

# Talking Treaty

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DR ROGER THOMAS

TREATY COMMISSIONER FOR SOUTH AUSTRALIA

# Background

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- December 2016 - South Australian Government said it will enter into treaty talks with the Aboriginal people of South Australia
- February 2017 - Government appointed Treaty Commissioner, Dr Roger Thomas



# Role of Commissioner

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- Conduct broad consultation on suitable framework for Treaty between South Australian Government and Aboriginal South Australians
- Provide advice to the Minister for Aboriginal Affairs and Reconciliation on a Treaty framework which could recognise the unique cultural identity of all Aboriginal South Australians
- Facilitate conversations for a possible Treaty framework process between the State Government and Aboriginal South Australians
- Lead conversations with Aboriginal communities to define their priorities for Treaty

# What is Treaty

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- A Treaty is a legal agreement between two or more parties
- In this case, a Treaty would be a negotiated agreement between the South Australian Government and individual Aboriginal Groups/Nations
- The State of South Australia has limited powers under the Australian Constitution and may only enter into agreements in line with these powers

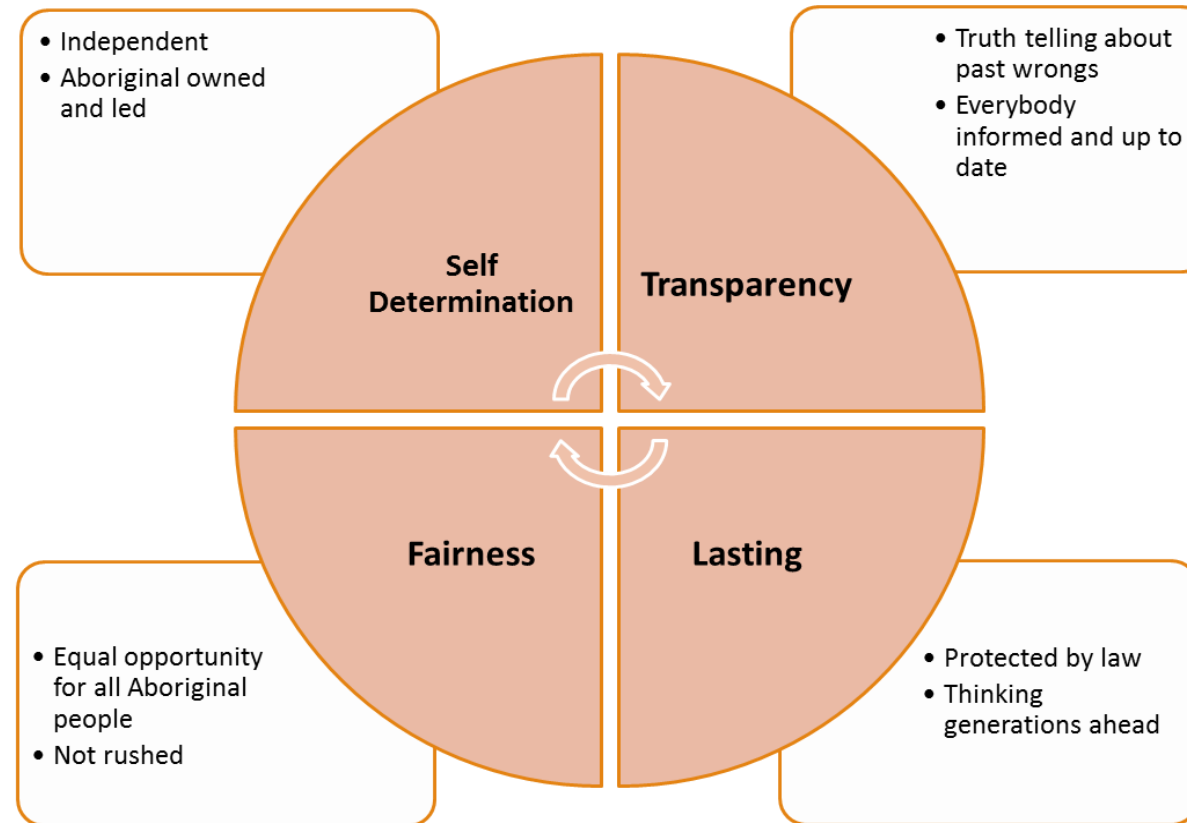
# Pathway to Treaty

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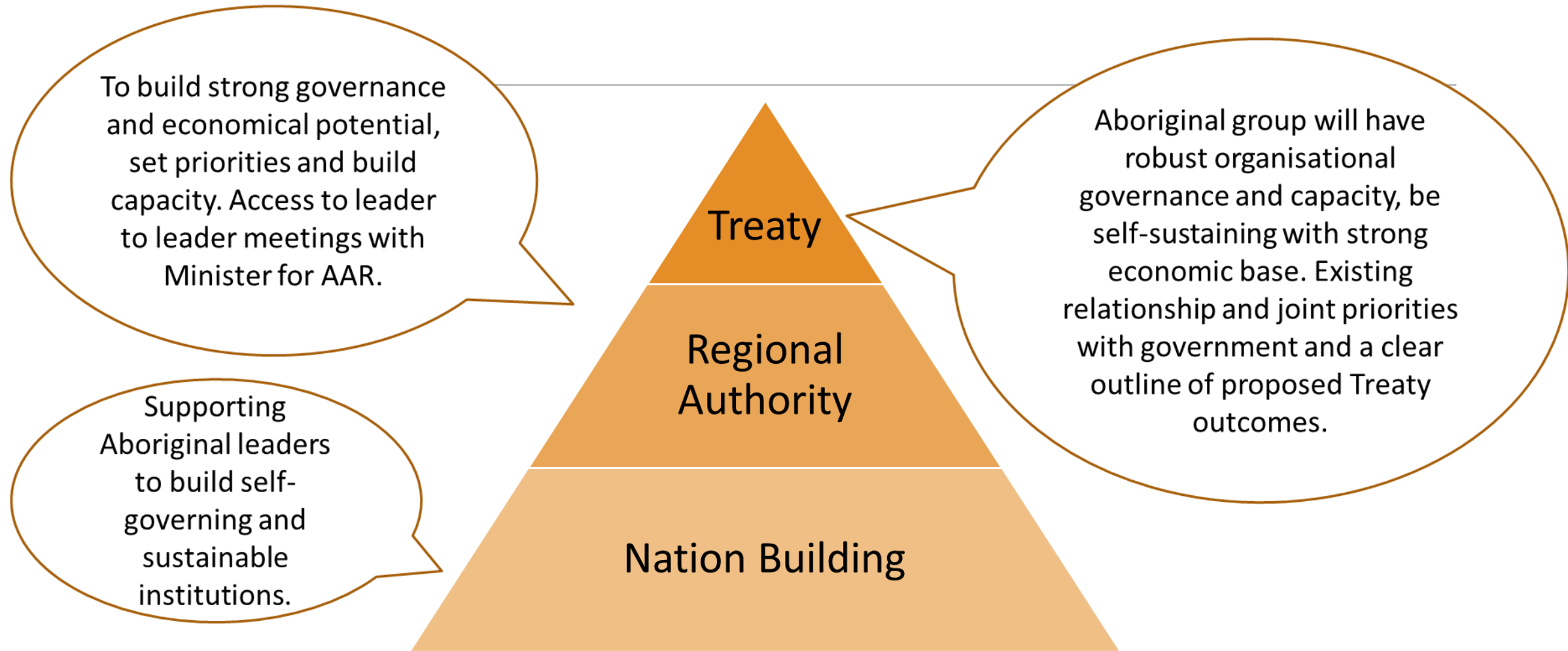
The Commissioner was asked to provide the Minister with a report on a possible Treaty framework. This entailed;

- Extensive engagement across South Australia
- Support and input provided by out posted Crown solicitor, utilised during the initial period
- Extensive research into; the Canadian- First peoples, New Zealand - Maori and the Victorian treaty models
- “Talking Treaty”, is a report based on these findings and was provided for the Minister on 21st July 2017

- Based on the feedback to date, the pathway to Treaty should be about:
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# Tiered approach to Aboriginal Governance and Leadership



# Initial Treaty Process

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- The current South Australian Government has committed to support the Treaty process over the next four years (2017-2020)
- It is anticipated that up to three Groups/Nations be invited to commence Treaty negotiations through an Expression of Interest process during 2017-2018
- Other Groups/Nations will be invited over the remaining four year period
- Building the capability of new and existing Aboriginal groups over this time will be required to ensure fair representation of members of the Aboriginal community and ensure meaningful engagement



# Consultation scope

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- 600+ attendances at meetings and engagements
- 280+ detailed written submissions and hardcopy and online survey responses
- 2000+ visits to website (average time spent 4 minutes)
- 1500+ consultation papers and flyers circulated
- 160+ followers on Facebook @Treaty Commissioner
- 100+ mail-outs to targeted stakeholders
- 700+ electronic direct emails to DSD-AAR database
- 100,000+ recipients of South Australian Government Electronic Messaging Service (SAGEMS)



# Eligibility/Criteria

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A significant aspect of the “Talking Treaty” Report, recommended that the key areas for Groups/Nations, eligibility/criteria should include:

- Name
- Treaty Aspirations
- How organised and established
- Who group or nation represents
- Boundaries
- Authority to negotiate Treaty
- Balance view
- Cultural Framework

# Expression of Interest Process

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- During August 2017, a state-wide Expression of Interest was called for Groups/Nations to submit their application to be considered for Treaty negotiations
- The Expression of Interest criteria, was based on the “Talking Treaty” eligibility Framework
- A Treaty Advisory group was appointed by the Minister for Aboriginal Affairs and Reconciliation and provided a report for the approval of the Minister

# Nation Groups currently at the table

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Narungga



Adnyamathanha

Ngarrindjeri



# Preparing for negotiations

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- Commissioner to lead conversations with Groups/Nations to define their priorities for Treaty
- Assist Groups/Nations to prepare for treaty negotiations, including;
  - Outlining the negotiation process
  - Discuss what could be in the preamble documents
  - Aims and Objectives of how the Treaty negotiations should be conducted
  - Work as a conduit between Groups/Nations and Government

# Introductory Session

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The purpose of the Introductory session is to have Groups/Nations and Government at the table

- Commissioner to prepare Group/Nation for Treaty negotiation phases
- Discussion to include; Preamble, Objectives, Terms and Conditions, Heads of Agreement, Values/Principals of both parties
- Sessions to be held on country and to include presentation by Minister Maher

# Phase 1 Negotiations

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- Based on agreed principles from the Introductory session
- Negotiations are headed by Senior Deputy Executive Officer. Assisted by Directors of Governing Agencies identified by Groups/Nations in Treaty proposal e.g DEWNR, DECD, DPTI, DCP
- Purpose of the negotiations is to establish the key aspirations /priorities of the Group/Nation for Government to respond to
- These negotiations are the first between the specific Group/Nation and the Government. Government will be represented by either Agency CE's, Deputy CE's or Directors

# Phase 2 Negotiations

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- Led by CEO of Department of Premier and Cabinet, Dr Don Russell, accompanied by two Deputy CE's and appropriate CEO's/Deputy CEO's of the identified agencies from Communities/Nations priorities
- Government Agency's to provide responses
- Negotiated priorities to be presented to Cabinet for consideration
- Subject to cabinet approval, Treaty Agreement drafted



# Treaty Finalisation

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- Signatories to come together from both parties to affirm Treaty terms



# Questions?

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