



Tasmanian Aboriginal Centre

Summary submission to the UN Special Rapporteur on the Rights of Indigenous Peoples

For preparation of the Special Rapporteur's visit to Australia, 2-13 November 2026

April 2026

This submission is a summary document. It is intended to identify priority concerns and relevant UNDRIP standards rather than provide an exhaustive evidentiary record.

1. About the Tasmanian Aboriginal Centre

The Tasmanian Aboriginal Centre (TAC) was established by the Tasmanian Aboriginal community in the early 1970s.

The TAC is governed by, and accountable to, the Tasmanian Aboriginal community through a structure reflecting our right to self-determination in the governance of our own affairs and institutions.

For over fifty years, the TAC has advocated for the recognition and protection of the civil, political, and cultural rights of the Tasmanian Aboriginal community, addressing systemic injustices, which most notably included the historical denial of our very existence by the State.

The TAC delivers programs in health, land and sea management, and has led the revival of our language, palawa kani. The TAC also seeks relief from poverty, illness, and distress among Tasmanian Aboriginal people and pursues Aboriginal land and cultural rights, including the protection of our sacred heritage places and objects, and the return of ancestral remains and cultural objects stolen from us.

We undertake to achieve these ends by pursuing all lawful means available to us.

To understand our struggle in a different way, we invite you to [watch this short video](#), entitled UnExtinction because Tasmanian Aboriginal People consider ourselves the world's first Indigenous People to declare ourselves unextinct.

2. Purpose of this submission

To provide the Special Rapporteur with a concise overview of priority concerns held by the Tasmanian Aboriginal community about the conduct of the Tasmanian Government.

To identify the parts of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) that are most relevant to those concerns.

To show how UNDRIP can be used not only to identify current failures, but also to measure progress and success.

3. Priority concerns at a glance

Issue	Why TAC is concerned	Key UNDRIP articles
State interference with Aboriginal identity	Aboriginal people are denied the right to decide our own membership.	Arts 3,4,5,7,8,18,19,23, 33
Youth justice / Ashley-Risdon transfers	Aboriginal children remain exposed to punitive, harmful and culturally unsafe treatment, including transfer into adult prison settings.	Arts 7, 17(2), 21, 22
Aboriginal heritage	The State continues to control the system and proposed reforms do not appear to centre Aboriginal ownership, authority and free, prior and informed consent.	Arts 11, 12, 18, 19, 25, 31, 32
Treaty and truth telling	The State has stepped back from treaty and continues to frame Aboriginal decision-making through government-controlled processes rather than recognition of Aboriginal political authority.	Arts 3, 4, 5, 18, 19, 23, 37
Aboriginal legal services and justice access	Inadequate support for Aboriginal legal services weakens access to justice, culturally safe representation and effective remedies.	Arts 5, 18, 21, 27, 34, 40
Land returns and material support to grow	The pace and scale of land return remain inadequate, constraining cultural revival, self-determination and economic development.	Arts 3, 20, 21, 23, 25, 26, 27, 28, 32

4. State interference in Aboriginal Identity

In 2016, the Tasmanian Government revised its framework for recognition of Aboriginal people by arbitrarily removing the requirement of individuals to provide documentary proof of Aboriginal ancestry.

Under the current model adopted by the State of Tasmania, an individual's claim to be Tasmanian Aboriginal is considered legitimate based on self-identification in so far as it is supported by membership to, or recognition from, an Aboriginal organisation registered with the Office of the Regulator of Indigenous Corporations (ORIC).

By way of explanation, ORIC is a Commonwealth Government body which regulates the corporate governance of Aboriginal and Torres Strait corporations under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)*. As a regulatory body, ORIC has no cultural or legal mandate to determine the validity of the Aboriginality of the membership base of the organisations it regulates.

In practice, while a small number of ORIC registered organisations operating in the State of Tasmania apply high evidentiary standards to ensure the legitimate Aboriginality of their membership base, most do not.

The State of Tasmania makes no distinction between such entities, and by elevating all ORIC registered organisations as appropriately placed arbiters of Tasmanian Aboriginal identity, the State of Tasmania conflates corporate membership with our status as a unique people with inherent rights.

In a nutshell, the current approach of the State of Tasmania in determining Aboriginal identity is damaging because it gives equal weight to the claims of those who cannot establish their standing beyond corporate affiliation, with the views and aspirations of genuine Tasmanian Aboriginal people.

The approach has also enabled the State of Tasmania to vest what are properly understood as collective cultural rights, such as access to cultural marine resources, in corporate entities that restrict access to a limited membership base, excluding Aboriginal people who hold cultural rights but are not members of those organisations. It was also used for the basis of a failed attempt to interfere with the Aboriginal Land Council of Tasmania's election process which if successful would have eroded the integrity of Aboriginal land rights legislation and had a significant impact on a key Tasmanian Aboriginal representative institution.

Relevant UNDRIP Articles

- Article 3: Right to self-determination.
- Article 4: Right to self-determination and autonomy in governing internal affairs.
- Article 5: Right to maintain and strengthen distinct political, legal, economic, social and cultural institutions.
- Article 8(1)–(2): Right not to be subjected to forced assimilation or destruction of culture, including mechanisms that undermine identity.
- Article 18: Right to participate in decision-making through representatives chosen in accordance with Indigenous procedures.
- Article 19: Requirement for free, prior and informed consent in matters affecting Indigenous peoples.
- Article 23: Right to determine and administer programs affecting health, housing and social conditions.
- Article 33(1)–(2): Right to determine identity and membership in accordance with customs and traditions.

How the State is failing against these standards

The State's reliance on any ORIC registered organisation to determine Aboriginal identity displaces our right to determine our own membership.

The state becomes complicit in the assimilation of Tasmanian Aboriginal people and the destruction of our cultural and social structures which underpin our identity.

By conflating corporate membership with cultural identity, the State denies us our humanity and creates pathways which afford non-Aboriginal people authority over, and involvement in our affairs.

What success would look like:

Formal recognition, in law and policy, that Tasmanian Aboriginal people have the exclusive right to determine our own identity and membership.

State frameworks that recognise and defer to culturally legitimate Aboriginal institutions, rather than administrative or corporate structures, in matters of identity and representation.

All laws, policies, and appointments affecting Aboriginal people to be developed and implemented with free, prior and informed consent and genuine community control.

5. Youth justice: Ashley Youth Detention Centre and transfers to adult prison

In December 2025, the Tasmanian Aboriginal Centre (TAC) became aware, through information disclosed by a whistleblower, of the intended transfer of three Aboriginal boys from Ashley Youth Detention Centre to Risdon Prison.

Subsequent inquiries undertaken by TAC established that the three boys concerned, nor their families had been informed of the State's intention to transfer them into an adult custodial setting.

Two of the boys had not yet been sentenced and were therefore eligible to seek bail. The absence of notice, coupled with the covert way the transfer was planned to take place, stood to deprive the boys of the opportunity to obtain independent legal advice or challenge the proposed transfer, thus constituting a denial of procedural fairness.

The transfer of the children was scheduled to occur on the final day of ordinary business operations prior to the Christmas shutdown period, further limiting access to the Courts and legal representation.

Following involvement of the local media, the Tasmanian Government partially reversed its position, resulting in one boy remaining within the youth detention system.

The remaining two boys were transferred and detained within an adult custodial environment, one of whom was being held in pre-sentence detention/remand and the other with less than a month to serve on sentence.

From TAC's perspective, these actions reflect a punitive and non-transparent approach to the management of Aboriginal children in custody.

Relevant UNDRIP articles

- Article 7: Indigenous individuals have rights to life, physical and mental integrity, liberty and security of person.
- Article 17(2): Indigenous children must be protected from economic exploitation and from performing work that is hazardous or harmful; while not a detention provision, it reinforces the State's heightened protective duties toward Indigenous children.
- Article 21: Indigenous peoples have the right, without discrimination, to the improvement of our social conditions, including in relation to health and social security.
- Article 22: Particular attention shall be paid to the rights and special needs of Indigenous elders, women, youth, children and persons with disabilities.

How the State is failing against these standards

Aboriginal children appear to be treated as a custodial management problem rather than rights-holders entitled to culturally safe care and special protection.

Transfers from youth detention into adult prison settings are inconsistent with the heightened protection required for Indigenous children and youth.

A lack of transparency and Aboriginal community involvement in such decisions undermines trust, accountability and child safety.

What success would look like

No transfer of Aboriginal children into adult prison environments except in the most exceptional circumstances and with full transparency, independent oversight and legal safeguards.

Mandatory Aboriginal-led decision-making processes wherever Aboriginal children are at risk of detention, transfer or restrictive practices.

Investment in Aboriginal-led diversion, family support, therapeutic care and post-release support instead of escalation into more punitive settings.

6. Aboriginal heritage

The TAC remains deeply concerned about both the legacy of the *Aboriginal Heritage Act 1975* (Tas) and the way the Tasmanian Government is developing its replacement legislation.

TAC's core concern is structural: Aboriginal heritage protection fails when the State controls the process, retains ultimate power, and treats Aboriginal people as stakeholders to be consulted rather than as rights-holders with authority.

Aboriginal Heritage in Tasmania is not simply a matter of artefacts or site management. It is inseparable from identity, culture, ancestors, Country and our continued existence as a people.

Relevant UNDRIP articles

- Article 11: Indigenous peoples have the right to practise and revitalise our cultural traditions and customs.
- Article 12: Indigenous peoples have the right to maintain, protect and have access in privacy to our religious and cultural sites.
- Article 18: Indigenous peoples have the right to participate in decision-making in matters affecting our rights through representatives chosen by themselves.
- Article 19: States shall consult and cooperate in good faith with Indigenous peoples through our representative institutions in order to obtain free, prior and informed consent before adopting legislative or administrative measures that may affect them.
- Article 25: Indigenous peoples have the right to maintain and strengthen our distinctive spiritual relationship with our traditionally owned or otherwise occupied lands, territories, waters and coastal seas.
- Article 31: Indigenous peoples have the right to maintain, control, protect and develop our cultural heritage, traditional knowledge and traditional cultural expressions.
- Article 32: States shall consult and cooperate in good faith with Indigenous peoples in order to obtain free, prior and informed consent prior to the approval of projects affecting our lands, territories or other resources.

How the State is failing against these standards

The legal framework has historically failed to prevent destruction, damage or override of Aboriginal heritage.

Government-led reform that keeps decisive power in State hands falls short of UNDRIP's requirement for decision-making through Aboriginal representative institutions and for free, prior and informed consent.

The State's language of 'balancing' heritage protection with development risks treating Aboriginal heritage as negotiable rather than as a protected expression of inherent rights.

The State [says that it supports](#) Aboriginal-led processes, including co-designing legislation, but it has failed to abide by its own commitments with how it's gone about drafting its new Aboriginal heritage Bill.

The process has not been Aboriginal-led and does not include co-design opportunities.

What success would look like

A heritage law that recognises Aboriginal ownership, authority and control over Aboriginal heritage, not merely consultation.

Independent Aboriginal decision-making structures with real powers, enforceable protections, transparency and remedies.

FPIC embedded in both legislation and practice before approvals or legislative changes affecting heritage are made

Protection standards that apply across all activities capable of damaging Aboriginal heritage, with strong monitoring and enforcement.

7. Treaty, truth and voice

Tasmanian Aboriginal people continue to seek recognition of our political status and decision-making authority. TAC is concerned that the Tasmanian Government has stepped back from Treaty while retaining strong control over the terms, scope and sequencing of any truth-telling processes.

For TAC, truth without power-sharing and structural reform is inadequate. A process that asks Aboriginal people to tell the truth, but does not recognise our authority or deliver material change, risks becoming symbolic rather than transformative.

Relevant UNDRIP articles

- Article 3: Indigenous peoples have the right to self-determination.
- Article 4: Indigenous peoples have the right to autonomy or self-government in matters relating to our internal and local affairs.
- Article 5: Indigenous peoples have the right to maintain and strengthen our distinct political, legal, economic, social and cultural institutions.
- Article 18: Indigenous peoples have the right to participate in decision-making through representatives chosen by themselves.
- Article 19: States must seek free, prior and informed consent before adopting measures that affect Indigenous peoples.
- Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising our right to development.
- Article 37: Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or our successors.

How the State is failing against these standards

By retreating from treaty and privileging government-designed processes, the State risks denying practical expression to Aboriginal self-determination.

Consultation without transfer of authority is not the standard set by UNDRIP.

Truth-telling is insufficient if it is not accompanied by structural recognition, negotiated outcomes and durable institutional change.

What success would look like

Re-engagement with treaty or another genuinely negotiated framework that recognises Tasmanian Aboriginal people as a political community with whom the State must deal in good faith.

Aboriginal-led truth processes that are connected to justice, redress, land return, legal reform and institutional accountability.

Permanent mechanisms for Aboriginal participation and consent in matters affecting Aboriginal rights, lands, heritage and community development.

8. Aboriginal legal services and access to justice

The Tasmanian Aboriginal Centre (TAC) draws attention to the 2015 removal of Aboriginal Legal Service funding from TAC and its transfer to the Tasmanian Aboriginal Legal Service (TALS) which was undertaken without consultation or the consent of the Tasmanian Aboriginal community.

The current model of the Tasmanian Aboriginal Legal Service is structurally exclusionary.

Decision-making is confined to individuals affiliated with specific ORIC-registered organisations, excluding the broader Tasmanian Aboriginal community from participation in a publicly funded service established for our own benefit.

At the same time, there are no minimum requirements that those in governance positions hold legal qualifications or possess expertise in the delivery or oversight of legal services. By contrast, Legal Aid Tasmania is governed by statutory safeguards, professional standards, and legally qualified leadership.

The Tasmanian Government has therefore imposed two different standards within the same publicly funded legal system: a regulated, professional model for non-Aboriginal people, and an unregulated, exclusionary model for Aboriginal people.

How the State is failing:

- Enforcing double standards: Aboriginal legal services are held to lower professional and governance standards than those serving non-Aboriginal people.
- Excluding community control: Decision-making is limited to politically aligned individuals, undermining free, prior, and informed consent.
- Delivering culturally unsafe procedures: Services are designed without alignment to Aboriginal legal and social structures, weakening effective remedies and perpetuating inequality.
- Undermining equality before the law: Aboriginal clients face the State without competent, accountable advocacy, deepening systemic disadvantage.

What success would look like:

- Publicly funded Aboriginal legal services that are genuinely community-controlled and inclusive.
- Governance by qualified individuals, combining professional expertise with cultural authority.
- Transparency and accountability equivalent to non-Aboriginal legal services, ensuring equality before the law.

9. Land returns and support for Aboriginal community growth

Land return is central to cultural survival, healing, community development, and self-determination in Tasmania. TAC's position is that the pace and scale of land return remain inadequate, and that the State has not provided the level of support required for Aboriginal people to protect, repair, develop and benefit from returned land.

This is not only a land question. It is also a question of whether the State is prepared to support Aboriginal community-controlled growth in cultural, social and economic terms.

Relevant UNDRIP articles

- Article 3: Right to self-determination.
- Article 20: Right to maintain and develop political, economic and social systems and to be secure in the enjoyment of means of subsistence and development.
- Article 21: Right, without discrimination, to improvement of economic and social conditions.
- Article 23: Right to determine and develop priorities and strategies for development.
- Article 25: Right to maintain and strengthen spiritual relationship with lands, territories, waters and coastal seas.
- Article 26: Right to the lands, territories and resources traditionally owned, occupied or otherwise used or acquired.
- Article 27: Right to fair and transparent processes for recognition of land rights.
- Article 28: Right to redress, including restitution or compensation, for lands taken or damaged without free, prior and informed consent.
- Article 32: Right to determine priorities for the development or use of lands and resources, with FPIC before approval of projects affecting them.

How the State is failing against these standards

The current rate of land return does not reflect the scale of historic dispossession or the importance of land to Aboriginal survival and self-determination.

Without meaningful land return and resources to care for and develop land, Aboriginal community growth is constrained.

State control over land, planning and resource decisions continues to limit Aboriginal people's ability to set our own priorities.

What success would look like

A clear and active program of land return, negotiated in good faith with Aboriginal organisations and communities.

Support for stewardship, cultural protection, housing, economic development and community infrastructure on returned land.

Transparent processes, timelines and public accountability for decisions about land return, land management and development affecting Aboriginal interests.

10. Broader pattern: rights, justice and the ability to grow

Taken together, these issues reveal a broader pattern. Our community continues to encounter a system in which the State speaks of partnership, yet retains decisive control over law, process, resourcing, recognition, and the determination of our identity.

UNDRIP makes clear that the measure of success is not the extent of consultation the State undertakes, but whether we are genuinely able to exercise authority, define and maintain our identity, access effective remedies, regain and protect our land and heritage, and secure the material support necessary to flourish as a people. Genuine success requires that we are empowered to exercise self-determination, direct our own affairs, realise our aspirations, and control our institutions with the support of the State where appropriate.

It is our position that Australia's formal adoption of UNDRIP creates a binding moral obligation for all levels of government to respect, protect, and fulfil the rights it enshrines. For us, this affirms the Nation's commitment to our fundamental rights, including the right to self-determination, to make our own decisions, and to maintain control over our identity, affairs, organisations, and institutions, including the institutions through which we access justice.

Cross-cutting UNDRIP themes

Self-determination must be the starting point, not an afterthought.

Participation must occur through Aboriginal representatives chosen by Aboriginal people themselves.

Consent - not mere consultation - is required where laws, policies or projects affect Aboriginal rights.

Justice requires effective remedies and fair procedures, not just engagement opportunities.

Development must be Aboriginal-determined and Aboriginal-controlled.

What the Rapporteur may wish to examine

Whether Tasmanian legal and policy frameworks are genuinely consistent with UNDRIP or instead preserve State dominance behind the language of inclusion and consultation.

The extent to which Tasmanian Aboriginal institutions are recognised, resourced and empowered as representative authorities.

Whether current approaches to Aboriginal identity, heritage, youth justice, land and truth processes are producing real transfers of power, protection and redress.

11. Recommendations to the Special Rapporteur

Meet directly with the Tasmanian Aboriginal Centre during the Australia visit or in preparatory consultations.

Examine whether the Tasmanian Government's approach to Aboriginal identity complies with UNDRIP

Seek information about the treatment of Aboriginal children in custody in Tasmania, including transfers into adult prison settings, transparency around such transfers and culturally safe alternatives.

Examine whether Tasmanian heritage reform complies with UNDRIP standards on Aboriginal authority, participation and free, prior and informed consent.

Evaluate whether the Tasmanian Government's approach to treaty, truth and voice is consistent with Aboriginal self-determination and representative decision-making under UNDRIP.

Examine the consequences of inadequate Aboriginal legal services and access to justice for Tasmanian Aboriginal people in Tasmania.

Assess the status of land return, redress and support for Aboriginal community-controlled growth in Tasmania.

Appendix: quick UNDRIP reference list

The following articles are the most relevant to the issues raised in this submission:

Article	Main relevance
3-5	Self-determination, autonomy/self-government, and maintenance of Indigenous institutions.
7, 21, 22	Protection of Indigenous persons, and special attention to Indigenous children and youth.
11-12, 31	Protection and control of culture, heritage, cultural sites and cultural expressions.
18-19	Decision-making through Indigenous representatives and FPIC before legislative or administrative measures.
20, 23	Indigenous control over development priorities and means of development.
25-28	Relationship to lands, recognition of land rights, and redress/restoration.
32	FPIC before approval of projects affecting lands, territories or resources.
34, 40	Indigenous institutional integrity, justice, dispute resolution and effective remedies.
37	Recognition of treaties and other constructive arrangements with States.