

1. The advancement of Treaty in NSW

NSW Labor will commence a process to initiate treaty (agreement making) with First Nations people in the State because it is the right thing to do. Treaty will improve the lives of First Nations peoples in the State, help to build a more secure and reconciled New South Wales, and provide the building blocks for a new relationship of self-determination with First Nations peoples that underpins social and economic progress.

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.

Aboriginal people will have the leading role to determine whatever process takes shape. Any final decision on the treaty process will require significant input from stakeholders across New South Wales including elders, peak bodies and local groups.

Treaty will not undermine existing Aboriginal rights and interests in NSW. The treaty commission will explore ways to ensure that treaty or treaties can extend and complement existing rights and interests, in line with Aboriginal community wishes.

NSW Labor would Legislate a formal process for negotiating Treaty following the consultation.

2. Closing the Gap – NSW obligations to the National Agreement

NSW Labor has maintained a bi-partisan approach to the National Agreement on Closing the Gap including the additional Priority Reform Area 5 adopted by NSW.

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.

NSW Labor would investigate signing a Charter Letter with Coalition Aboriginal Peak Organisations (CAPO) outlining specific agreements around delivery of Priority Reform Areas.

It is important that self-determination, capacity building and true partnership are at the heart of delivering Close the Gap outcomes.

3. Addressing the injustice of disproportionately high incarceration rate.

Indigenous incarceration:

BOCSAR has reported that over the last decade, there has been a 55% increase in the number of adult Indigenous offenders in custody. This is unacceptable. NSW Labor is committed to a whole-of-government approach to address the steep upward trend in Indigenous incarceration.

Labor supports the successful trials of programs 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. Labor aims to expand these programs and work with community to develop creative, community-based initiatives that divert offenders away from the justice system where appropriate.

Children in child protection:

If elected, a Labor Government will work with Aboriginal organisations across the state to restore trust and reduce the rates of First Nations children entering the child protection system.

We are committed to shifting the model from a crisis-driven funding model, towards early intervention and prevention. Labor will implement a whole-of-government approach to address this system that continues to fail our young people.

Labor recognises that there have been notable reports into the failures of the child protection system. The Tune Report and “Family is Culture” report have not yet been acted on. It is our view that they should be addressed.

Youth interactions with the justice system:

Labor is acutely aware of the implications of early contact with the criminal justice system. Every opportunity to safely divert young offenders away from the criminal justice system, whilst ensuring community safety should be taken.

Labor is committed to exploring initiatives to reduce the interactions between young people with 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.

Family and domestic violence:

NSW Labor is committed to a whole of government approach to reducing domestic and family violence, particularly against Aboriginal and Torres Strait Islander women. 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.

4. Ensuring the adequate protection of First Nations cultural heritage

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.

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.

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 ACH, make key decisions, develop guidance materials, compliance & enforcement.

Funding would be negotiated to support the work of the Council as well as the preservation of sites.

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.

The ACH Council would be empowered to declare new protected areas, conservation agreements can be made, and there would be new protections and management arrangements relating to repatriation. New Legislation would seek to improve regulatory, investigative compliance mechanisms. Proponents would have to obtain ACH approvals prior to seeking planning approvals. New powers to investigate where harm to ACH is suspected. The ACH Council would have powers to issue stop work, remediation and prohibition orders.

New offences and penalties would be significantly increased for serious and material harm.

Cultural Fishing

An elected NSW Labor Government would enact Section 21AA (included within Schedule 1 of the Fisheries Management Amendment Act 2009) which makes a special provision for Aboriginal cultural fishing and protects cultural fishers from compliance actions under the Fisheries Management Act.

The current NSW Government has failed to put into effect the will of the Parliament which passed the Bill in 2009 as it has not commenced section 21AA, despite it being passed by Parliament more than a decade ago.

NSW Labor would work with local Aboriginal communities to create a sustainable system which recognises Aboriginal Cultural fishing rights and ensures sustainable fish management outcomes.