

Factsheet

Treaty in Tasmania 2023

ANTAR



Treaty in Tasmania

“I think that moral element is something that is not measurable in dollars and cents but is part of the whole psyche and social fabric of Tasmania that a treaty can deliver.”¹

Palawa man and lawyer, Michael Mansell

“Once people understand the truth – the ongoing effects of dispossession – that will make it easier to accept terms of a treaty and the need for some remedy,”²

Former Governor of Tasmania, Kate Warner

¹ Fiona Blackwood, [‘Tasmanian Treaty to Navigate Complex Path of Truth-Telling, Aboriginal Identity and Land Return’](#), *ABC News*, October 10, 2021, 1.

² Blackwood, [‘Tasmanian Treaty’](#), 1.

What is Treaty?

Australian governments and First Nations communities across the continent have signed many agreements.³ These include significant arrangements about land rights, native title, and co-management of resources. But these are not treaties. A treaty is a special kind of agreement.

Treaty involves three elements: recognition of Indigenous people as polities, negotiation in good faith, and lastly a settlement of claims that provides for Indigenous self-government.

The conditions are important. A treaty is an instrument that is meant to reconcile the past with the present and make for a better future for all. A Treaty should also improve the lives of First Nations communities and aim to secure the foundations for a just relationship between First Nations peoples and the State.⁴

No formal treaty has ever been signed between Aboriginal and Torres Strait Islander peoples and the British or Australian governments. However, as early as the 1830s, the British authorities in Tasmania considered the absence of a treaty as a glaring mistake.

What is the history of Treaty in Tasmania?

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.⁵

³ Material in this factsheet is drawn from George Williams and Harry Hobbs, [Treaty](#) (Federation Press, 2 nd ed, 2020).

⁴ [Harry Hobbs, 'Treaty making and the UN Declaration on the Rights of Indigenous Peoples: lessons from emerging negotiations in Australia', *The International Journal of Human Rights*, no.1-2 \(2018\) :174-192.](#)

⁵ 'National Museum Australia', The Black Line, accessed July 20, 2023, <https://www.nma.gov.au/>.

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’. Historian Lyndall Ryan estimates at least 60 percent of Tasmanian Aboriginals were killed during the war.⁶ In 1832, George Arthur, the Governor of Van Diemen’s Land (now Tasmania) reflected on this conflict. He considered that it was ‘a fatal error ... that a treaty was not entered into with the natives’, and recommended a treaty be signed before a colony was set up in South Australia.⁷

From 1830, the First Tasmanians were removed to Flinders Island in the Bass Strait. The First Tasmanians were thought to be safe from colonial violence but conditions were poor and the Aboriginal people wished to return to their homelands. In 1846, the community petitioned Queen Victoria, alleging that they moved only after receiving certain assurances from George Augustus Robinson, a government official. Part of the petition read:

‘Your Petitioners humbly state to Y[our] M[ajesty] that Mr. Robinson made for us & with Col. Arthur an agreement which we have not lost from our minds since & we have made our part of it good.’⁸

⁶ Lyndall Ryan, [Tasmanian Aborigines: A History since 1803](#) (Allen & Unwin, 2012): 448.

⁷ Ryan, [Tasmanian Aborigines](#), 448.

⁸ Cited in Bain Attwood and Andrew Markus, [The Struggle for Aboriginal Rights. A Documentary History](#) (Allen & Unwin, 1999): 38.

Prominent historian Henry Reynolds has argued that this agreement amounted to a verbal 'treaty' with the Crown.⁹ Whether that was the case, the Crown did not honour their agreement.

Aboriginal Tasmanians remained determined in their struggle for land rights and recognition.

In 1883, Aboriginal elders John Smith, John Maynard, Thomas Mansell, George Everett, Henry Beeton and Phillip Thomas wrote a letter to the Launceston Examiner, a Tasmanian newspaper. The men and their families had been relocated to Cape Barren Island.

'We are under no obligation to the Government. Whatever land they have reserved for our use is a token of their honesty, inasmuch as it has been given in lieu of that grand island (Tasmania) which they took from our ancestors.'¹⁰

Since the early 1970s, the Tasmanian Aboriginal Centre (TAC) (also known as the Tasmanian Aboriginal Corporation) has represented the political and community development aspirations of the Tasmanian Aboriginal community.¹¹ 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.

The Aboriginal Provisional Government (APG) was formed on 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'.¹²

⁹ Henry Reynolds, [Fate of a Free People](#) (Penguin, revised edn 2004): 257.

¹⁰ Micheal Manswell, ['Talking Point: Still Proud, Still Here, Still Waiting'](#), *The Hobart Mercury*, July 27, 2015, 1.

¹¹ 'Tasmanian Aboriginal Centre', About Us, accessed July 24, 2023, <https://tacinc.com.au/about-us/>.

¹² [Aboriginal Provisional Government](http://apg.org.au), accessed June 15, 2023, <http://apg.org.au>.

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.'¹³

Where are we up to?

Tasmania has only recently committed to talking treaty. In 2018, the Tasmanian Labor party promised to hold treaty talks with First Tasmanians, but they failed to secure election. The Liberal party did not make, at that time, any pledges on treaty.

However, in June 2021, the Tasmanian government appointed former Governor Kate Warner and University of Tasmania Law School Dean Tim McCormack to consult Aboriginal Territorians on treaty. The primary objective of these consultations was to learn from Tasmanian Aboriginal people their thoughts on and aspirations for treaty, truth-telling, and reconciliation and to identify possible pathways towards these goals. After four months and more than 100 meetings, the Pathway to Truth-Telling and Treaty report was delivered in November 2021.¹⁴ It recommended Tasmania establish a truth-telling commission and commit to a treaty process (among other things).

¹³ 'Tasmanian Government', Constitutional Recognition of Tasmanian Aboriginal people, accessed June 17, 2023, https://www.dpac.tas.gov.au/divisions/policy/constitutional_recognition_of_tasmanian_aboriginal_people.

¹⁴ Kate Warner and Tim McCormack, [Pathway to Truth-Telling and Treaty: Report to Premier Peter Gutwein](#), (Government of Tasmania, 2021): 105.

In March 2022, Premier Peter Gutwein announced that his government ‘will establish an Aboriginal Advisory body that can, through co-design, work with the Government to establish’ a truth-telling process and a treaty process.¹⁵ The government has allocated up to \$500,000 to support this process. It will also establish an Aboriginal Affairs, whole of Government Division within the Department of Premier and Cabinet, comprising the Office of Aboriginal Affairs and Aboriginal Heritage Tasmania, as well as staff from other Departments, such as Health and Education.

In April 2022, Gutwein resigned as Premier and was replaced by Jeremy Rockliff - who pledged his commitment to ‘delivering a pathway to Treaty and Truth-telling.’¹⁶

In July 2022, members of the Palawa community voted to establish a delegation, named ‘tuylupa tunapri’ – ‘to light the fire of understanding’, that would oversee negotiations on treaty and truth-telling with the Tasmanian government.¹⁷ The delegation was established due to the community’s concern that their voices were being excluded from treaty and truth-telling processes. A draft *Lutruwita (Tasmania) Treaty Bill 2023* has been submitted by the tuylupa tunapri to the Tasmanian government, requesting the establishment of a Treaty and Truth-telling Commission, and for a finalised Treaty Bill to be tabled to parliament by 30 June 2024.

In August 2022, Premier Rockliff and Aboriginal Affairs Minister Rodger Jaensch, met with First nations representatives in Launceston and invited feedback on the establishment of the Aboriginal Advisory body.¹⁸

¹⁵ Peter Gutwein, [‘Next Steps on Pathway to Truth-Telling and Treaty’](#), *Tasmanian Government*, March 1, 2022, 1.

¹⁶ Tasmanian Liberals, [Premier Rockliff's Acceptance Speech](https://tas.liberal.org.au/news/2022/04/08/premier-rockliffs-speech), accessed July 14, 2023, <https://tas.liberal.org.au/news/2022/04/08/premier-rockliffs-speech>.

¹⁷ Tasmanian Aboriginal Centre, [Treaty & Truth](https://tacinc.com.au/news-events/tuylupa-tunapri/), accessed July 14, 2023, <https://tacinc.com.au/news-events/tuylupa-tunapri/>.

¹⁸ Callan Morse, [‘Tasmanian government holds historic meeting with Aboriginal corporations, with one notable absentee’](#), *National Indigenous Times*, August 3, 2022, 1.

The Aboriginal Advisory group held their inaugural meeting on processes towards Truth-telling and Treaty in February 2023. Having no timeframe or scheduled outcomes, the Aboriginal Advisory group has commenced consultations with First nations persons living across Tasmania, researching legislations and pursuing advice from other states and territories on pathways to treaties.¹⁹

Having had no response on their draft submission of the *Lutruwita Treaty Bill 2023*, the Chair of the tuylupa tunapri, Rodney Gibbins, contends that the Aboriginal Advisory group and Tasmanian government continue to exclude First Nations persons from treaty processes.²⁰

The Aboriginal Advisory group has committed to continue consultations with First Nations persons and researching interstate pathways to treaties.²¹ However, it is unclear how the Tasmanian government will achieve a pathway to treaty and truth-telling alongside the tuylupa tunapri.

¹⁹Tasmanian Government, [Advisory group to guide processes for Truth-telling and Treaty](https://www.premier.tas.gov.au/site_resources_2015/), accessed July 14, 2023, https://www.premier.tas.gov.au/site_resources_2015/.

²⁰ Callan Morse, [Chair of Tasmanian Aboriginal delegation rejects legitimacy of state government's Aboriginal advisory group](#), *National Indigenous Times*, December 8, 2022, 1.

²¹ Loretta Lohberger, [Tasmania says it is committed to truth and treaty, but how is it progressing?](#), *ABC News*, May 29, 2023, 1.

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**ANTAR is proud to acknowledge and pay our respects
to First Nations Peoples as the traditional owners
of the lands on which we work across the continent.**

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