

2023 NSW STATE ELECTION SCORECARD

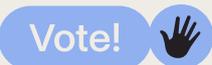
In this NSW State Election Scorecard, ANTAR has provided a guide to the policies of the NSW Labor Party, the NSW Liberal-National Coalition, and Greens NSW, in relation to Aboriginal and Torres Strait Islander affairs.

In February 2023, ANTAR wrote to the three major political parties, seeking their policies and election commitments relating to:

1. **Treaty:** The advancement of treaty in NSW.
2. **Closing the Gap:** State obligations under the NSW Closing the Gap Implementation Plan 2022-2024.
3. **Justice:** Addressing the injustice of disproportionately high incarceration rates.
4. **Cultural Heritage:** Ensuring the adequate protection of First Nations cultural heritage.

At the time this Election Scorecard was published, the NSW Labor Opposition and Greens NSW had provided responses to our request for positions on the issues outlined above, however the NSW Liberal-National Coalition Government had not responded, so we have drawn upon their publicly available policy positions and announcements to inform our analysis. This scorecard is based on forward looking, stated election commitments and we are not including standard programs and services (unless they are contentious). We have only highlighted the major policy commitments.

ANTAR recommends close consideration of the policies of the major parties contesting the 2023 NSW State Election – and particularly the policies related to Aboriginal and Torres Strait Islander peoples and communities. We believe that justice, rights, and respect for the First Nations peoples of NSW must be a top priority for the next State government.

**DON'T
FORGET
TO** 

TREATY

The advancement of Treaty in NSW.

CLOSING THE GAP

State obligations under the NSW Closing the Gap Implementation Plan 2022-2024.

JUSTICE

Addressing the injustice of disproportionately high incarceration rates.

CULTURAL HERITAGE

Ensuring the adequate protection of First Nations cultural heritage.

TREATY

NSW is one of the two remaining states in Australia (along with WA) that has not begun a formal process to treaty. This is particularly concerning given NSW has the largest population of First Nations people in Australia.

ANTAR asked each party's policies and election commitments regarding treaty:

- What would be their ambitions for the traditional owner treaties?
- And if they support a treaty process, how will they ensure that a treaty process in NSW is sustained?

		
<p>On 9 March 2023, NSW Aboriginal Affairs Minister, Ben Franklin, announced a formal treaty was “not on the agenda”.¹</p> <p>Franklin indicated that while the current government and Premier Dominic Perrottet are supportive of a Federal Voice to Parliament, the Coalition will not pursue a formal treaty at the state level.</p>	<p>NSW Labor will commence a process to initiate treaty (agreement making) with First Nations people in NSW because it is the right thing to do. Treaty will improve the lives of First Nations peoples in NSW, help to build a more secure and reconciled State, and provide the building blocks for a new relationship of self-determination with First Nations peoples that underpins social and economic progress.</p> <p>First Nations peoples must lead the conversation about treaty. For this reason, a NSW Labor government will commit to the principle of treaty rather than the detail.</p> <p>Any final decision on the treaty process will require significant input from stakeholders across New South Wales including elders, peak bodies and local groups.</p> <p>The treaty commission will explore ways to ensure that treaty or treaties can extend and complement existing rights and interests, in line with First Nations community wishes.</p> <p>NSW Labor would legislate a formal process for negotiating Treaty following the consultation.</p>	<p>Greens NSW election policy plan for First Nations Justice will ensure that any Treaty or treaties recognises the sovereignty of First Nations Peoples as the traditional custodians of the lands, rivers and sea.</p> <p>Greens NSW will ensure Treaty is underpinned by self determination and must be an agreement between sovereign to sovereign.</p> <p>Greens NSW will establish a Treaty Commission that will be fully resourced and empowered and responsible for the consultation and design of the Treaty or Treaties process in NSW. This means that the Treaty process will be able to continue beyond a single term of government and won't be subject to electoral politics. The Treaty Commission would be on a long term funding agreement to guarantee support beyond election cycles.</p>
 <p>THUMBS DOWN</p>	 <p>THUMBS UP</p>	 <p>THUMBS UP</p>

¹The Guardian 'Not on the agenda': NSW minister rules out state treaty with First Nations people

CLOSING THE GAP

ANTAR asked how the NSW parties intend to implement, develop, and be accountable for the commitments outlined in the NSW Closing the Gap Implementation Plan 2022–2024 and the National Agreement.² The most recent reporting by the Productivity Commission on the Closing the Gap targets shows that there is much to be done and progress is too slow.³

ANTAR asked each party's policies and election commitments regarding closing the gap:

- What are your party's policies and commitments to achieving the 17 Closing the Gap Targets and the priority reform areas for NSW outlined in the State's Implementation Plan 2022–24?

- How will a Government you form deliver on the four priority reforms of the National Agreement (and the additional NSW priority reform), including supporting the Aboriginal Community-controlled service sector with more resources and authority to support their self-determination in delivering for their communities in NSW?

		
<p>The NSW Coalition Government has not released new closing the gap policies in the lead up to the State election.</p> <p>In June 2022, the NSW Coalition announced \$401 million in additional funding over four years in the 2022–23 Budget, to prioritise Closing the Gap and other projects that improve outcomes for First Nations people across the state.</p> <p>The package includes a \$30 million 'Community and Place Grants Program', offering grants of up to \$250,000 to Aboriginal Community Controlled Organisations (ACCOs) to deliver practical, immediate, and locally-focused activities targeting Closing the Gap outcomes.</p> <p>The NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) will lead the partnership.</p>	<p>NSW Labor has maintained a bi-partisan approach to the National Agreement on Closing the Gap including the additional Priority Reform Area five adopted by NSW.</p> <p>A future Labor Government would look to further enhance current programs and policies through our parallel approach to Treaty-making across areas intersected by the Closing the Gap Agreement.</p> <p>NSW Labor would investigate signing a Charter Letter with Coalition Aboriginal Peak Organisations (CAPO) outlining specific agreements around delivery of the Priority Reform Areas.</p> <p>It is important that self-determination, capacity building and true partnership are at the heart of delivering Close the Gap outcomes.</p>	<p>Greens NSW are committed to working with First Nations communities to ensure that the Closing the Gap targets are achieved through community-led solutions, designed and controlled by First Nations people. This includes working at a Federal level with Greens MPs and Senators to ensure the Federal government continues increased funding in the State's bi-lateral funding arrangements for self-determined, community-led First Nations health services.</p> <p>Ensuring early access to preventative programs, providing funding to build First Nations owned healing places and continuing to grow the First Nations health and wellbeing workforce to provide culturally appropriate care to their communities.</p> <p>Self-determination of funding, policy, program development and data sharing so that strategic action plans in all bureaucracies that service First Nations communities are developed together across regional urban and rural remote communities.</p>
 <p>MIXED BAG</p>	 <p>MIXED BAG</p>	 <p>THUMBS UP</p>

² NSW Government, "2022–2024 NSW Implementation Plan for Closing the Gap" [2022–2024 NSW Implementation Plan for Closing the Gap](#)

³ Australian Government Productivity Commission, "Closing the Gap Annual Data Compilation Report July 2022" [Closing the Gap Annual Data Compilation Report July 2022 \(pc.gov.au\)](#)

JUSTICE

In NSW, the imprisonment rate is nearly 10 times higher for Aboriginal and Torres Strait Islander people than for non-Indigenous people.⁴ The current age of criminal responsibility is just 10 years of age, raising the age of criminal responsibility in NSW to 14 years without exception would help address the high number of First Nations children in detention centres (First Nations youth represent 51% of the NSW juvenile detention population, despite making up only 4.5% of the NSW youth

population).⁵ Raising the age would also help the Government meet Closing the Gap targets.⁶

ANTAR asked each party's policies and election commitments regarding:

- Addressing the over-representation of Aboriginal and Torres Strait Islander people in prison, in particular women and young children;
- Confront and initiate changes to reduce the high rates of First Nations children in out-of-home care and child protection in NSW;

- Raising the age of criminal responsibility to 14 with no carve-outs and with the needed supports and services to look after vulnerable young people and their families; and
- Addressing the excessively high rates of family and domestic violence against Aboriginal and Torres Strait Islander women.

		
<p>The NSW Coalition Government has not announced new justice policy in the lead up to the State election.</p> <p>In July 2022, the NSW Coalition government announced \$20 million investment over four years in justice initiatives to help reduce the over-representation of First Nations people in the criminal justice system.</p> <p>Attorney General Mark Speakman said the package involves significant expansions of the Youth Koori Court, Circle Sentencing in the Local Court, and the Justice Reinvestment program.</p>	<p>NSW Labor is committed to a whole-of-government approach to address the steep upward trend in Aboriginal and Torres Strait Islander incarceration.</p> <p>NSW Labor supports successful trials of programs to reduce Aboriginal and Torres Strait Islander over-incarceration such as Justice Reinvestment, the Youth Koori Court, Walama List and Circle Sentencing. Capacity issues and disparities in regional availability currently limit the operation of these programs. NSW Labor aims to expand these programs and work with the community to develop creative, community-based initiatives that divert offenders away from the justice system where appropriate.</p> <p>NSW Labor is committed to shifting the child protection system from a crisis-driven funding model, towards early intervention and prevention.</p>	<p>Greens NSW are committed to establishing a Commission that will oversee the implementation of all Recommendations from the Royal Commission into Aboriginal Deaths in Custody and work with communities to establish a statewide place-based, trauma informed Justice Reinvestment framework.</p> <p>Greens NSW are committed to introducing new independent oversight for the prison system to ensure better accountability. The Greens will raise the age of criminal responsibility to 14 without exception with no one under 16 eligible for a custodial sentence.</p>

⁴ NSW Bureau of Crime Statistics and Research, "Aboriginal over-representation in the NSW Criminal Justice System" [Aboriginal over-representation \(nsw.gov.au\)](https://www.nsw.gov.au/aboriginal-over-representation)

⁵ Ibid.

⁶ Human Rights Law Centre, "Governments must act on justice department advice to #RaiseTheAge to at least 14" [Governments must act on justice department advice to #RaiseTheAge to at least 14 | Human Rights Law Centre \(hrlc.org.au\)](https://www.hrlc.org.au/governments-must-act-on-justice-department-advice-to-raise-the-age-to-at-least-14/)

JUSTICE

		
	<p>NSW Labor will explore initiatives to reduce interactions between young people and the justice system. Appropriate frameworks, support mechanisms and diversionary programs focusing on care and education are vital to ensuring young people do not become involved in a recidivist offending cycle.</p> <p>NSW Labor is committed to reducing domestic and family violence, particularly against Aboriginal and Torres Strait Islander women. NSW Labor will work in close consultation with support service providers, victim-survivors, community members and other stakeholders to develop comprehensive strategies to combat the current domestic and family violence crisis.</p>	<p>Greens NSW will fully fund and expand justice reinvestment and diversionary programs to become the designated, statewide responses to youth offending. This will include targeted support for First Nations-led justice reinvestment programs that are place-based, trauma informed and culturally appropriate, to ensure that First Nations children are supported to remain in their Community and connected to their Culture.</p>
 THUMBS DOWN	 MIXED BAG	 THUMBS UP

CULTURAL HERITAGE

First Nations cultural heritage protection remains a critical issue for every jurisdiction in Australia. Parliament supported the Aboriginal Cultural Heritage (Culture is Identity) Bill 2022, stating that new, modernised and standalone legislation for the recognition, protection, conservation and preservation of Aboriginal cultural heritage in NSW was 'both necessary and long overdue'.⁷

ANTAR asked each party's policies and election commitments regarding cultural heritage:

- The loss of ancient cultural heritage sites including through the impacts of global warming on Australia's environment;
- The necessary improved legislative protections for First Nations cultural heritage protection across NSW; and

- How Traditional Owner fishing rights, as guaranteed by their Native Title, are protected?

		
<p>No formal cultural heritage policies have been released by the NSW Coalition government in the lead up to the State election, however various initiatives were announced for the 2022-2023 budget.</p> <p>The Coalition committed \$43 million to supporting the transfer of Me-Mel Island to the Aboriginal community.</p> <p>"This \$43 million investment from the NSW Government demonstrates that we're dedicated to improving outcomes for the Aboriginal community," Treasurer Matt Kean said.</p> <p>Minister for Heritage James Griffin said \$5 million in funding support is available through the 2023-2025 NSW Heritage Grants program. This includes Aboriginal Cultural Heritage Grants where applicants can apply for up to \$80,000.</p>	<p>NSW Labor has committed to introducing legislation that moves Aboriginal Culture and Heritage out of the National Parks Act and into its own stand-alone Act of Parliament.</p> <p>A new Act would create a new State-level Aboriginal Cultural Heritage Council (ACH Council), with equal composition of native title holders, Aboriginal Land Councils and Aboriginal Owners.</p> <p>Ministerial roles / functions would be limited. The ACH Council would not be subject to the direction and control of the Minister in most circumstances. Key functions of ACH Council include to protect Aboriginal Cultural Heritage, make key decisions, develop guidance materials, compliance and enforcement. Funding would be negotiated to support the work of the Council as well as the preservation of sites.</p> <p>Following successful implementation of the State Aboriginal Culture and Heritage Council, the next step would be to investigate the creation of Local Heritage Councils over the longer term.</p>	<p>The current Aboriginal Cultural Heritage laws violate the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which calls for protection for and sovereignty over First Nations Cultural Heritage.</p> <p>Greens NSW are committed to consulting on and introducing legislation for stand alone cultural heritage laws in NSW that are controlled by Aboriginal people, recognise both tangible and intangible Cultural heritage and give communities power to make decisions over cultural sites.</p> <p>Greens NSW will work to commence section 21AA of the NSW Fisheries Management Amendment Act to ensure Cultural Fishing rights are protected.</p>
 <p>MIXED BAG</p>	 <p>THUMBS UP</p>	 <p>THUMBS UP</p>

⁷ New South Wales Aboriginal Land Council, "Support grows for Aboriginal Cultural Heritage March" [cultural heritage - NSW Aboriginal Land Council \(alc.org.au\)](https://www.alc.org.au/cultural-heritage)

ANTAR is a national advocacy organisation working for Justice, Rights and Respect for Australia's First Nations Peoples. We do this primarily through campaigns, advocacy, and lobbying.

Our current national campaigns include mobilising Australians to vote YES at the referendum for a First Nations Voice to Parliament enshrined in the constitution and supporting treaty and agreement-making processes across Australia at both State and national levels.

We also engage in national advocacy across various policy and social justice issues affecting Aboriginal and Torres Strait Islander communities, including cultural heritage protection; justice reinvestment, over incarceration and raising the age of criminal responsibility; anti-racism campaigns, native title and land rights, and closing the life equality gap.

ANTAR is a foundational member of both the Close the Gap Campaign and Change the Record Campaign Steering Committee, and an organisational and executive committee member of Just Reinvest NSW. ANTAR has been working with Aboriginal and Torres Strait Islander communities, organisations and leaders on rights and reconciliation issues since 1997. ANTAR is a non-government, not-for profit, independently funded and community-based organisation.

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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.