



## **Tasmanian Aboriginal Legal Service (“TALS”) Written Submission:**

### **New Tasmanian Youth Justice Facility Masterplan Feedback**

**May 2025**

As an advocate for law reform, justice and equity for all Tasmanian Aboriginal peoples, the Tasmanian Aboriginal Legal Service (‘TALS’) welcomes the opportunity to provide feedback on the *New Tasmanian Youth Justice Facility Masterplan*.

TALS is an Aboriginal and Torres Strait Islander Legal Service (ATSILS) that specialises in criminal, civil and family law matters for Tasmanian Aboriginal peoples. TALS also operates SiS Tasmania a Family Violence and Prevention Legal Service (FVPLS) that specialises in supporting Aboriginal victim/survivors of family violence with legal and non-legal services.

As a Tasmanian Aboriginal Community Controlled Organisation incorporated under the Office of the Registrar of Aboriginal Corporations (ICN 9283), TALS is committed to improving the life outcomes of Aboriginal peoples.

In this submission, any reference to Aboriginal peoples is understood to encompass Torres Strait Islander peoples.

TALS strongly supports the closure of Ashley Youth Detention Centre (‘AYDC’) and the development of a therapeutic, culturally safe alternative. However, we stress that detention must always be a last resort. This submission outlines our feedback on key elements of the *New Tasmanian Youth Justice Facility Masterplan*, with an emphasis on ensuring Aboriginal self-determination, cultural safety, and non-punitive, community-led responses.

## BACKGROUND

The 2023 *Commission of Inquiry into the Government's Responses to Child Sexual Abuse in Institutional Settings* recommended that the AYDC be closed 'as soon as possible' in response to the 'real and present risk' of young people being subjected to ongoing abuse at the facility.<sup>1</sup>

The AYDC has been described as a 'gladiator pit' and a 'prison for kids', reflecting its failure in providing a safe environment that protected the wellbeing of detainees and facilitated rehabilitation.<sup>2</sup> The degrading treatment at AYDC has had a profound impact on young detainees and it exacerbates existing trauma and mental health issues, while further perpetuating mistrust in adults in positions of power.<sup>3</sup> It is also accepted that Aboriginal and Torres Strait Islander children are over-represented in detention in Tasmania, placing them at the highest risk of experiencing this mistreatment, which can subsequently heighten their vulnerability due to intergenerational trauma, and ongoing experiences of structural and social disadvantage.<sup>4</sup>

In response to the recommendations of the Commission of Inquiry, the Tasmanian Government committed to closing the AYDC and replacing it with a facility that promotes a trusting relationship between staff and detainees, in line with a therapeutic youth justice model.<sup>5</sup>

On 5 May 2025 the Tasmanian Government revealed the *New Tasmanian Youth Justice Facility Masterplan* which outlined the plans for constructing a new facility at Pontville in Tasmania's south. It was said that this plan would see the new facility built by the end of 2027, with the AYDC to close soon after.<sup>6</sup>

The *New Tasmanian Youth Justice Facility Masterplan* outlined various features of the new facility, including:

- A total capacity of 20 beds. This includes 16 beds for regular detainees at the facility, and 2 beds each for new detainees ('orientation beds') and for those with health needs.
- A health care centre for the provision of physical and mental health support.
- Education and outdoor recreation facilities.
- A cultural centre and garden, aimed at providing greater opportunities for connection to family, community and country.<sup>7</sup>

The Model of Care that guides the design and operation of the new facility is already developed and reflects a comprehensive, evidence-based, trauma-informed, and culturally safe framework. This Model of Care provides

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<sup>1</sup> Langenberg, A and MacDonald, L, *Tasmanian government releases official response to child sexual abuse inquiry report*, ABC News (1 December 2023).

<sup>2</sup> MacDonald, L, *Ashley Youth Detention Centre still operating despite costing Tasmania taxpayers \$75 million in compensation*, ABC News (27 November 2024).

<sup>3</sup> Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings, *Chapter 10 – Background and context: Children in youth detention* (September 2023).

<sup>4</sup> Ibid.

<sup>5</sup> Balen, C, *Ashley Youth Detention Centre closure delayed again, to 2028, as replacement masterplan unveiled*, ABC News (5 May 2025).

<sup>6</sup> Ibid.

<sup>7</sup> Tasmanian Government, *New Tasmanian Youth Justice Facility Masterplan* (May 2025).

the foundation for all program delivery and facility design, ensuring a therapeutic environment that promotes healing, rehabilitation, and community reintegration.<sup>8</sup>

## TALS RESPONSE

### *Insight*

The overrepresentation of Aboriginal youth in Tasmania's detention system is a longstanding concern and highlights the need for culturally appropriate responses. Data provided by the Australian Institute of Health and Welfare (AIHW) shows that during the 2023/24 financial year, 33% of all youths in detention, aged 10 to 17 years, identified as Aboriginal.<sup>9</sup> This figure is consistent with data from the preceding 4 years, with the percentage ranging between 30% to 43% over this period.<sup>10</sup> These figures are particularly disappointing given that this has been identified as an area of concern in the *Closing the Gap Agreement*, notably Target 11 – 'Young people are not overrepresented in the justice system'.<sup>11</sup> This data confirms that the overrepresentation of Aboriginal youths in detention is persistent and systemic, and requires concerted action from across the justice system and sustained collaboration with Aboriginal communities.

It is important to note that concerns regarding the welfare of Aboriginal peoples in custodial settings have long been identified. While the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) produced its final report in 1991 it remains a poignant reminder of the systemic failures that contributed to many Aboriginal deaths in custody, highlighting the ongoing challenges in implementing meaningful reform.<sup>12</sup> The findings and recommendations of the RCIADIC still resonate to this day and underscore the systemic nature of the injustices faced by Aboriginal peoples, highlighting the continued need for urgent and meaningful reform across justice systems.<sup>13</sup>

As an Aboriginal and Torres Strait Islander Legal Service, TALS has been engaged by many people who are victim-survivors of abuse in institutions and has represented a significant number of Aboriginal youths who have experienced detention at AYDC.

Given the above, TALS is well placed to provide feedback regarding sections of the *New Tasmanian Youth Justice Facility Masterplan* on the cultural safety of Aboriginal youths in a therapeutic, rehabilitative justice setting.

TALS firmly believes that **detention should only ever be used as a measure of absolute last resort**, especially for Aboriginal youth, who face disproportionate rates of incarceration and the compounded impacts of intergenerational trauma. Evidence consistently shows that detention fails to address the root causes of offending and often exacerbates the social and emotional harm experienced by young people.<sup>14</sup> Instead, the focus must be on early intervention, prevention, and community-led, non-punitive responses that support

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<sup>8</sup> Ibid.

<sup>9</sup> Australian Institute of Health and Welfare, *Youth Justice in Australia 2023-24*, Australian Government (28 March 2025).

<sup>10</sup> Ibid.

<sup>11</sup> Closing the Gap, *Closing the Gap Targets and Outcomes* (accessed 22 May 2025).

<sup>12</sup> Australian Human Rights Commission, *Indigenous Deaths in Custody* (accessed 20 May 2025).

<sup>13</sup> Burns, K, *What have we learnt 30 years on from the Royal Commission into Aboriginal Deaths in Custody*, Monash University (15 April 2021),

<sup>14</sup> Youth Advocacy Centre Inc, *Stop youth crime – get smarter, not tougher* (30 January 2023).

healing, cultural connection, and positive life outcomes. Investment in these areas is crucial to breaking cycles of offending and reducing the overrepresentation of Aboriginal youth in the justice system.<sup>15</sup>

It is noted that in the *New Tasmanian Youth Justice Facility Masterplan* refers to ‘culture’ in ambiguous terms. TALS recommends that it clearly differentiate between general cultural engagement and Aboriginal cultural safety, with consistent use throughout. Without this specificity, cultural programming risks becoming tokenistic or disconnected from the lived experiences and needs of Aboriginal young people.

### **Response Overview**

TALS’ response to the *New Tasmanian Youth Justice Facility Masterplan* focuses on several key areas:

- The proposed *Model of Care* and its 8 principles.
- The *Key Design Principles* – Culturally Appropriate Design.
- The *Cultural Walk Program*.

### **Model of Care**

*‘At its best, the youth justice system has the potential to turn around lives.’<sup>16</sup>*

Released by the Youth Justice Reform Task Force in December 2024, the *Model of Care* provides coordinated, trauma-informed, evidence-based, and culturally safe services to youths in contact, or at risk of contact with the justice system.<sup>17</sup> The *Model of Care* aims to improve outcomes by providing a support system that encourages growth, development, and strengthens young people’s sense of identity.<sup>18</sup>

The *Commission of Inquiry into the Government’s Responses to Child Sexual Abuse in Institutional Settings*, placed an impetus on the Tasmanian Government to commit to sustained and significant investment in order to protect the welfare of young people in institutional settings. With regard to youth justice, the Tasmanian Government’s response culminated with the release of the *Youth Justice Blueprint 2024-2034*, which speaks to a commitment to engage a range of stakeholders and to transform the way they address youth offending with an evidenced based, therapeutic model.<sup>19</sup> The implementation of the *Youth Justice Blueprint 2024-2034* and transition to the new *Youth Justice Model of Care*, in conjunction with the construction of the new youth justice facility, is an opportunity for the Tasmanian Government to demonstrate their commitment to developing a program that truly invests in improving the life outcomes for Tasmanian youths.

The core principles proposed in the *New Tasmanian Youth Justice Facility Masterplan* appear sound in design and demonstrate a general alignment with the purpose and aims of both the *Youth Justice Blueprint 2024-2034* and *Youth Justice Model of Care*.

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<sup>15</sup> Cunneen, C, Allison, F and Beaufils, J, *Locking up young children might make you feel safer, but it doesn’t work, now or in the long term*, The Conversation (3 September 2024).

<sup>16</sup> Save the Children, *Putting children first: A rights respecting approach to Youth Justice in Australia* (April 2023).

<sup>17</sup> Youth Justice Reform Taskforce, *Youth Justice Model of Care*, Tasmanian Government (December 2024).

<sup>18</sup> Ibid.

<sup>19</sup> Department for Education, Children and Young People, *Youth Justice Blueprint 2024-2034*, Tasmanian Government (December 2023).

However, TALS draws attention to two points more directly aligned with the wellbeing of Aboriginal peoples, namely:

- That the *Model of Care* is informed by Aboriginal and Torres Strait Islander peoples and community; and
- Principle ‘3’ of the 8 principles underpinning the *Model of Care* ensures the model is ‘culturally safe and connected.’<sup>20</sup>

TALS strongly supports and urges the sustained, meaningful engagement with Aboriginal peoples, communities, and organisations in the ongoing implementation and review of the *Model of Care* to ensure cultural safety is not just a principle but a practiced reality.

Engagement with Aboriginal peoples, communities and organisations must involve Aboriginal agency and decision-making from the outset.<sup>21</sup> This negotiated process ensures the development promotes self-determination, acknowledges Aboriginal cultures and experiences, and avoids superficial or tokenistic involvement.<sup>22</sup>

Aboriginal participation should be self-determined and community-led with the Tasmanian Government providing facilitative support rather than direction. This ensures power imbalances are addressed and affirms the participation of Aboriginal peoples as a strength and an asset in the development process.<sup>23</sup>

Acknowledging the lived experiences of Aboriginal peoples will be key to rebuilding trust between Aboriginal youths, support services, the justice system and justice facility staff and enable better understanding of the complex issues that have contributed to offending behaviour.<sup>24</sup> Additionally, increased engagement with, and further education from, Aboriginal Controlled-Community Organisations (ACCOs) will facilitate trust building and the establishment of stronger relationships between Aboriginal youths and the key stakeholders in their rehabilitation.<sup>25</sup> Overall, this will facilitate an environment of greater cultural competency and understanding, which will strengthen cultural safety and aid the development of more effective program development in the *New Tasmanian Youth Justice Facility*.

This can only be achieved through an approach that embeds Aboriginal leadership and self-determination at all stages, from design through to delivery and review. Aboriginal voices must not only be heard but prioritised, and Aboriginal expertise respected as integral to the success of a therapeutic model of care. This means embedding mechanisms for shared decision-making, investing in Aboriginal-led services, and resourcing community-led cultural programs that are tailored to the lived experiences and aspirations of Aboriginal young people.

TALS recommends that the care model is based on cultural safety and therapeutic practice, and that Aboriginal knowledge, approaches, and services are embedded from the outset.

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<sup>20</sup> Ibid (n 7).

<sup>21</sup> Australian Institute of Health and Welfare, *Engaging with Indigenous Australia – exploring conditions for effective relationships with Aboriginal and Torres Strait Islander communities*, Australian Government (4 October 2013).

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

TALS urges that Aboriginal participation be self-determined and community-led, with the Tasmanian Government acting in a facilitative, not directive, role. This shift in power dynamics ensures that Aboriginal peoples are not just consulted but have genuine decision-making authority across all stages of the facility's development and operation. Embedding Aboriginal leadership and acknowledging lived experiences is essential to rebuilding trust and developing culturally safe, effective programs. Sustained collaboration with ACCOs will further support the design of responsive services that foster connection, rehabilitation, and healing.

### **Key Design Principles**

One of the Key Design Principles of the *New Tasmanian Youth Justice Facility Masterplan* suggests a culturally appropriate design, particularly in relation to technology use, daily routines, and the physical environment. The principle of a culturally appropriate design aims to:

- Facilitate and promote connections with families and communities through facility design.
- Provide options for community connection.
- Use technology to support safe and frequent communication with family and friends.

TALS are supportive of this principle, as it acknowledges the importance that connection to family, community, place, and culture plays in the health and wellbeing of Aboriginal peoples.<sup>26</sup> For many Aboriginal peoples, a disconnection from these is akin to feelings of displacement or homelessness.<sup>27</sup> For instance, young people removed from Country during detention often report a loss of identity and belonging, as supported by the Healing Foundation's findings on the impacts of institutionalisation and cultural disconnection.<sup>28</sup>

Technology has become increasingly utilized in custodial settings for facilitating contact with family or support networks, and in delivering educational programs.<sup>29</sup> While it is accepted that technology is an essential component of modern infrastructure, providing flexibility in how people communicate and access content, it must be used in ways that uphold and enhance cultural connections.

Digital solutions must complement, not replace, in-person cultural connection. Importantly, cultural spaces must be co-designed with Aboriginal community members and Elders to ensure they reflect the specific customs, histories, and cultural integrity of the young people they are meant to serve.

Aboriginal-led design processes are not optional; they are foundational to building trust, belonging, and genuine rehabilitation. Technology can play a powerful role in enhancing Aboriginal youths' ability to connect with healing-centred support networks, maintain strong cultural and family ties during detention, and build resilience. Its

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<sup>26</sup> Australian Institute of Health and Welfare – National Indigenous Australians Agency, *Indigenous peoples with access to their traditional lands*, Australian Government (17 January 2025).

<sup>27</sup> Ibid.

<sup>28</sup> Healing Foundation, *Intergenerational trauma* (accessed 16 May 2025).

<sup>29</sup> Office of Career, Technical, and Adult Education, *Building the Technology Ecosystem for Correctional Education: Brief and Discussion Guide*, U.S. Department of Education (August 2022).

integration must be guided by Aboriginal community input to ensure culturally appropriate and equitable access.<sup>30</sup>

Incorporating culturally appropriate elements into both the site and program builds will help facilitate better engagement and subsequently drives greater reintegration and rehabilitation outcomes for Aboriginal youths.<sup>31</sup> Engaging Aboriginal elders, ACCOs and liaison officers in the design process will add significant value to the program for Aboriginal youths by helping facilitate stronger community and cultural connection and the maintenance of their identity.<sup>32</sup>

Dwyer's Churchill Fellowship research on international youth justice facilities, cultural mirroring, where staff reflect the background and lived experiences of the young people they work with, was critical to fostering mutual understanding, respect, and engagement.<sup>33</sup> In facilities across New York and Washington D.C., staffing structures were deliberately representative of the overrepresented communities they served. These practices enabled the development of constructive, culturally grounded relationships, and ensured that programs were not only effective but also legitimate in the eyes of the young people.<sup>34</sup> This is particularly relevant in Tasmania, where Aboriginal youths remain significantly overrepresented in custody. Embedding Aboriginal-led staffing and governance across all levels of design, delivery and oversight is essential to achieving meaningful, culturally safe outcomes.

However, despite these important considerations, it is the absence of a clear design principle to eliminate ligature points that is a glaring and unacceptable oversight. Ligature points, attachment sites used for hanging, are a well-documented and critical risk factor for suicide in custody, especially for Aboriginal peoples.<sup>35</sup> This was explicitly highlighted in the landmark RCIADIC findings, which identified the failure to eliminate such risks as a key contributor to preventable deaths.<sup>36</sup>

Failing to design out these known hazards ignores the tragic legacy of deaths in custody and places vulnerable prisoners, particularly young Aboriginal people, at ongoing and unnecessary risk. Any new facility must adopt a zero-tolerance approach to ligature hazards as a non-negotiable safety standard.

The Office of the Custodial Inspector Tasmania has repeatedly substantiated this ongoing risk through inspection reports identifying ligature hazards across adult custodial facilities. For example, the *2018 Custody Inspection Report* noted hanging points in the day room used by women and young people at Launceston Reception Prison.<sup>37</sup> Similar concerns were raised at Mary Hutchinson Women's Prison and the Risdon Prison Complex.<sup>38</sup>

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<sup>30</sup> Rice, E, Haynes, E, Royce, P and Thompson, S, *Social media and digital technology use among Indigenous young people in Australia: a literature review*, National Library of Medicine (25 May 2016).

<sup>31</sup> Willis, M and Moore, J, *Reintegration of Indigenous Prisoners*, Australian Institute of Criminology (May 2020).

<sup>32</sup> Ibid.

<sup>33</sup> Dwyer, D, *To Document the Architectural Design of a New Youth Custodial Model That Can Address Current Challenges*, Churchill Fellowship Report (31 January 2023).

<sup>34</sup> Ibid.

<sup>35</sup> Australian Human Rights Commission, *Indigenous Deaths in Custody* (accessed 20 May 2025).

<sup>36</sup> Indigenous Law Resources, *Royal Commission into Aboriginal Deaths in Custody* (29 April 1998).

<sup>37</sup> Office of the Custodial Inspector Tasmania, *Custody Inspection Report 2018* (August 2019).

<sup>38</sup> Ibid.

These findings confirm that despite longstanding awareness, ligature hazards remain a persistent and unresolved issue.

Additionally, while the *New Tasmanian Youth Justice Facility Masterplan* refers to cultural aspects of the facility being designed in conjunction with Aboriginal consultants, it does not specify how this consultation process will take place and who the engaged consultants will be. TALS strongly believe that this consultation process must be open to diverse range of community members to ensure equity is given to all voices and perspectives.

Finally, the *Functional Zoning* section of the *New Tasmanian Youth Justice Facility Masterplan* refers to a separate cultural centre and private courtyard with little additional information provided.<sup>39</sup> Whilst understanding plans will continue to be developed, TALS once again highlight the value of enlisting a diverse range of community members in the facility design and program structure.

### ***Cultural Walk Program: From Symbol to Strength***

The *New Tasmanian Youth Justice Facility Masterplan* notes that Aboriginal Heritage Assessments have been conducted to avoid areas of high cultural significance and identify culturally appropriate opportunities for connection to Country.<sup>40</sup> One key opportunity is the development of a *Cultural Walk Program* within these culturally significant areas, with links to cultural spaces inside the facility to foster connection and identity for Aboriginal young people.<sup>41</sup>

TALS strongly supports the development of a *Cultural Walk Program*, recognising that connection to Country is essential to the wellbeing, identity, and healing of Aboriginal peoples.<sup>42</sup> Country and place drive cultural pride, social cohesion, intergenerational connection, and resilience.<sup>43</sup> For the program to be meaningful, it must be Aboriginal-designed, Aboriginal-led, and supported by community Elders, families, and young people.<sup>44</sup> This will ensure the Walk becomes a living space for cultural storytelling, healing, and identity-building, not merely a symbolic feature.

This approach aligns with Dwyer's findings that justice programs and facility design must be community-led and culturally grounded.<sup>45</sup> He cautions against applying Western models to First Nations contexts and emphasises the importance of Aboriginal definitions of identity and wellbeing, as captured in the *Ngaga-dji Report*.<sup>46</sup> When Aboriginal leadership is included and centred, initiatives like the *Cultural Walk Program* can become transformative spaces for healing, strength, and cultural safety.<sup>47</sup>

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<sup>39</sup>Ibid (n 7).

<sup>40</sup>Ibid (n 7).

<sup>41</sup>Ibid (n 7).

<sup>42</sup>Ibid (n 7).

<sup>43</sup> Verbunt, E, Luke, J, Paradies, Y, Bamblett, M, Salamone, C, Jones, A and Kelaher, M, *Cultural determinants of health for Aboriginal and Torres Strait Islander people – a narrative overview of reviews*, International Journal for Equity in Health (12 August 2021).

<sup>44</sup>Ibid (n 7).

<sup>45</sup>Ibid (n 33).

<sup>46</sup>Ibid (n 33).

<sup>47</sup>Ibid (n 33).



To realise this vision, Aboriginal governance must guide the planning, delivery, and care of the *Cultural Walk Program*. Programs grounded in lived experience, cultural authority, and Aboriginal ways of knowing are not optional—they are essential. When Aboriginal people are trusted as custodians of their culture, initiatives like this move beyond tokenism to embody transformative, community-led justice.

Incorporating lived experience, culturally led practice, and Aboriginal governance into every layer of youth justice reform is not optional, it is essential. Programs such as the *Cultural Walk Program* demonstrate what is possible when Aboriginal ways of knowing, being, and doing are respected, funded, and embedded. TALS remains committed to advocating for a youth justice system that supports healing, dignity, and the full realisation of Aboriginal children's rights.

Acknowledging the lived experiences of Aboriginal children, particularly the intergenerational trauma, systemic racism, and cultural disconnection they face, is essential to the design of any youth justice response. It is also accepted that Aboriginal children are over-represented in detention in Tasmania. Embedding these realities into the policy imagination allows for the development of more effective program development, grounded in truth-telling, community engagement, and cultural authority.

## **CONCLUSION**

TALS reiterates that for the New Youth Justice Facility to serve its intended purpose of healing and rehabilitation, it must embed Aboriginal self-determination, ensure cultural safety is clearly defined and operationalised, and commit to ongoing, community-led review processes. A system grounded in trust, not punishment, is the only path to justice for Aboriginal young people.

TALS strongly recommends prioritising Aboriginal leadership and diverse community engagement throughout the implementation process to ensure the facility meets the needs of Aboriginal youth and contributes to lasting reform. It is important that this transition be facilitated expeditiously so that the community can move away from the shameful legacy of AYDC and toward a facility that prioritises healing, cultural integrity, and rehabilitation.

True justice requires Aboriginal voices to lead solutions for Aboriginal youth. A just system must not only respect but also be shaped by Aboriginal voices, cultural knowledge, and community wisdom. TALS is of the view that the successful development and operation of the *New Tasmanian Youth Justice Facility Masterplan* hinges on the active, self-determined participation of Aboriginal communities at every stage.

TALS remains committed to ensuring that the voices of Aboriginal young people and their communities are central to the reform of youth justice in Tasmania. The development of the new facility presents the Tasmanian Government with an opportunity to lead with cultural integrity, promote healing, and genuinely shift toward a therapeutic justice model that reflects the aspirations of Aboriginal peoples.

If you have any questions regarding the contents of this document, please reach out to me directly.

Warmest regards,

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