

10 March 2026

Our ref: HF:FNLP

Dr James Popple
Chief Executive Officer
Law Council of Australia
Level 1, MODE3
24 Lonsdale Street,
Braddon ACT 2612

By email: [REDACTED]

Dear Dr Popple,

Special Rapporteur on the Rights of Indigenous Peoples - Visit to Australia

Queensland Law Society (QLS) welcomes the opportunity to provide information to assist the Special Rapporteur on the rights of Indigenous Peoples in preparation for his country visit to Australia.

This submission provides Queensland-specific insights on human rights considerations, access to justice, native title and cultural heritage, youth justice and child protection, and Closing the Gap outcomes. It also aligns with and builds upon issues the LCA raised in its 2025 statement to the Human Rights Council concerning the need for comprehensive implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and improved civics education.

This submission incorporates feedback of the QLS First Nations Legal Policy Committee and the QLS First Nations Consulting Committee, whose lived and professional experiences offer critical insights into the impacts of current systems on Aboriginal and Torres Strait Islander peoples.

Key Human Rights Considerations

While some progress has been made in recognising Aboriginal and Torres Strait Islander rights, implementation remains inconsistent across federal, state and territory jurisdictions. Important commitments under the United Declaration on the Rights of Indigenous Peoples (UNDRIP) have not been fully realised, particularly in relation to self-determination, participation in decision-making, and free, prior and informed consent. QLS supports the LCA's position highlighted in their 2025 statement, that Australia requires a coordinated, whole-of-government approach to UNDRIP implementation, such as a National Action Plan that provides clear objectives, accountability, and resourcing.¹

¹ Juliana Warner, 'Interactive Dialogue with the Special Rapporteur on the Human Rights of Indigenous Peoples', (Oral Statement, 24 September 2025).

In many areas, existing mechanisms intended to support Aboriginal and Torres Strait Islander people's involvement in policy or legislative processes either lack authority or are not embedded in a way that ensures their recommendations influence outcomes.

Truth-Telling Inquiry

The premature termination of Queensland's Truth-Telling and Healing Inquiry represents a significant regression with far-reaching and unintended implications for the realisation of Aboriginal and Torres Strait Islander rights. As part of Queensland's Path to Treaty framework, the Inquiry was designed to provide a dedicated space for Aboriginal and Torres Strait Islander peoples to share truths about historical and ongoing injustice, inform structural reform, and support reconciliation. Truth-telling is a core principle of UNDRIP and forms a critical foundation for recognition, justice, and healing.

The closure has caused considerable concern among Aboriginal and Torres Strait Islander communities and legal practitioners. It has removed an important mechanism for documenting lived experience and developing community-led recommendations for reform. These impacts were amplified in the context in which the Inquiry was established, after the 2023 referendum, at a time when many Aboriginal and Torres Strait Islander peoples were experiencing heightened vulnerability and uncertainty about future recognition efforts. The Inquiry's termination has been felt as a further setback at a time when meaningful recognition, healing and structural reform were most needed.

Given the Special Rapporteur's long-standing emphasis on the importance of truth-telling processes internationally, QLS considers that the cessation of the Inquiry should be highlighted as a matter of national significance. QLS recognises the importance of and opportunities to progress recognition, address historical injustices and advance reconciliation in a manner consistent with international human rights standards.

Access to Justice

Access to justice remains a critical issue for many Aboriginal and Torres Strait Islander peoples. The availability of culturally appropriate legal assistance is inconsistent, particularly in regional and remote locations. Funding limitations, workforce shortages, and a lack of local community-controlled services contribute to gaps in legal support and undermine confidence in the justice system.

Barriers exist in areas such as police engagement, court processes, interpreter availability, and the accessibility of complaints or accountability mechanisms. Cultural safety frameworks within justice institutions also vary significantly. These issues can result in limited participation in legal processes, challenges in obtaining remedies, and reduced trust in institutions more broadly.

We note that many Aboriginal and Torres Strait Islander people encounter legal problems at higher rates than the general population yet are less likely to access early legal assistance. This results in issues escalating into more serious matters and compounds existing disadvantage.

Native Title and Cultural Heritage

Native title and cultural heritage remain areas of significant concern for Aboriginal and Torres Strait Islander peoples in Queensland. Committee members report that cultural heritage destruction continues to occur too easily, reflecting inconsistencies and weaknesses in existing

protection frameworks. Current laws are often difficult to navigate and do not consistently safeguard culturally significant sites or uphold Traditional Owners' decision-making authority.

Recent changes that require more native title matters to proceed through contested litigation rather than consent determinations have increased the burden on Traditional Owners. These shifts exacerbate existing power imbalances, given the substantial resources available to the State compared with those of native title claimants. There is concern that these developments undermine the intent of native title legislation and are inconsistent with UNDRIP principles, including self-determination and free, prior and informed consent.

Strengthening cultural heritage protections, improving the accessibility and fairness of native title processes, and ensuring meaningful collaboration with Traditional Owners will be essential to upholding cultural rights.

Youth Justice and Child Protection

The over representation of Aboriginal and Torres Strait Islander children and young people in both the youth justice and child protection systems remains one of the most significant systemic issues in Queensland and nationally.

Aboriginal and Torres Strait Islander children continue to be removed from family at disproportionately high rates. This trend raises long-standing concerns about intergenerational trauma, cultural continuity, and the ability of child protection frameworks to provide culturally appropriate support. There is an ongoing need for greater investment in early intervention, family-strengthening initiatives, and community-led approaches that keep children connected to Country, uphold kinship connections, and culture.

In the youth justice system, Aboriginal and Torres Strait Islander young people are significantly over-represented at every stage. Despite making up a small percentage of the youth population, they represent over 60% of children in detention on an average day.² Several factors contribute to this, including socio-economic disadvantage, limited access to diversionary pathways, and systemic issues within policing and sentencing practices. Detention rates remain high, and concerns persist about conditions of detention, the availability of rehabilitative programs, and the ongoing use of practices such as isolation and restraints. In addition to this, Australia's current minimum age of criminal responsibility is 10 years in most states and territories, which is far below international standards recommended by the United Nations and human rights bodies.

Deaths in custody, including of young people, continue to highlight gaps in monitoring, accountability and the implementation of prior recommendations from inquiries and royal commissions.

Impact of recent legislative reforms

In addition to longstanding concerns about over-representation, recent legislative reforms in Queensland have had significant impacts on Aboriginal and Torres Strait Islander children, young people and adults. These include the *Adult Crime, Adult Time* reforms, changes to Queensland's bail laws, and amendments to the *Youth Justice Act 1992*. Several of these

² Australian Institute of Health and Welfare (December 2025), *Youth detention population in Australia 2025*, Australian Government, <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2025/contents/summary>>

reforms have raised serious concerns among legal practitioners and community organisations due to their disproportionate impact on Aboriginal and Torres Strait Islander young people. QLS has consistently raised these issues in submissions to parliamentary committees and in public commentary. These reforms have limited access to diversionary responses, increased the likelihood of remand, and contributed to higher numbers of Aboriginal and Torres Strait Islander children entering and remaining in detention.

QLS is concerned about the recent passage of amendments that now allow children as young as 10 to be fitted with Electronic Monitoring Devices (EMDs). This expansion places very young and highly vulnerable children at greater risk of stigma, social isolation and technical breaches such as signal loss or battery depletion that can escalate their involvement in the justice system. The impacts are expected to fall most heavily on Aboriginal and Torres Strait Islander children, particularly in regional and remote communities where telecommunications limitations increase the likelihood of unfair breaches.

QLS also notes the increasing frequency with which the Queensland *Human Rights Act 2019* (Qld) has been overridden in the context of youth justice reforms. On 16 March 2023, the Queensland Parliament passed the *Strengthening Community Safety Act 2023*, which included new sections under the *Bail Act 1980* (Qld) to allow children who breach bail conditions to be charged with the same offence as an adult, among other changes. This was the first piece of legislation to invoke the override provision, and subsequent youth justice amendments have relied on similar approaches. QLS has expressed strong concerns about the normalisation of overrides in this context, given the significant implications for the human rights of children, particularly Aboriginal and Torres Strait Islander children, whose rights the Human Rights Act was designed to protect. These developments are particularly relevant to the Special Rapporteur's focus on systemic barriers and the protection of Indigenous children's rights, and QLS strongly supports the LCA raising these matters in the national submission.

Closing the Gap

The National Agreement on Closing the Gap provides an important framework for addressing targets across areas that have an impact on life outcomes for Aboriginal and Torres Strait Islander people. However, progress across many outcomes has been inconsistent and only four of the 19 targets are on track with critical areas such as suicide prevention, incarceration rates and child removal worsening.³

QLS acknowledges the significant work of Aboriginal and Torres Strait Islander community-controlled organisations, which continue to lead place-based, culturally grounded initiatives. However, substantial structural reforms and sustained investment are required to support these organisations to operate effectively and to ensure that Closing the Gap commitments translate into tangible improvements in community outcomes.

The ongoing gaps in areas such as health, housing, education, employment, and life expectancy demonstrate that existing systems are not adequately supporting Aboriginal and Torres Strait Islander peoples. This highlights the importance of strengthening accountability, improving the cultural capability of government institutions, and embedding mechanisms that ensure communities have actual influence over decisions affecting their lives.

³ SNAICC, 'Only four Closing the Gap targets on track', SNAICC in the News (online, 14 March 2025) <<https://www.snaicc.org.au/only-four-closing-the-gap-targets-on-track-snaicc-in-the-news/>>

Civics Education

Committee members have highlighted the need for significantly strengthened civics education across Australia, reflecting the concerns raised by the LCA in its 2025 statement to the Human Rights Council. Many young people and adults have limited understanding of governance structures, sovereignty, Aboriginal and Torres Strait Islander rights, or Australia’s human rights commitments, including UNDRIP. In this gap, misinformation, often spread through social media, has contributed to rising hostility and racial stereotyping.

Members also noted that racist language remains common in school settings, reflecting the absence of consistent education on rights, history and respectful behaviour. Improved civics education, delivered across all schooling and community settings, is essential to building public understanding, countering misinformation, and supporting an environment in which Aboriginal and Torres Strait Islander peoples can safely exercise their rights.

Conclusion

Despite the extent of the challenges outlined above, there are strong examples of positive, community-led work underway across Queensland. Community-controlled organisations continue to demonstrate the effectiveness of self-determined and locally designed approaches to service delivery. Partnership models, co-design processes and truth-telling and healing initiatives provide valuable insights into how systems can meaningfully support self-determination when properly structured and resourced.

QLS also encourages the LCA to highlight the broader systemic impacts of recent Queensland youth justice reforms, the increasing use of Human Rights Act override provisions, and the early termination of the Truth-Telling Inquiry, as these developments have significant implications for Aboriginal and Torres Strait Islander rights and should inform the Special Rapporteur’s assessment of legislative and policy settings across Australia.

QLS appreciates the opportunity to contribute to the LCA’s submission for the Special Rapporteur’s country visit.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully

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Peter Jolly
President