NUKARA

FIBRE 3 DATA SOVEREIGNTY

FIBRE 3

Data sovereignty: commitment to establishing policies and infrastructure for the Aboriginal community to be provided with custodianship of existing data and sovereignty of all data transferred and collected.

Nukara is the Tasmanian Aboriginal Centre's community-led strategy and action plan for implementing the Tirrina model and transferring responsibility for Aboriginal child safety to the Aboriginal community.

Our vision is for all Aboriginal children living in Lutruwita to be safe and well in the care of their families, proudly connected with and strongly supported by their community, culture and country. **Tirrina** is the Tasmanian Aboriginal community's model for achieving this vision.

The eight fibres of **Tirrina** provide a strong foundation for the structure of every part of the model, interwoven with the principles of self-determination and truth-telling. While adapted for local application, the fibres are consistent with the eight focus areas of the <u>Safe and Supported Aboriginal and Torres</u> <u>Strait Islander First Action Plan 2023-2026</u> (Our Safe and Supported Action Plan).

The Tasmanian Aboriginal Centre acknowledges Aboriginal community members who contributed to this report and have since passed away. We thank the families for giving permission to include their photos.

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EXECUTIVE SUMMARY

Data sovereignty: commitment to establishing policies and infrastructure for the Aboriginal community to be provided with custodianship of existing data and sovereignty of all data transferred and collected.

The <u>Yoorrook Justice Commission</u> defines Aboriginal data sovereignty as the right of Aboriginal communities to own, control, access and possess data that derive from them, and which pertain to their members, knowledge systems, customs, resources or territories.

The Tasmanian Aboriginal Centre (TAC) is committed to achieving Aboriginal data sovereignty. The objective is to develop policies, infrastructure and processes to ensure that all information (including data) is collected and managed in ways that keep the data – and the people that the data relate to – safe. That includes having the authority to collect, securely store, analyse, manage, use and appropriately share data that relates to the safety and wellbeing of Aboriginal children.

Aboriginal-designed policies provide a strong foundation for Aboriginal data sovereignty. TAC's existing policy framework can provide the foundation for these policies. Processes and guidelines will be developed to ensure that policy is embedded in practice, so that all data is handled ethically, securely and in accordance with legal, organisational and cultural standards. This will inform the type of infrastructure needed to store and manage the data.

The right infrastructure will strengthen the Aboriginal community's ability to deliver services that align with their needs. The infrastructure must support different permission-based levels of access, allowing authorised TAC staff to analyse and track the intersection of risks and other factors to keep children safe. The right infrastructure will also help with the collection of accurate and complete datasets, identification of gaps and the provision of anonymised, aggregated data to support state-level reporting against national targets and indicators. These benefits will ultimately contribute to achieving positive life outcomes for the Aboriginal community of Lutruwita.

The Tasmanian Government has committed to taking actions under the national *Safe and Supported Partnership Agreement*, including Action 3 of our *Safe and Supported Action Plan*, which is to build Aboriginal infrastructure for sovereignty of data and improve the Aboriginal evidence base.

This document summarises the findings from research and consultations and proposes action to:

- develop an Aboriginal-designed framework of principles, policies and processes to support Aboriginal data sovereignty
- develop data-sharing partnership agreement/s between TAC and the Tasmanian Government and non-government organisations (NGOs)
- invest in enhancing and developing new skills, infrastructure and resources for the collection, protection and management of Aboriginal child-safe data
- establish mechanisms for Aboriginal data sovereignty to be recognised and enabled in the policies and practices of government services and NGOs
- acquire technology-based infrastructure to support the safe and secure collection, storage, analysis, management, use and sharing of data.



CURRENT SITUATION

Closing the Gap: Priority Reform 4 is to enable Aboriginal people to have shared access to data and information at a regional level. That means providing the local Aboriginal community with access to, and capability to use, locally-relevant data and information to implement and monitor the progress of efforts to close the gap, set priorities and drive their own development. The ultimate goal is to strengthen Aboriginal-led decision-making, enhance accountability and drive sustainable improvement in life outcomes for Aboriginal people.

Priority Reform 4 acknowledges that accessible, transparent and reliable data is necessary for informed decision-making and policies to address the needs of Aboriginal communities. Regional access to data will empower the Aboriginal community of Lutruwita, TAC and other Aboriginal Community Controlled Organisations (ACCOs) to deliver more targeted and effective programs, including programs for keeping Aboriginal children safe. To support this, principles and policies for the collection and management of data about Aboriginal children and their families must be community-led, culturally appropriate and give Aboriginal communities control over how and when that data is used.

There are significant concerns about the quality, accessibility, accuracy, transparency, type and application of data used to inform current government policies and services for Aboriginal children and families. Overcoming these issues is essential to improving the safety of Aboriginal children.

It is imperative that data be collected, analysed and applied in ways that accurately reflect the needs and experiences of Aboriginal people. National and state governments often rely on uncontexualised data, such as the number of Aboriginal children in out-of-home care, rather than contextualised data that provides a deeper understanding of the intersection of factors such as poverty, unemployment, educational issues, inadequate housing, systemic racism, intergenerational trauma that combine to present risks to the safety of Aboriginal children.

TAC is committed to developing and implementing a secure, community-centred system for collecting and managing data, focusing on protecting the personal and sensitive information of Aboriginal children and their families, while ensuring compliance, transparency, safety and trust. The system, and the infrastructure that supports it, must allow for the de-identification, anonymisation and aggregation of data to inform statistical reports and ongoing improvements in systems and outcomes for keeping Aboriginal children safe.

Family Matters findings

Family Matters is an annual, national publication that holds governments to account for progressing *Closing the Gap Target 12: to reduce the overrepresentation of Aboriginal children in out-of-home care by 45 per cent by 2031. Family Matters* allows the relevant data to be compared and analysed consistently and in context, at national and state levels.

Family Matters demonstrates the significant benefits of having consistent, accurate and discrete datasets to track and compare jurisdictional progress, providing deeper insights into the scope of issues and the actions needed to ensure that Aboriginal children are able to grow up safe, cared for and connected to their families, communities, culture and country.

Family Matters 2024 identifies current national data gaps and challenges, including:

- inconsistency in data accuracy, completeness and collection across states and territories
- the exclusion of data on children on long-term third-party parental responsibility orders
- inaccuracy of data relating to the identification of Aboriginal children, at all stages of involvement in the child safety system
- data not collected on repeated engagements at all stages of the child safety system
- inconsistency in the type of data reported on intensive family support services
- definitional challenges and limited comparability of data on different types and levels of support provided by different services within and between states and territories
- lack of data to enable thorough evaluation of early support programs for Aboriginal children and families.

Family Matters 2024 also identifies gaps and challenges specific to Tasmanian Government data, including:

- no data on Aboriginal children commencing Integrated Family Support Services (IFSS) for five consecutive years (2019-2023), because no disaggregated dataset is available
- while Tasmania appears to have a significant investment per child in IFSS, this figure is skewed by the state's definition of IFSS, which includes family violence counselling services (which is inconsistent with the national IFSS definition)
- no data on the number or proportion of Aboriginal children accessing services delivered by ACCOs during the 2022–23 period, because no disaggregated dataset is available
- no data on the proportion of Aboriginal children versus non-Aboriginal children reunified with their families and who did not return to care within 12 months.

CONSULTATION FINDINGS AND ANALYSIS

Voices of the weavers

Community voices

Throughout the *Nukara* consultations, there was overwhelming community support for TAC to develop and implement Aboriginal data sovereignty policies, infrastructure and procedures for securely collecting, storing, analysing, managing, using and sharing data in a culturally safe and empowering manner.

Aboriginal-designed and led data policies and procedures are seen as crucial for addressing historical injustices, such as when artefacts and information about the Aboriginal communities were used by governments and researchers without consent or consultation.

Drawing from lived experience, community members talked about feelings of loss of control over their personal information, and their concerns about the lack of transparency and accountability within the Child Safety Service (CSS) around the way their information is managed and shared. Community members revealed stories of being denied access to their personal child safety files and being told it was likely that the files would not contain the information they were seeking due to poor record-keeping and information management practices.

During discussions on data infrastructure, the community emphasised the need for safeguards to protect their information. Some concerns were raised that TAC-held data could be mishandled by or shared with other organisations without their consent. A further privacy concern relates to data management issues that may arise if privacy and confidentiality policies and procedures are not adhered to, potentially due to the close-knit family and extended family relationships between TAC workers and other community members.



'I just wanted to know why I was taken away from mum and why my aunty wasn't asked to care for me ... or maybe she was ... I don't know anything about what happened and surely that's my right to know.' In considering the acquisition of data infrastructure, community identified the need for specific databases for information about:

- Aboriginal child safety concerns and reports, and related information
- Aboriginal children in care and their carers (carers database)
- Aboriginal genealogies.

The community considers that creating a database for storing caring information is crucial. The database should support knowledge about the availability, personal details and suitability of potential, current and former carers, including carers' abilities to keep Aboriginal children connected with their families, community, culture and country. The data collected should be relevant, specific and focused on supporting the wellbeing of carers and the children they care for. The community believes that it is essential for all data to be comprehensive, accurate and up-to-date.

Community strongly advocates for TAC to establish and maintain a genealogy database on behalf of the Aboriginal community. This is seen as an essential part of preserving information about historical and more recent placements of Aboriginal children with other families, and an extremely useful tool for finding Aboriginal family lineage. This is viewed as particularly important for children placed in out-of-home care at a young age with non-Aboriginal families, who may have lost their identity and feel disconnected from their family, community and cultural heritage and supports.

TAC staff voices

Consultation forums with TAC staff included critical conversations about the custodianship, management and privacy of data. Staff expressed concerns about CSS's arguably controlling position on data ownership and access. Staff consider that this undermines and obstructs their ability to: support and advocate for children and families; contribute to informed decision-making; and have the information they need to participate effectively in discussions. As a result, staff consider that decisions are frequently made without a holistic understanding of what is required to ensure the safety and

wellbeing of Aboriginal children. Not having access to vital information can result in missed opportunities to identify critical signs for keeping Aboriginal children safe and may impede efforts in prevention and early intervention.

'We [TAC workers] attended a meeting with CSS as they wanted us to work with an Aboriginal family due to safety concerns about a baby. We didn't know this family and CSS wouldn't share any family history. How were we supposed to do our job?'

Another issue raised by TAC staff is the lack of cultural safety and accountability in CSS policies and processes for the collection of data. For example, unborn baby reports are mandatory if there is a reasonable likelihood of abuse or neglect once the child is born (Children, Young Persons and Their Families Act 1997, section 13). The increased level of parental surveillance associated with unborn baby reports can undermine parents' confidence in their parenting, creating trust issues that may prevent their engagement with antenatal and other healthcare services. Aboriginal data sovereignty will ensure that historical data is balanced with current family circumstances, relationships, personal prevention plans and community support when assessing risks to an unborn or newborn baby.

'When I was pregnant, I was told by welfare that my history with them was enough evidence for my baby to be taken away ... they didn't seem to care about who I was now.'

The challenges of working with CSS often create frustration and tension for TAC workers. Staff frequently feel as though they are working against the system while striving to support Aboriginal children and families, causing considerable stress.

Staff emphasise the critical importance of safeguarding Aboriginal children and families' data. TAC must ensure data is securely stored, kept private and protected from unauthorised access or misuse. It is also considered vital that TAC maintains transparency with the community about how data is collected, stored, used and shared. Without this transparency, the community may lose trust and withhold critical information that may impact workers' understandings of situations, including the supports needed and decisions that should be made.

Voices of other stakeholders

In consultations with stakeholders, data sovereignty discussions highlighted the need to improve information gathering, sharing and transparency. Stakeholders recognise the importance of data sharing by CSS and other child safety system providers. There is strong agreement that the data held by both government and NGOs that relates to Aboriginal children and families must be shared with TAC to ensure the best possible support is provided.

Stakeholders, particularly CSS, emphasised the benefits for their workforces in having an agreed inter-organisational process with TAC to confirm Aboriginality across the child safety continuum. A family-finding process is considered to be beneficial, as is the need for clear and transparent processes for recording, managing and sharing information about Aboriginal children with TAC.

Stakeholders acknowledge and understand that the detrimental impacts of colonisation, ongoing systemic injustice and poor life outcomes for Aboriginal communities are closely linked. This has significantly impacted the type and quality of data collected. In Lutruwita, this manifests in an especially harmful way, as it is compounded by a long history of systemic denial and widely-held disbelief in the existence of Tasmanian Aboriginal people. Stakeholders corroborated widely-known stories that throughout the 1900s, most children were simply told at school and at home that Trukanini/Truganini was the last Tasmanian Aborigine. This denial profoundly impacted the accuracy and integrity of personal stories, information and statistical data about Tasmanian Aboriginal people.

JURISDICTIONAL SCAN AND ANALYSIS

Aboriginal data sovereignty is part of a global, Indigenous-led movement that seeks to change the way Indigenous data is understood and used through indigenous data rights. There are currently four Indigenous data sovereignty networks globally, including Australia's <u>Maiam nayri Wingara Indigenous</u> <u>Data Sovereignty Collective</u>. All networks are members of the <u>Global Indigenous Data Alliance</u>, which advocates for:

- advancing Indigenous data sovereignty and governance
- asserting Indigenous peoples' rights and interests in data
- advocating for data for the self-determined wellbeing of Indigenous people
- reinforcing the rights to engage in decision-making in accordance with Indigenous values and collective interests.

Victoria provides strong examples of the way in which the principle and practices of Aboriginal data sovereignty can be successfully applied. Victoria's <u>Yoorrook Justice Commission</u> was established to support the first formal truth-telling process into historical and ongoing injustices experienced by Aboriginal people in Victoria.

<u>Yoorrook</u> demonstrated strong leadership as the first commission, inquiry or truth-telling process in Australia to apply the globally-recognised principles of Indigenous data sovereignty to the collection, handling, storage and use of information about Aboriginal people. Since it was established, the Commission has heard evidence on the unbroken connection between colonial child removal practices and Victoria's current child safety system. Yoorrook recommends placing greater emphasis on Aboriginal data sovereignty, including to ensure free, informed consent is given prior to providing access to, using or publishing information shared by or relating to Aboriginal people.

The Victorian Aboriginal Child Care Agency (VACCA) advocates for Aboriginal communities to have full control over the collection, management and use of data relating to Aboriginal children and families. This ensures that the data is protected and used in a way that reflects Aboriginal needs, aspirations and cultural values.

VACCA emphasises the need for Aboriginal children's data to be securely stored and accessible only to authorised individuals who have a legitimate 'need to know'. VACCA also advocates for clear and transparent policies governing the collection, storage and sharing of this data, through a framework that seeks to capture data that is 'important to us and not just for reporting to funders'.

VACCA developed 'whole-of-organisations' digital data infrastructure to support the collection and management of data from over 225 programs and sources of information. Key learnings for designing and implementing similar infrastructure in other states and organisations include to ensure the technology is:

- specified and selected or developed by the Aboriginal community, incorporating user input throughout the entire specification-to-implementation process
- functional, flexible and scalable for future expansion
- able or potentially able to securely integrate or enable two-way data sharing with relevant and authorised government systems
- piloted and rigorously tested before full implementation
- supported by workplace champions, who promote worker and community benefits, and encourage organisation-wide adoption of new processes and technologies
- backed by initial and ongoing staff training
- securely hosted within Australia and adheres to strict Australian standards for the storage, management and authorised exchange of personal and sensitive data
- supported by strong governance, formal contractual arrangements and partnerships with both technology and child-safe service providers.



Alignment with national and state commitments and enablers

The Tasmanian Government has formally committed to a range of national and state agreements and initiatives to embed Aboriginal data sovereignty. The most relevant of these are summarised in the table below.

INITIATIVE

Safe and Supported Aboriginal and Torres Strait Islander First Action Plan 2023-2026

COMMITMENT

Action 3 (a):

 Develop mechanisms and infrastructure to support the data capability of ACCOs, as part of Closing the Gap: Priority Reform 4

Action 3 (b):

Implement the agreed approach to Aboriginal data sovereignty, when established

Action 3 (c):

 Actively support Aboriginal governance groups to identify jurisdictional data needs (including jurisdictional and national data requirements for Priority Reform 4 and Placement Principle indicators) and the ACCO sector, including how data can be shared to support best practice

Action 3 (d):

 Aboriginal-led scoping exercise on how an Aboriginal and Torres Strait Islander Centre for Excellence in Child and Family Support (Centre for Excellence) would operate, and help establish Aboriginal data and research infrastructure nationally, including in each jurisdiction

Action 3 (e):

 Establish the Centre for Excellence, to increase access to research grounded in Aboriginal knowledge and theoretical frameworks, and provide opportunities for Aboriginal-led research

Action 3 (f):

 Provide state-level in-principle support for development of Aboriginal-led research and evidence, including through the Centre for Excellence

Action 3 (g):

Support the review and evaluation of initiatives and knowledge-sharing for Aboriginal people and organisations

INITIATIVE	COMMITMENT
Safe and Supported Action Plan 2021-31	 Action 2 (a): Review existing national child safety reporting mechanisms and recommend a consolidated reporting approach with flexibility to accommodate future data and analysis requirement
	 Action 2 (b): Build on the recommendations from Activity 2(a) by establishing a consolidated national child safety reporting approach
	 Action 2 (c): Identify key data and analysis requirements to support the Safe and Supported Monitoring and Evaluation Strategy
	 Action 2 (d): Build Aboriginal data sovereignty and improve the evidence base to ensure services and systems in child safety and family support are culturally safe
	Action 5: Refresh National Out-of-Home Care Standards and Indicators
Commission of Inquiry findings and recommendations	 Recommendation 9.15: Ensure that the Aboriginal status of all Aboriginal children in contact with CSS is accurately identified and recorded at the earliest opportunity, and appropriately shared with non-government out-of-home care providers and carers
	 Recommendation 9.16: Department for Education, Children and Young People to report quarterly on the number of children with a care team and (where appropriate) Aboriginal representatives on that care team
Closing the Gap National Agreement	Priority Reform 4:Shared access to data and information at the regional level
Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability	 6.22: Improve data collection and reporting on met and unmet demand for disability advocacy, including information on Aboriginal identity
Family Matters 2024	 Recommendation 15: Establish partnerships between the Aboriginal community and government to guide the design, collection, interpretation and use of data relevant to Aboriginal children. As a priority, address the data gaps Establish partnerships to guide the design, collection, interpretation and use of data relevant to Aboriginal children Establish partnerships to guide the design, collection, interpretation and use of data relevant to Aboriginal children Change the definition and counting rules for out of-home care to include children on permanent care orders

THE WAY FORWARD

Nukara strategy

Nukara proposes to further the Tasmanian Government's commitment to the Safe and Supported Partnership Agreement, including the commitment to build Aboriginal data sovereignty and implement a nationally-agreed approach.

Proposal

In implementing the *Nukara* strategy and *Tirrina* model, TAC will establish Aboriginal-designed and led infrastructure, policies and processes to support Aboriginal data sovereignty. This document summarises the findings from research and consultations conducted in the development of *Nukara* and proposes actions including to:

- develop an Aboriginal-designed framework of principles, policies and processes to support Aboriginal data sovereignty
- develop data-sharing partnership agreement/s between TAC and the Tasmanian Government and non-government organisations
- invest in enhancing and developing new skills, infrastructure and resources to support the collection, protection and management of Aboriginal child-safe data
- establish mechanisms for Aboriginal data sovereignty to be formally recognised and embedded in the policies and practices of government services and NGOs
- acquire technology-based infrastructure to support the safe and secure collection, storage, analysis, management, use and sharing of data.

Next steps

- Continue national and interjurisdictional engagement to progress the foundations for Aboriginal data sovereignty in Lutruwita.
- Review relevant legislation and policies to enable Child Safety Service to share personal and sensitive information about Aboriginal children and families with the TAC.
- Support the development of a framework for TAC that outlines the principles, policies and processes underpinning Aboriginal data sovereignty.
- Develop data-sharing partnership agreements between the TAC and the government and nongovernment organisations.
- Develop clear specifications for digital systems to securely collect, store, manage and exchange personal and sensitive information.
- Continue research into 'off-the-shelf' digital systems implemented in other jurisdictions.

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