

# FIRST NATIONS JUSTICE, HERITAGE & HEALTH

A FUTURE  
FOR ALL OF US



# JUSTICE FOR FIRST NATIONS PEOPLES▲

## Addressing the over incarceration of First Nations people in Western Australia.

Western Australia incarcerates First Nations peoples at the highest rate of anywhere in the world. Western Australia also has the highest rate of deaths in custody in the country.

Successive Governments have failed again and again to address these issues because of their refusal to engage in a legitimate process of co-design and to listen to the solutions offered by First Nations people.

The over-incarceration of First Nations peoples and deaths in custody is one of our nation's most significant human rights concerns.

The Greens will work alongside First Nations people using an evidence-based social re-investment approach to reform our current criminal justice system, which further marginalises the most vulnerable in our community.

### The Greens will:

- ▲ **Urgently implement the outstanding recommendations from the Royal Commission into Aboriginal Deaths in Custody**
- ▲ **Raise the age of criminal responsibility** to at least 14 years of age
- ▲ **Abolish mandatory sentencing**
- ▲ **Support community-led local social reinvestment projects** that keep First Nations people on country and redress the drivers of criminal justice based responses.
- ▲ **Invest in health and mental health services, and evidence-based culturally secure rehabilitation programs** in prisons and community led reintegration programs.

# ADDRESS FIRST NATION INCARCERATION RATES

First Nations peoples make up only three percent of the Australian population, yet they account for 39% of our prison population.<sup>1</sup>

The Royal Commission into Aboriginal Deaths in Custody found that there are many underlying issues behind the over-representation of First Nations peoples in the criminal justice system. These include poverty, ill physical or mental health, lack of education, addiction, discrimination and homelessness. This is only exacerbated by current police practices, prison procedures and judicial processes.

The Royal Commission recognised that only through addressing these underlying issues would we see a reduction of the over-incarceration of First Nations people. **Yet too many important recommendations from the Royal Commission have still not been implemented; more than 25 years since they were handed down.**

As a consequence, the Closing the Gap Target of reducing the rate of First Nations adults held in incarceration by at least 15% by 2031, will not be achieved.

An additional \$637 million has been allocated in the 2020/2021 state budget by the WA Labor Government for substantial prison expansions and additional police.

The Greens will redirect this spending to early intervention, prevention and rehabilitation programs, including local community-led social reinvestment initiatives that address the underlying causes of disadvantage and drivers of criminal justice based responses.

## The Greens will:

- ▲ **Urgently implement the outstanding recommendations from the Royal Commission into Aboriginal Deaths in Custody**
- ▲ **Abolish mandatory sentencing provisions** and return power to courts to determine the most appropriate response to individual cases
- ▲ **Support community-led local social reinvestment projects that keep First Nations people on country** and that address the underlying causes of disadvantage.
- ▲ **Co-design First Nations court models built on victim centred restorative justice based principles.**

## REFORM THE BROKEN PRISON SYSTEM

Approximately 40% of people serving a prison sentence will return to prison within two years.<sup>2</sup> For First Nations people the situation is even worse. Seventy percent of First Nations men and 55% of First Nations women reoffend.<sup>3</sup>

**High rates of recidivism are clear evidence that custodial sentences are not an effective or efficient deterrent to reducing social harm.**

**The system does not adequately prepare or support people when they leave the system, nor is it designed to provide adequate trauma informed responses for healing and recovery for First Nations people.**

The Greens will improve access to services and supports First Nations people need to address the underlying causes of offending.

### The Greens will:

- ▲ **Transfer the delivery of health and mental health services in prisons and in Banksia Hill Detention Centre to the Department of Health**
- ▲ Work with the Federal Government to **provide Medicare access to First Nations people in prison**
- ▲ **Provide a comprehensive suite of culturally safe First Nations-led alcohol and other drug services, family violence prevention programs and evidence-based rehabilitation programs in prisons** and connecting these to culturally secure programs post release.
- ▲ **Increase access to education, training and work opportunities in prisons** and Banksia Hill Detention Centre



## ACCESS TO JUSTICE

**Access to justice is a fundamental human right that has been denied to too many Western Australians due to chronic underfunding by state and federal governments.**

Numerous studies show that properly government funded legal assistance services generate significant benefits to our community.<sup>4</sup>

**The Greens will invest in First Nations legal services, legal aid, community legal centres and family violence prevention legal services** to ensure Western Australians get access to justice and to help address the shamefully high rates of incarceration of First Nations people.

# FIX THE YOUTH JUSTICE SYSTEM

**The minimum age of criminal responsibility in WA, at 10 years, is out of step with international human rights standards and medical evidence on child cognitive development.**

**WA has the highest rate of incarceration of First Nations children and young people in the country.** At 30 June 2020 73% of children and young people in Banksia Hill Detention Centre were First Nations.<sup>5</sup>

**Children do not belong in prison.**

Every First Nations child deserves to be healthy and to reach their potential. In order to achieve this goal, more must be done to ensure children receive help and support including better access to mental health care, mentoring, education and employment opportunities.

The best way to prevent future offending, to make our communities safer and to give First Nations children the best possible chance of a good life, is to support and build the capacity of families, engage and support kids to stay in school, address family violence and housing instability, and identify and respond to health and disability needs.

**First Nations children and young people in youth justice detention in WA have the highest known prevalence of foetal alcohol spectrum disorder (FASD) and other neuro-disabilities in a custodial setting worldwide.<sup>6</sup>**

They are rarely diagnosed before they become involved in the justice system – and they miss out on specialist disability support in the community that could have helped prevent or address the causes of their offending.

The Greens will work with First Nations communities to develop evidence-based solutions to youth offending that are culturally safe and keep kids on country and close to their community.

**We will pursue legislative reform to abolish all mandatory sentencing provisions, because mandatory sentencing, particularly of First Nations children, has no place in a civilised society and absolutely needs to stop.**

The Greens will invest in the prevention and early identification of cognitive impairments such as FASD so that First Nations children and young people receive the help and support they need.

## The Greens will:

- ▲ **Raise the age of criminal responsibility** to at least 14 years of age
- ▲ Legislate so that **detention is truly the option of last resort**
- ▲ **Close Banksia Hill Detention Centre** and work with First Nations communities to develop culturally appropriate therapeutic options on country
- ▲ **Invest in early assessment, diagnosis and support for First Nations children** identified as at risk of FASD or other cognitive or neuro-developmental impairments

# FIRST NATIONS HERITAGE & DEVELOPMENT▲

## The Greens plan to ensure First Nations heritage is protected.

The current Aboriginal Heritage Act (1972) has entrenched successive governments' policies that allow their corporate donor-mates to run rampant through our State, mostly unchecked, destroying landscapes and sites of cultural significance for corporate profit.

We need new legislation that reflects the true significance of First Nation's heritage and actually protects it, as well as ensuring First Nation's traditional owners have the control rather than mining corporations.

Australians and the world are watching. Mining companies and the McGowan Government are on notice - they do not have the social license to destroy First Nations peoples' heritage and culture. The Greens will work with First Nations peoples to establish new legislation and regulations to protect their cultural heritage, and invest in industry training, development and management to support self-determination and independence.

### The Greens will:

- ▲ **Establish a new Aboriginal Cultural Heritage Act** to reflect the significance of connection to Country and the importance of protecting cultural heritage
- ▲ **Ensure that industry projects are developed in partnership with the First Nations Peoples** who have custodianship over that Country
- ▲ **Fund Indigenous organisations and programs aimed at protecting and promoting tangible and intangible First Nations cultural heritage and knowledge systems**
- ▲ **Work with interstate and international institutes to bring cultural heritage items home** to their legitimate custodians
- ▲ **Support and invest in First Nations industry and business training, development and management**
- ▲ Invest in the **Aboriginal Cultural Tourism sector**

## A NEW FIRST NATIONS CULTURAL HERITAGE ACT

This year, Western Australia was in international headlines for all the wrong reasons. **Juukan Gorge, a site indicating human habitation from 40,000 years ago on Puutu Kunti Kurrama and Pinikura (PKKP) Country, was destroyed by Rio Tinto with government approval.**<sup>7</sup>

The disturbing thing is, that Rio Tinto is not the only company to blow up sacred sites for profit.

**The destruction of cultural heritage to boost the extractive industries sector has, unfortunately, been the go-to policy of successive governments.**

The current Aboriginal Heritage Act (1972) has entrenched successive governments' policies that allow their corporate donor-mates to run rampant through our State, mostly unchecked, and destroying sites of significance and cultural landscapes.

We need contemporary legislation to reflect the true significance of Aboriginal cultural heritage.

### The Greens will:

- ▲ **Ensure a new Aboriginal Cultural Heritage Act is co-designed** with First Nations peoples
- ▲ **Ensure that new legislation be retroactive** and require any sites of cultural significance previously earmarked for destruction be re-evaluated by the Traditional Custodians

## ADEQUATELY FUND FIRST NATIONS ORGANISATIONS AND PROGRAMS

Currently, a large proportion of the income for the organisations and programs working in the cultural heritage space is via the very same mining companies looking to destroy this heritage for profit.<sup>8</sup>

**First Nations corporations should not have to rely on funding from mining companies in exchange for the undisputed destruction of sacred sites and culturally significant places.**

To ensure First Nations people have true autonomy over decisions to do with cultural heritage, **First Nations people and their organisations need to be independently and adequately funded.**

### The Greens will:

- ▲ **Ensure long-term government funding is made available** for First Nations organisations and corporations
- ▲ **Legislate to ensure that mining companies are prevented from entering into exploitative relationships with Aboriginal corporations**
- ▲ **Ensure there is adequate opportunity and resources** to survey, catalogue and advocate for the protection of sites of significance and cultural landscapes via long-term funding



## BRING CULTURAL HERITAGE HOME

**More than 100,000 First Nations Australian artefacts are held in 220 institutions across the world, of which at least 32,000 are in British institutions.<sup>9</sup>** In most cases, the First Nations people received no remuneration for this work, which has been displayed internationally for generations of visitors.

**These artefacts came into the possession of museums by military, social and economic force. It is essential that these cultural pieces - including human remains - are returned to Country or rented for a fee, paid to Traditional Owners.**

In 2020, the *1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* celebrates its 50th anniversary. Adopted by the General Conference of UNESCO on 14 November 1970.

This Convention provides an international framework for the prevention of theft and looting and the return and restitution of stolen cultural property, in parallel with other advances in the fight against illicit trafficking.

**At present there is no governance or process in Australia for the return of cultural artefacts or human remains.**

### The Greens will:

- ▲ **Implement state laws to provide a framework for repatriation**
- ▲ **Support AIATSIS through long term funding and WA support in the International Repatriation Program;** which has already proven to be successful
- ▲ **Impose harsh penalties for the illicit ownership, sale, or transport of cultural artefacts and art**
- ▲ **Display an ethos befitting of our role within UNESCO,** supporting and campaigning for the return of cultural artefacts, at home in WA and nationally





# SELF-DETERMINATION

**As the recent catastrophe at Juukan Gorge has shown, there is a great imbalance of power in the relationships between industry proponents and First Nations peoples.**

Despite establishing an Aboriginal Economic Development scheme within the Department of Agriculture,<sup>10</sup> current laws around the sale of pastoral leases have recently seen the Yi-Martuwarra traditional owners locked out of purchasing prime pastoral land on their own country.

This has diminished the potential for the Yi-Martuwarra people to develop their economic sustainability while also carefully managing the land, protecting the Martuwarra Fitzroy River, and promoting their community's future cultural, social and emotional wellbeing.

**As custodians of Country, it is essential that First Nations people are included in the whole process - from the preliminary plans, through to operation.**

**Moving forward, the Greens will help ensure that Indigenous landholders are not just included, but are at the front of developments occurring on Country.**

## The Greens will:

- ▲ **Review and amend the regulations and processes of pastoral lease renewal, sale and management**
- ▲ **Amend the Petroleum and Geothermal Resources Act (1967) to require proponents to consult extensively with Traditional Owners** on oil and gas projects carried out on their lands and ensure clear, correct information is provided on all potential consequences of projects that may be damaging to the environment
- ▲ **Establish and facilitate First Nations-owned businesses that specialise in Native Title and Land-Use Agreements**, to liaise between industry and First Nations peoples during projects.
- ▲ **Prevent, by law, proponents from withholding royalties for commenced projects**, and to diversify how these royalties may be received by a community - whether as capital, or as community development.
- ▲ **Amend laws and regulations, such as the Mining Act (1978)**, to require proponents to consult with Native Title Holders prior to developing project proposals; putting the Traditional Owners' rights to veto and amend at the determination of the projects viability stage.



## INDUSTRY DEVELOPMENT

Like many other businesses, First Nation's entrepreneurs are subject to rigorous and compliant-heavy tendering and start-up grant processes.

Currently, micro and small businesses face a lack of access and innovation in capacity building grants, incubator models and incentives through joint ventures and partnership. **This has continued to hamper the ability for Aboriginal businesses to develop, grow and be self-sustaining.**

### The Greens will:

- ▲ **Secure 'forever funding' type models** for First Nations' ranger programs and environmental regeneration, creative and performing arts and media organisations
- ▲ **Improve grant structures and accessibility of grants** that promote self-determination, initiatives that address the climate crisis, and other broad industry developments
- ▲ **Establish a WA First Nations Industry & Development Framework** - led and co-designed by grass roots community members and stakeholders, underpinned by the UNDRIP and sustainable development goals (SDG's) that ensure projects are culturally safe and meet the community's goals
- ▲ **Ensure the effective implementation of the WA State Government Aboriginal Procurement and Federal Indigenous Procurement Policies** to bolster and deliver directly into Aboriginal businesses in WA.

## ABORIGINAL CULTURAL TOURISM IN THE REGIONS

**Cultural tourism provides avenues for educating the public about Aboriginal heritage and culture, for landscape preservation, and for self-determination and financial independence for individuals, their families and communities.<sup>11</sup>**

The Aboriginal Cultural Tourism sector generated around \$30 million in income for First Nations operators in WA (2016-2017) and demand is increasing.<sup>12</sup>

In line with the aspirations of the WA Indigenous Tourism Operators Council (WAITOC),<sup>13</sup> **the Greens will provide a suite of funding for multiple areas of Cultural Tourism to support and expand businesses and initiatives.** The package will include and expand on the requested funding by WAITOC, including:

- ▲ Up to \$10M for 5 regional Aboriginal Cultural Centres in key tourism areas across WA
- ▲ \$10M over the next 4 years to employ Aboriginal staff for these 5 regional Aboriginal Cultural Centres
- ▲ \$15M to expand the Camping with Custodians initiative
- ▲ \$4.4M to expand WAITOC's funding per year to support new and existing Cultural Tourism businesses and initiatives
- ▲ \$12M over 4 years to fully support a Aboriginal Tourism Academy

Additionally, the Greens will invest in training and development for First Nations people.

**The Greens will:**

- ▲ **Ensure free TAFE courses for all, ensuring First Nations students can train and upskill** in the areas they choose without incurring a student debt
- ▲ **Provide additional incentives to lecturing and support staff to relocate to regional areas** to ensure a wider range of courses is available on site
- ▲ **Create more localised partnership agreements** between 'clean' industries (health, education, caring and arts industries for example), schools and communities to broaden young people's career opportunities
- ▲ **Fund First Nations engagement coordinators in all TAFEs** to link industries and community members and small business development organisations

# FIRST NATIONS HEALTH & WELLBEING▲

## Addressing the social and emotional health of First Nations people.

Everyone agrees the disparity in life outcomes for First Nations People must be addressed. However, there will be no justice until First Nations People, including Elders and leaders, are made active participants in the decision making processes at all levels of government.

Successive Governments have failed again and again to redress the systems and structures and that perpetuate colonialism through punitive and and oppressive legislation, policies and practices for issues effecting First Nations people. These outcomes can be turned around if the WA State Government engages in a legitimate and genuine process of co-design, and truly listens to the solutions First Nations People determine as necessary.

They have continuously ignored First Nations peoples' repeated calls for input into decision making processes on all issues interconnected to their social, emotional health and wellbeing.

We need to take a critical approach, that form a new equal and meaningful relationship with First Nations people to balance the inequality of power that has existed for many decades - so our systems and processes no longer marginalise and disadvantage our First Nations people. The Greens will work with First Nations peoples to introduce measures that enshrine self-determination and respectfully include sovereignty, including the recognition of traditional healing practices for health and wellbeing of their peoples.

### The Greens will:

- ▲ **Invest in First Nations led and controlled essential health and mental health services**, including traditional healing approaches.
- ▲ **Support First Nations families** to be strong, healthy and thriving
- ▲ **Fund Community-led solutions to and advocate for policy reform** to increase family safety initiatives that address the epidemic rates of violence in WA communities
- ▲ **Work with First Nations peoples to address housing, homelessness and overcrowding**

# FIRST NATIONS LED ESSENTIAL SERVICES

Inadequate housing, infrastructure, overcrowding, intergenerational trauma and social disadvantage contribute to First Nations people experiencing significantly lower life expectancy than other Australians.<sup>14</sup>

**Successive governments have not listened to First Nations people, and in doing so have failed to deliver the reforms needed to improve health outcomes.**

**First Nations self-determination is vital to wellbeing and a key part of justice and healing to address intergenerational trauma.** The Greens will work with First Nations people to ensure they are the active change agents and key decision makers in the legislation, policies and programs that affect their communities.

## The Greens will:

- ▲ **Work with First Nations peoples to ensure their specialist Aboriginal Community Controlled Organisations have a central role** in the planning and delivery of health and other essential services for their communities
- ▲ **Increase investment in Aboriginal Community Controlled Health Organisations (ACCHOs) and Community Services.**
- ▲ **Invest in specialised place based, locally led and developed mental health and suicide prevention services** for First Nations people, particularly in regional and remote areas

- ▲ Work with First Nations communities to **address the social and cultural determinants of ill-health disproportionately experienced by First Nations peoples** including poverty, homelessness, racism and access to education.

- ▲ Work with First Nations communities and stakeholders to **redress systemic and structural discrimination at all levels of Government** to ensure consistent and culturally secure outcomes across legislation and policy.



# SUPPORTING FIRST NATIONS FAMILIES TO STAY TOGETHER

There are currently more than 3,000 First Nations children in out-of-home care across Western Australia – representing over 56% of children in care.<sup>15</sup>

Without adequate investment in supports to heal and strengthen families, and to empower First Nations communities to make decisions about the care and protection of their own children, this inequality will continue to increase.

**The Greens will fund a system, led by First Nations communities, that focuses on support and early intervention to heal and strengthen families to deal with the challenges they face and provide safe culturally secure care for children.**



## The Greens will:

- ▲ **Invest in First Nations designed and led parenting support and early intervention programs** to keep families strong and together
- ▲ Legislate that placement decisions for First Nations children in care must be made through an **Aboriginal Family-Led Decision-Making (AFLDM) processes**
- ▲ **Co-design a First Nations Commission for Children and Young People** with First Nations people in WA
- ▲ **Guarantee connection to culturally secure supports and services,** where and when it is needed, for First Nations young people in care as they transition to independent living



# INCREASING FAMILY SAFETY FOR FIRST NATIONS PEOPLE

Family violence causes significant effects on families, including physical, social, emotional harm and homelessness.

**Building a Strategy for addressing family safety in First Nations communities must co-led through a whole of government and First Nations peoples partnership grounded in the principle self-determination and build accountability mechanisms to measure outcomes.**

This Strategy will be culturally strengths based and have a primary prevention approach to address the drivers of violence in First Nations communities. This strategy will include localised regional implementation plans co-determined through locally developed processes led by First Nations Elders and Leaders.

## The Greens will:

- ▲ **Co-design WA's first First Nations Family Safety Strategy including multi agency tri level partnership agreements and economic analysis** to address the unacceptable levels of violence in First Nations communities in WA.
- ▲ **Develop a 10 year road map within the Strategy for access to legal, health, community services and programs, specialist services.** Within the roadmap it will identify gaps and provide best practice examples of community led solutions.

- ▲ Build an evaluation framework to accompany the Strategy to measure qualitative and quantitative outcomes for family safety across the continuum of violence.

# A HOME FOR ALL

**Access to safe, secure, affordable and culturally secure housing is fundamental to achieving justice for First Nations peoples.**

Yet the failure of successive governments to invest in social housing has meant that **homelessness and severe overcrowding continue to impact on the health and wellbeing of too many First Nations people and their families.**

The Greens have a plan to work with First Nations communities to develop local solutions to end homelessness.

## The Greens will:

- ▲ **Address the drivers that cause homelessness to end poverty** and greater support to increase family safety for First Nations people.
- ▲ **Implement a genuine co-design approach to housing access and land use for culturally secure social housing options** for First Nations people and communities.
- ▲ Increase supports through the **housing first model**<sup>16</sup>

- ▲ **Abolish the ‘three strikes’ eviction policy and end the eviction of children and people with serious mental illness**, from social housing into homelessness
  
- ▲ **Undertake policy reform on the connectivity of housing, child protection and police through family violence data** resulting in systemic discrimination of First Nations people resulting in homelessness.

1. <https://www.wa.gov.au/sites/default/files/2020-09/2020-quarter2-adult-custodial.pdf>
2. The rate of return of adult prisoners (either to prison or community corrections) for 2019/20 was 37.14 percent [https://www.wa.gov.au/sites/default/files/2020-09/Department-of-Justice-Annual-Report-2019-2020\\_0.pdf](https://www.wa.gov.au/sites/default/files/2020-09/Department-of-Justice-Annual-Report-2019-2020_0.pdf)
3. <https://static1.squarespace.com/static/59c61e6dbefab0293c04a54/t/5ef5632af22174273c5d18d5/1593140018902/SRWA+Discussion+Paper+on+Justice+Reinvestment+in+WA+March2020+%281%29.pdf>
4. <https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-overview.pdf>
5. <https://www.wa.gov.au/sites/default/files/2020-09/2020-quarter2-youth-custodial.pdf>
6. <https://www.telethonkids.org.au/news--events/news-and-events-nav/2018/february/young-people-in-detention-neuro-disability/>
7. <https://www.abc.net.au/news/2020-05-26/rio-tinto-blast-destroys-area-with-ancient-aboriginal-heritage/12286652>
8. Discussions with and documents provided by multiple First Nations Peoples and non-Indigenous people working with and for Aboriginal Corporations in the Pilbara and Kimberley (2020).
9. <https://www.theguardian.com/australia-news/2019/nov/20/manchester-museum-returns-stolen-sacred-artefacts-to-australians>
10. <https://en.unesco.org/news/celebrate-50-years-fight-against-illicit-trafficking>
11. <https://www.agric.wa.gov.au/aboriginal-business-development-0>
12. [https://www.tourism.wa.gov.au/About%20Us/Growing\\_tourism/Aboriginal-tourism/Camping\\_with\\_Custodians/Pages/Camping-with-Custodians.aspx#/](https://www.tourism.wa.gov.au/About%20Us/Growing_tourism/Aboriginal-tourism/Camping_with_Custodians/Pages/Camping-with-Custodians.aspx#/)
13. <https://www.mediastatements.wa.gov.au/Pages/McGowan/2018/02/New-research-shows-importance-of-Aboriginal-tourism-to-WA.aspx>
14. <https://www.aihw.gov.au/getmedia/2aa9f51b-dbd6-4d56-8dd4-06a10ba7cae8/aihw-aus-232.pdf.aspx?inline=true>
15. Department of Communities Annual Report 2019-20 page 33. <https://www.communities.wa.gov.au/media/2856/departments-of-communities-annual-report-2019-20.pdf>
16. R Housing first - People experiencing homelessness are better able to access support and achieve long term positive outcomes from the stability of a home.