WHAT IS TREATY?

HISTORY OF TREATY IN TASMANIA

WHERE ARE WE UP TO?

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What is Treaty?

Treaty is an agreement.

Treaty is a legally binding settlement involving two or more parties, nations, groups, organisations or interests.

Treaty is reached after a process of negotiation and not merely consultation. Consultation can be understood as a one-way process. Negotiation, on the other hand, involves parties coming to the table as equals working towards a mutually beneficial resolution.

Treaty can also be called a Settlement, Agreement, Pact, Accord, Covenant or Compact. Regardless of name, they all bind parties together in agreement, outline their rights and obligations, and define the 'rules' of their relationship.

Throughout history, nations have formed treaties with the Indigenous peoples of the lands they colonised. New Zealand, Canada and the United States are examples. Australia as a nation, however, has never 'treated' with its First Nations.

References

Click to view resource online (if supported)
1. SBS, Explainer: What is a Treaty?
3. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Articles 3 & 4
4. NITV, Treaty for Dummies
Prior to colonisation, an estimated 15,000 First Nations Peoples from nine separate nations inhabited Tasmania. From first recorded contact in 1772, relations between Europeans and First Tasmanians were hostile.

1803

The first permanent European settlement in Tasmania was established at Risdon Cove. The initial population numbered fewer than 3,000 but less than 30 years later it had increased to about 23,500. The rapid growth in the colonial population as well as the destruction brought upon First Tasmanians in terms of disease, dispossession and violence led in 1824 to the most extensive conflict in Australian history – the ‘Black War’. By the end of the Black War, almost the entire population of First Tasmanians had been killed.

1831

In October 1831, an agreement – what some have called a treaty – was said to have been made between First Tasmanian leaders and Governor George Arthur. One of the main provisions of that agreement was that First Tasmanians would be (re)moved temporarily to Flinders Island but that they would be allowed to ‘return to their homelands, that they would be liberally provided for and no attempt would be made to interfere with their customs and traditions’. However, like so many agreements made by colonial governments, it was not honoured – only a remnant population was returned to mainland Tasmania in 1847.

1970s

Since the early 1970s, Tasmanian Aboriginal Centre (TAC) (also known as the Tasmanian Aboriginal Corporation) has represented the political and community development aspirations of the Tasmanian Aboriginal community. Its 1977 petition to the Tasmanian Parliament requesting land rights became known as the Aboriginal Land Claim and led to legislation that returned 12 parcels of land to First Tasmanians.
# History of Treaty in Tasmania

## 1990

The Aboriginal Provisional Government (APG) was formed on the 16 July 1990. Established on the principle that Aboriginal Tasmanians are a sovereign people, the APG campaigns for Aboriginal self-determination and self-government. Rejecting assimilation into the Australian state, the APG’s vision is for First Nations Peoples 'to take our place among the nations and peoples of the world, not beneath them'.

## 2016

In 2016, First Tasmanians received Constitutional Recognition when legislation to amend the Constitution Act passed through Tasmania’s Parliament and was granted Royal Assent. Tasmania’s amended Preamble states that ‘... the Parliament, on behalf of all the people of Tasmania, acknowledges the Aboriginal people as Tasmania’s First People and the traditional and original owners of Tasmanian lands and waters; recognises the enduring spiritual, social, cultural and economic importance of traditional lands and waters to Tasmanian Aboriginal people; and recognises the unique and lasting contributions that Tasmanian Aboriginal people have made and continue to make to Tasmania.’

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### References

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1. Tasmanian Aboriginal Centre (TAC), 'Treaty talk on massacre map'
2. The Conversation, 'Tasmania’s Black War: a tragic case of lest we remember?'
3. Aboriginal Heritage Tasmania, 'Aboriginal Historical Places – Wybalenna'
4. NITV, 'The Black War: Tasmania still torn by its history'
5. AIATSIS, 'Native Title Information Handbook – Tasmania 2016'
6. 'Aboriginal Provisional Government'
7. Tasmanian Government, Department of the Premier and Cabinet, 'Resetting the Relationship with Aboriginal Communities'
Where are we up to?

First Tasmanian leaders were among the 250 delegates who attended the Uluru meeting on constitutional recognition. Aboriginal leader, Michael Mansell, said the Referendum Council’s report failed to honour the outcome of the Uluru meeting: ‘(we) wanted a change of substance and we talked about a treaty, a truth and justice commission, a new national body, as well as constitutional recognition.

The final report delivered only symbolic recognition in the form of an advisory body. Such a body can do nothing. It cannot make laws, cannot deliver services, administer any revenue and would supervise nothing. It can only give advice to the Parliament which can be ignored, rejected or highly unlikely, be accepted’. The national dialogue of First Nations supported a national representative body - a constitutionally entrenched advisory body is an ‘entirely different concept’.

In 2017, ahead of the most recent state election, the Opposition announced its commitment to a ‘state-wide conversation, a proper dialogue’ on treaty, and the establishment of an ‘Aboriginal caucus’ within the party, should they win government. Tasmanian Labor took the policy of establishing a pathway towards a treaty to the election and this remains its position. Opposition leader Rebecca White stated that Tasmania ‘risks being left behind other states on the path to reconciliation if the Tasmanian Liberals continue to refuse to engage in a discussion about treaty’.

Tasmanian Greens leader Cassy O’Connor said reconciliation with the Aboriginal community needed to produce tangible outcomes such as treaty as well as land returns, and an Australia Day date change.

Both Labor and the Greens have expressed their preference for a state-based treaty. Tasmanian Aboriginal Affairs Minister Jacqui Petrusma, on behalf of the Tasmanian Liberal Government said it would not consider a treaty at a state level: ‘this is a national issue, we favour a national approach to ensure equity between Aboriginal people regardless of which state they live in, and to promote discussion among all Australians on this issue’.
Where are we up to?

In 2018, the incumbent Tasmanian Liberal Government was re-elected. During his previous term in office, Tasmanian Premier Will Hodgman was described as showing ‘indifference to [the] destruction of Aboriginal heritage’ and as ‘antagonistic towards the community’.

As for treaty, the Tasmanian Government appears to be avoiding the issue. Despite the promise of ‘resetting the relationship’ with First Tasmanians, formal requests to the Tasmanian Premier for a treaty, including land settlements, designated seats in parliament, and the establishment of a truth and justice commission, have been largely ignored.

References

1. The Examiner, ‘Tasmanian Government won't follow Victoria on Aboriginal treaty process’
3. ABC News, ‘Mansell urges PM to ignore ‘disappointingly weak’ Aboriginal referendum report’
4. NITV News, ‘Michael Mansell: Indigenous Tasmanians disappointed at another four years under the Liberals’
5. Tasmanian Aboriginal Centre (TAC), ‘2018 Election Report Card’
6. Tasmanian Greens, Unfinished Business: Time to Treaty
7. Tasmanian Government Department of Premier and Cabinet, ‘Resetting the Relationship with the Tasmanian Aboriginal Community 2018-2019 update’
“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’