agreement.

A Statement of Acknowledgement to set a framework for further negotiations was signed between the then Labor government and the Ngarrindjeri Regional Authority, but no formal agreement was reached with the Adnyamathanha Nation.

Following this, the then incoming Liberal Government paused the treaty negotiation process.

While this change in state government policy direction means that treaty discussions and further implementation of the Aboriginal Regional Authority Policy is not currently being pursued, the Government has advised that they remain committed to working in partnership with Aboriginal people and organisations to develop place based strategies and recognition and support of Aboriginal governance structures.

The Buthera Agreement with the Narungga Nation was intended to provide capacity building support for the Narungga Nation Aboriginal Corporation to drive development, economic enterprise and collaborative engagement with government agencies on Guuranda (Yorke Peninsula).

The Agreement included social service strategies covering youth justice, housing, domestic violence, health, child protection and education and cultural studies, all of which are matters the government advises they are willing to continue tackling in partnership with the Narungga Nation.

"I think it’s going to mean the satisfaction of acknowledging that Australia was basically invaded... And that the process of sitting down and negotiating a final outcome for us – because we’ve been totally dispossessed of everything – and coming up with a good solution that could move our community, children and families forward."

Tauto Sansbury, Chairman of Narungga Nations
Where are we up to?

As an outcome of previous treaty discussions, implementation of this agreement has now been embedded into the South Australian government’s Aboriginal Affairs Action Plan 2019 to 2020.

Several other activities in the Action Plan will also be place-based, enabling the government to work in partnership with local Aboriginal Nations to pilot new and innovative activities, which, where successful, will provide a model for implementation across the state.

The previous government released the policy in 2016, with six organisations being recognised as Aboriginal Regional Authorities in 2016 and 2017.

Although the Government has advised that they will continue to work collaboratively and engage with these groups through implementation of the Action Plan, the prospect of a Treaty does not appear to be at the forefront of the Government's mind.

This however is not the case for the South Australian Aboriginal groups who wish for the treaty conversation to re-commence.

"While the new government is not continuing with the treaty process, we are committed to continuing our discussions with Aboriginal communities about the implementation of our Aboriginal affairs policy."

SA Premier, Steven Marshall

References

Click to view resource online (if supported)

2. ABC News, SA Government decides not to go ahead with Aboriginal treaties, 8 June 2018
3. South Australian Aboriginal Regional Authority Policy [March 2016]
“What Aboriginal people ask is that the modern world now makes the sacrifices necessary to give us a real future. To relax its grip on us. To let us breathe, to let us be free of the determined control exerted on us to make us like you... recognise us for who we are, and not who you want us to be. Let us be who we are – Aboriginal people in a modern world – and be proud of us.

Acknowledge that we have survived the worst that the past had thrown at us, and we are here with our songs, our ceremonies, our land, our language and our people – our full identity. What a gift this is that we can give you, if you choose to accept us in a meaningful way”

Referendum Council member, Galarrwuy Yunupingu in his essay ‘Rom Watangu’