



WHAT IS A TREATY?

A Treaty is a settlement or agreement arrived at by *treating* or negotiation. A treaty gives rise to binding obligations between the parties who make them. It acts to formalise the relationship between the parties to the agreement(s).

As evidenced by modern treaty making between Governments and First Nations peoples in Canada and New Zealand, treaties are not restricted to agreements between countries. Treaties can be negotiated between states, nations, governments and/or people.

WHY IS A TREATY NEEDED IN THE NT?

The NT Government recognises that Aboriginal peoples as First Nations peoples have distinctive rights and special status in the NT based on their occupation prior to European settlement. Treaty or Treaties will set the foundation for future agreements between Aboriginal people and the Northern Territory Government. A Treaty will allow both parties to negotiate and agree on rights and responsibilities and establish a long lasting legally based relationship.

ARE THERE LIMITS TO A NT TREATY?

Because the NT is a territory and not a state, its ability to self-govern is granted by the Northern Territory (Self-Government) Act 1978 (Cth). A NT Treaty cannot be inconsistent with what this Act allows.

Additionally, a NT Treaty cannot be inconsistent with any Commonwealth legislation. Critical pieces of Commonwealth legislation in the NT that will need to be considered carefully in this context are the *Aboriginal Land Rights (Northern Territory) Act 1978* (Cth) and the *Native Title Act 1993* (Cth).

TREATY OR TREATIES?

Options include, but are not limited to:

A single Treaty

This could include one Treaty that a number of Aboriginal groups sign onto. A single Treaty can take into account the differences between Northern Territory Aboriginal peoples, however, it may be restricted in its ability to provide region specific outcomes

Overarching Treaty with separate side agreements

An umbrella Treaty would be a general agreement between the Northern Territory Government and Aboriginal people in the Territory concerning certain matters. Then under the umbrella Treaty, Aboriginal groups can negotiate separate agreements for additional or distinctive rights depending on their situation and regional needs.

Multiple Treaties

A number of separate Treaties could be agreed between the Northern Territory Government and different Aboriginal groups (eg by First Nation(s), language group, regions, etc).

WHEN WILL A TREATY OR TREATIES BE MADE?

Developing a Treaty or Treaties will take time.

Professor Mick Dodson AM has been appointed as the NT's Treaty Commissioner. His first job is to find out whether Aboriginal Territorians want a Treaty(ies).

If the answer is yes, then his next job is to develop a framework for negotiating future Treaties following extensive research and consultation. The foundations of any framework must be based on mutual respect; good faith; equality of standing; and cultural appropriateness across all stages of Treaty development. More details about Commissioner Dodson's role can be found in Fact Sheet No 1.

A recommended framework will be presented to the NT Government in late 2021, so it is unlikely that any treaty negotiations will occur before then.

FOR MORE INFORMATION:

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