

University of Technology Sydney

Submission in response to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs's inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia



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Acknowledgement of Country

UTS acknowledges the Gadigal people of the Eora Nation, the Boorooberongal people of the Dharug Nation, the Bidiagal people and the Gamaygal people, upon whose ancestral lands our university stands. We would also like to pay respect to the Elders both past and present, acknowledging them as the traditional custodians of knowledge for these lands.

Introduction

The University of Technology Sydney (UTS) thanks the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs for its inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in Australia (the Inquiry).

UTS is the top-ranked young university in Australia. Our vision is to be a leading public university of technology recognised for our global impact. As a university of technology, it is our role to ensure our graduates shape the future professions and businesses that will be needed in Australia and overseas. Since our inception, an integral building block of our success has been our outward, global focus and ability to partner with industry. Our campus has no walls; it is deliberately designed to be porous and support connections, knowledge exchange and collaboration. This embodies our approach to engagement and permeates our teaching and research. Our student body is diverse, and we encourage our students and staff to look at the world from different perspectives.

Our Indigenous commitment

UTS's commitment to Indigenous education, research and employment is at the heart of our work. UTS is proud to be at the forefront in embedding the UNDRIP principles through Indigenous led policies, strategies, and governance; education and research; and our employment strategies and practices.

UTS has demonstrated a long-term commitment to placing self-determination at the heart of our functions, strategic direction, and governance. UTS is home to the unique Jumbunna Institute for Indigenous Education and Research (Jumbunna) with a Pro Vice-Chancellor (Indigenous Leadership and Engagement) permanently appointed to UTS's University Leadership Team. Our current Pro Vice Chancellor (Indigenous Leadership and Engagement) came to UTS from her previous role as Deputy Aboriginal and Torres Strait Islander Social Justice Commissioner at the Australian Human Rights Commission. In 2022, a newly created role of Special Advisor to the Vice-Chancellor, Major Indigenous Priorities, commenced in recognition of the continuously growing Indigenous agenda at UTS. For example, UTS is creating an Indigenous Residential College, the first of its kind in the world, dedicated to Indigenous people, culture, citizenship and academic excellence.

High-level facts and figures

While our Indigenous student numbers are relatively small, their success rates are very high:

- Over the last three years, UTS's Indigenous student participation (all courses – undergraduate, postgraduate, HDR and non-award) has been maintained at over 350 students.
- Indigenous HDR students have more than doubled from 22 in 2016 to 47 in 2023.
- Indigenous postgraduate coursework students have significantly increased from 28 in 2019 to 95 in 2023.
- Indigenous student commencements have increased gradually from 132 in 2019 to 151 in 2022.
- Indigenous student success rates in 2023 were over 85% and have consistently been over 80% since 2015, a significant increase from around 66% in 2010.
- Data from our Graduate Outcomes Survey indicates that full-time employment for UTS domestic Indigenous undergraduates increased from 92.3% in 2021 to 100% in 2022.

Our Jumbunna research team has a strong reputation and is a trusted partner by the private sector, government and the Indigenous community. Notable successes include:

- The creation of the [Call it Out Racism Register](#) launched in 2022, which provides a simple and secure way for people to report incidents of racism and discrimination toward First Nations Peoples. The individual reports are collected and analysed by the Jumbunna Research to inform an annual report which will help raise awareness and drive systematic change.
- In 2022, Distinguished Professor Larissa Behrendt AO was awarded a \$3.5 million Australian Laureate Fellowship to explore new ways to give First Nations communities greater control over how they're treated within the criminal justice, coronial and child protection systems.

- Professor Behrendt AO was also awarded the Human Rights Medal in 2021 and Latoya Rule was a finalist for the Human Rights Medal in 2022 in recognition for their dedicated work and advocacy for Indigenous people.

UTS is also an employer of choice for Indigenous people with:

- Potentially one of the largest Indigenous professoriates in Australia with 20 Professors and Associate Professors.
- Indigenous staff participation increasing from 1.7% at the end of 2019 to approximately 1.93% at the end of March 2023 for continuing and fixed-term roles.

Structure of this submission

Section 1 of this submission responds to the Inquiry's broad themes regarding application of UNDRIP and details how these principles have been embedded across UTS, highlighting our ongoing commitment to ensuring that self-determination and other principles from the UNDRIP support improved Indigenous outcomes.

Section 2 of this submission briefly describes the Indigenous Residential College and how it will contribute to the achievement of a fully inclusive and reconciled Australian Nation, one in which Indigenous and non-Indigenous Australians thrive and benefit.

Section 3 of this submission responds to the second Term of Reference and takes the opportunity to elevate recent submissions by our highly regarded experts:

- Jumbunna's submission to the Parliamentary Joint Committee on Human Rights *Inquiry into Australia's Human Rights Framework*; and
- the International Law Association (ILA) Committee on the Implementation of the Rights of Indigenous Peoples, endorsed recommendations from the ILA Committee's Kyoto Conference (2020).

Section 1: Embedding the UNDRIP at UTS

UTS is committed to the principle of self-determination for Indigenous people. Within the context of UTS, self-determination means the right of Indigenous people to celebrate their culture and identity and to determine the direction of Indigenous education and employment subject to the established rules, management and governance structures of UTS.

UTS is committed to consultation with Indigenous staff and students in the development of major strategies and plans. Indigenous people are also very involved in the University's governance and leadership of Indigenous education and employment initiatives.

UTS has a comprehensive Indigenous policy framework incorporating UNDRIP principles, with an overarching [UTS Indigenous Policy](#) and supporting strategies focussed on education and research, and employment. The following sections summarise each of these elements of the policy framework and demonstrate UTS's approach to embedding Indigenous self-determination, and communicating our commitment to implementing the UNDRIP principles.

This approach aligns with the commitment in the [UTS 2027 strategy](#) that the university will be home to a culture of excellence in Indigenous higher education, research, employment and community engagement.

Indigenous Policy

UTS's Indigenous Policy (effective from 2019) aligns UTS with the international principles detailed in the UNDRIP and with national Indigenous higher education objectives. The Indigenous Policy commits UTS to:

- Setting clear Indigenous education, research and employment objectives.
- Establishing principles that underpin the implementation of these objectives.
- Embedding Indigenous protocols and acts of cultural recognition into UTS's ceremonial life.
- Establishing governance structures, accountabilities, planning requirements and reporting processes to help UTS achieve the objectives under this policy.

To ensure that the policy is fully embedded across the university, all areas of UTS share responsibility for implementing the policy, progressing its objectives, and ensuring its performance measures are included in the university's performance management system.

The UTS Indigenous Policy principles are aligned to the UNDRIP Articles on the rights to self-determination, cultural expression and participation; freedom from discrimination, violence and oppression; and the right to maintain connection to country. An extract of this policy is provided in Box A below.

Box A: Indigenous Policy principles

1. UTS acknowledges Indigenous Australians as Australia's first peoples and the ongoing custodians of Country who occupy a unique place in Australian society. UTS takes pride in, identifies with, and celebrates Indigenous Australia.
2. UTS is committed to an environment for Indigenous people that is welcoming, respectful, non-discriminatory and free of harassment.
3. UTS is committed to Indigenous self-determination. Self-determination is the internationally recognised right of indigenous peoples to control their own affairs, maintain their culture and heritage, and determine their own future. At UTS, self-determination means the right of Indigenous people to celebrate their culture and identity and to determine the direction of Indigenous education, research and employment (in line with UTS's rules, management and governance structures).
4. As part of its commitment to Indigenous self-determination, UTS will:
 - Be accountable to the Indigenous community regarding its plans, activities and achievements.
 - Facilitate Indigenous participation in UTS decision-making, where practicable, by targeting places for qualified Indigenous people to join major and strategically significant committees, advisory groups and working parties, including those that are not specifically Indigenous.
 - Consult Indigenous people in planning and implementing initiatives in support of this policy.
5. Indigenous education, research and employment are priority areas of operation and are core UTS business.
6. The Policy and its objectives must be considered when developing all UTS strategies, plans, programs and reviews.

Indigenous Education and Research Strategy 2019–2023

The UTS [Indigenous Education and Research Strategy 2019–2023](#) is the primary strategy for the achievement of the university's strategic vision for Indigenous education and research, and the achievement of the specific objectives articulated in the UTS Indigenous Policy. Through this strategy, UTS seeks to contribute to the transformation of the higher education sector by being a beacon of Indigenous best practice and by setting a high national benchmark. Aligned to the UTS Indigenous Policy, all areas of UTS share responsibility for progressing these Indigenous initiatives with formal accountabilities assigned to leaders across the University.

The strategy was developed through extensive consultation with a range of stakeholders, beginning with the Indigenous community by way of the Vice-Chancellor's Indigenous Advisory Committee. As a result, the strategy (along with the [Wingara Indigenous Employment Strategy 2019–2023](#)) aims to position UTS as a world-leading university in Indigenous education and research.

To achieve our strategic vision, UTS aims to be characterised by the following by the end of 2023:

- Doubling of our Indigenous student participation rates, with Indigenous students representing two per cent (approximately 750 students) of our domestic student cohort. Our longer-term interest is in achieving population parity or 3% Indigenous student participation by 2028. This is to be enabled by a much broader and deeper national aspiration-raising program, with increased capacity in staffing, technology and other resources. UTS also commits to continuing to offer Indigenous students cost-covered accommodation and a stipend.
- Achieving no gap between Indigenous and non-Indigenous success, retention and completion rates. This is to be enabled by a cross-UTS network of student support, an ability to develop learning capability regardless of location and a growing number of scholarships.
- Delivering a nationally significant Indigenous Graduate Attribute (IGA) commitment, one that makes an important contribution to the professions, and bears close scrutiny by Indigenous professionals.

- Remaining as a leading site in the country for Indigenous higher degree by research (HDR) scholarship. UTS actively seeks to have the largest Indigenous HDR cohort in the nation, and to achieve parity with non-Indigenous HDR student retention and completion rates.
- Maintaining a strong and vibrant Indigenous research environment. UTS seeks to have an outstanding record of success in Australian Research Council and other competitive grants and publications. This is enabled by an increasing number of Indigenous research entities across the university and the largest professoriate in the country.
- Committing to Indigenous research being Indigenous led, inter-disciplinary and having tangible positive outcomes for Indigenous people. UTS seeks to significantly contribute to public debate regarding Indigenous rights and the position of Indigenous people within the nation.
- Maintaining a strong culture of international engagement. This will be demonstrated by a high level of international Indigenous scholarly exchange and collaboration. Our Indigenous undergraduate students will have the highest rate in the country of international student experience.
- Achieving, under the [Wingara Indigenous Employment Strategy 2019–2023](#), at least three per cent Indigenous employment. Our commitment extends to increasing the Indigenous competency and professional capacity of our non-Indigenous leadership and workforce (further details of this program are provided elsewhere in the submission).
- With the support of our broader Indigenous community, UTS will establish Australia's first national Indigenous Residential College (refer to Section 2).

In addition to the numerous Indigenous education and research initiatives embedded across the university, UTS has identified 10 additional areas of special priority to further advance Indigenous education and research. Each priority area has one or more strategic initiatives to help achieve UTS's Indigenous strategic vision.

Progress towards the strategic vision

Indigenous Graduate Attribute

All UTS onshore Award courses are expected to adopt an assessable Indigenous Graduate Attribute (IGA), including one or more Indigenous Course Intended Learning Outcomes (ICILO). The rationale is to drive the embedding of Indigenous Australian contexts across the teaching of all UTS discipline areas to inform the professional capability of students to work effectively for and with Indigenous Australians.

The IGA is fundamental to UTS's philosophical principle that Indigenous education is for all Australians, as articulated in the Indigenous Policy. The IGA is being effectively and progressively implemented across UTS's entire curriculum and build our capability to teach and graduate students who can work for and with Indigenous Australians.

UTS has increased the focus on Indigenous curriculum and the IGA in general at a national and international level. In 2022, UTS hosted its inaugural Indigenous Higher Education and Curriculum Conference which was attended by 149 delegates across 24 higher education institutions from Australia (all mainland states), Canada, New Zealand, and Germany. The conference led to the establishment of an international community of practice of over 80 members.

Jumbunna Institute for Indigenous Education and Research

UTS is home to the successful Jumbunna Institute for Indigenous Education and Research (Jumbunna), which has provided academic, social, cultural and emotional support to Indigenous students for more than thirty years. Jumbunna also works with Indigenous communities across Australia, using these partnerships to advocate for change and do research with strong social impact.

The research arm of Jumbunna comprises committed academics, lawyers, creatives, practitioners and activists who can deploy a broad range of skills driven by a shared passion for social justice. They have extensive experience with analytical leadership through accountability to Indigenous communities and nations. Jumbunna has a respected reputation for working with Indigenous communities and nations on nation-building, self-determination and state and federal government accountability. It provides an excellent, skilled, Indigenous-led research environment, and the academics, researchers and creatives at Jumbunna enjoy an international reputation for their outstanding work.

Jumbunna's work is focused on stories, campaigns, projects, evaluations and cases that consolidate the many different sets of skills and expertise towards a common goal. It works from one key guiding principle, that the work should be driven by Indigenous people, and contribute to their strength, sustainability and

wellbeing. Jumbunna believes that Indigenous nations and people can use research as a tool to produce change and build capacity. It is committed to excellence and responsiveness to communities and clients. Its focus on work that combines its strengths to make a genuine impact and change in Australia and internationally. Jumbunna supports outputs in the following areas:

- Research with impact – Producing world-class research on legal and policy issues that support Indigenous sovereignty and wellbeing, and that holds those in power to account. Research outputs include articles, case studies, books, legal analysis, policy submissions, contributions to Indigenous methodologies and critical legal theory, engagement with international scholars, and contribution to new media.
- Services that transform – Providing a suite of sophisticated, ethical and expert professional services and advocacy. Operating nationally and with deep expertise and experience in the industries of law, governance, policy and new media. In addition to the provision of professional services and a range of community advocacy initiatives, Jumbunna seeks to influence the development of new professionals to align with their objectives.
- Teaching to build capacity – Recognising the debt owed to those who taught them, and the importance of fostering future collaborators and allies, Jumbunna’s team acknowledges the importance of teaching and of the use education. Jumbunna contributes to and develops tailored subjects, short courses and professional courses to help communities and clients better effect change.
- Story with purpose – Recognising the central role of Story and the power of narratives, Jumbunna is conscious of how it tells their story, and the stories of others, and prioritise community voices of Indigenous sovereignty, strength and vitality.

Strategies to improve Indigenous student access

There are two overarching strategies at UTS to improve Indigenous access to higher education:

- a comprehensive alternative pathways program – Jumbunna Pathways Program, and
- an extensive Indigenous student recruitment and outreach program.

Jumbunna Pathways Program

The [Jumbunna Pathways Program](#) (combined with the outreach program detailed in the following section) is the main mechanism used to improve Indigenous peoples’ access to higher education. The Program is designed to build aspiration for university study amongst Indigenous people. It also aims to increase students’ access to university study through alternative pathways. Support is provided to enhance students’ capacity to excel and succeed.

The Jumbunna Pathways Program attracts applicants from a wide range of backgrounds interested in studying at UTS, from highly experienced mature-age students looking to increase their education qualifications or change career pathways, to school leavers with a desire for tertiary education who are seeking to develop their capabilities.

The Program offers prospective undergraduate students an opportunity to illustrate their capability for higher education via a testing, assessment and interview process. Selection is also based on factors including previous education, life and work experience.

Following participation in testing and assessment, students may be offered alternative pathways to study at UTS, as detailed below.

- *Direct entry to UTS* – Offered to students who are assessed as having the academic skills and capabilities for full-time university level study.
- *Jumbunna Unistart enabling course – Building opportunity and opening doors* – A 12-month enabling course that prepares students for university study and provides an entry pathway to UTS courses in sport and exercise science, nursing, midwifery, education, law and some design courses. Upon completion of Unistart, students receive up to half a year of credit towards their degree.
- Through Jumbunna-delivered classes and tutoring sessions, Unistart students develop their understanding of academic cultures and practices and improve their literacy and numeracy skills. Students also undertake faculty subjects and participate in social and cultural activities throughout the year. These activities are designed to foster a sense of belonging and strengthen students’ self-belief, resilience and self-management.

- *UTS College Indigenous Scholarship Program* – Jumbunna works closely with UTS College (which offers diploma pathways into UTS degrees) to identify applicants for the UTS College Indigenous Scholarship Program, which allows Indigenous scholars to access UTS College diploma programs.
- *TAFE or further preparation* – Jumbunna pathway participants who have the potential for study once they build their knowledge skills will be recommended a TAFE course. These participants are invited to apply for Jumbunna Pathways after they successfully complete their TAFE course.

Jumbunna also operates an Indigenous Outreach team, engaging with high schools, Indigenous students, and corporate and community partnerships. Outreach is focused on demystifying the application process and support services when becoming a student.

Indigenous student recruitment and outreach program

The Jumbunna Indigenous Outreach team has an extensive Indigenous student recruitment and outreach program, working closely with high schools, Indigenous students, corporate and community partnerships. Much of the outreach is focused on demystifying the university application process and support services when becoming a student. Care is taken to explain what the lectures and tutorials are like, what to expect of the workload, hours of study, what help students can access through Jumbunna and how to make friends. We have found this makes students more curious and interested in university, when their concerns are validated but accompanied by an explanation that university is very much an achievable goal.

Jumbunna understands that teachers, parents and care givers play a pivotal role in providing guidance and increasing motivation in career and study aspirations. The Director, Indigenous Students and Community Engagement and the Deputy Director, Learning Development work alongside teachers in developing high level strategies to better prepare students for post-secondary study. The broader Recruitment and Outreach team builds relationships with targeted schools and individual students in creating greater awareness of higher education opportunities at UTS. This program continues to be expanded working more closely with various Departments of Education across various jurisdictions. In 2022, Jumbunna continued the content development of the dedicated portal on the UTS Learning Management System (Canvas) that provides a range of engagement resources for teachers and students.

In 2022, the Outreach team directly engaged with 30 schools (public, private and independent) to deliver presentations, workshops, one-on-one sessions with individual students or meeting with the principal, careers advisor or Aboriginal education workers.

Galuwa Residential Experience

Galuwa means 'to climb' in Gadigal language and that's exactly what we want Aboriginal and Torres Strait Islander high school students to do at UTS. The Galuwa Experience is a fantastic chance for young Indigenous high school students to discover the opportunities a degree at UTS can provide.

The program is designed for high school students in years 10, 11 and 12 and introduces them to the undergraduate programs at UTS. The Galuwa Indigenous outreach program has been running for several years and has been a great success in building aspirations towards university study. This program is designed to help high-school students understand what university education is like, and give them ideas for possible courses they could consider studying after high school. Information is also offered about pathways into university, scholarships and support available from Jumbunna.

Each year the Galuwa Experience has been hosted with different faculties within UTS. Past students have enjoyed the programs and the experiences offered, with students highly 'recommending the program to other students'. A sample of these experiences are described below by Galuwa participants:

- "I'm not exactly sure what I want to do when I graduate high school. After spending a week on campus at UTS and attending the NT Galuwa, I definitely want to explore my options at UTS" (Galuwa participant, 2023).
- "The program has really opened my eyes up to the possibilities of engineering and IT" (Engineering & IT Galuwa participant, 2019).
- "Coming to university for the week, using all this technology like airbrushes, laser printing, 3D technology and meeting new people, and seeing what university is really like, makes me want to come here even more" (Design, Architecture and Building Galuwa participant, 2018).

Student support for unit completion

UTS provides a university-wide approach to supporting Indigenous students. Jumbunna offers centralised academic, social, cultural and wellbeing support to Indigenous students, with further support provided at the faculty level through:

- Faculty Associate Deans (Indigenous) who monitor systemic issues and provide important support at a local level.
- Faculty Indigenous Student Liaison Officer (FISLO) program and network – all faculties have appointed officers who provide discipline-specific academic support and advocacy for Indigenous students.
- Faculty Indigenous Strategies Committees – most faculties have established Indigenous Strategies Committees which oversee the implementation of their Indigenous Action Plans to support the goals of the various strategies for education, research and employment.

Tutorial assistance

The Indigenous Tutorial Assistance Scheme (ITAS) is an integral part of Jumbunna's current and alumni engagement strategy. It has seen a high success rate with students who commit to the program and have regular engagement in tutoring sessions. This also enables Jumbunna to deepen relationships with former students and keep them engaged as part of the university's lifelong learning strategy.

Governance for measuring success

As part of the annual reporting on UTS's *Indigenous Education and Research Strategy 2019-2023*, a range of metrics are tracked and reported to various governance forums including the Vice-Chancellor's Indigenous Strategies Committee, the Vice-Chancellor's Indigenous Advisory Committee and the Academic Board as well as through UTS's university-wide Corporate Plan. These metrics include student participation, commencements, success rates and retention rates for Indigenous as compared to non-Indigenous domestic students.

UTS Indigenous employment commitments

The [Wingara Indigenous Employment Strategy](#) continues UTS's longstanding commitment to overcoming Indigenous disadvantage in employment and education. UTS has pursued an affirmative action employment strategy through this strategy since 1993. This strategy has consistently promoted the recruitment, retention and career development of Indigenous staff within the university.

The previous iteration of the strategy (2011–2014) was successful in increasing the number of positions in both academic and professional roles through innovative and flexible approaches that provided opportunities for new and existing Indigenous staff. This success was enhanced under the second iteration 2015–2018, which saw further increases in the number of positions been filled by Indigenous staff, specifically in academic roles and at senior levels.

The current strategy (2019-2023) was designed to ensure that UTS has the Indigenous capability to achieve our high-level and ambitious strategic objective to position itself as a world-leading university in Indigenous education and research.

Through the strategy, UTS is seeking to:

- Ensure the University has the professional and academic capability to achieve our high-level and ambitious Indigenous strategic objectives and aims.
- Provide equitable employment opportunities for Indigenous candidates at all levels across all areas of the university.
- Provide retention and career progression opportunities for existing Indigenous staff members at the University.
- Develop Indigenous competency among non-Indigenous staff.
- Increase Indigenous economic engagement.

The aim and expectation is that additional employment opportunities and economic engagement for Indigenous staff will increase across UTS. The current target is for 3% full-time equivalent (FTE) continuing/fixed-term to be achieved by 2023. An extract of the principles for this strategy are provided in Box B below.

Box B: Wingara Indigenous Employment Strategy

1. Promote a 'whole-of-university' approach to employing Indigenous Australians, who have been traditionally under-represented in the higher education sector.
2. Create employment opportunities for Indigenous Australians across the full range and level of positions in academic, research, professional and senior management.
3. Provide employment opportunities to current and future UTS Indigenous Australian students, in academic and non-academic roles.
4. Provide opportunities for economic engagement for Indigenous Australians in general UTS business practices.
5. Reflect the following UTS values:
 - a. support staff to discover their full personal and career potential.
 - b. engage with the Indigenous community to promote UTS as an employer of choice for Indigenous Australians.
 - c. empower the wider Indigenous community through economic engagement.
 - d. deliver responsive, employee-based programs.
 - e. sustain long-term, effective programs by embedding Wingara Indigenous Employment Strategy initiatives into processes at UTS.

The [Wingara Indigenous Employment Strategy 2019–2023](#) includes a provision for the employment of at least one Indigenous person as a senior executive employee at the level of Pro Vice-Chancellor, Deputy Vice-Chancellor, or equivalent.

UTS has a strong record in relation to Indigenous senior academic leadership. In addition to the Pro Vice-Chancellor (Indigenous Leadership and Engagement) and the Special Advisor to the Vice-Chancellor, Major Indigenous Priorities, UTS has appointed Associate Deans (Indigenous) and senior academics in each faculty and Jumbunna. UTS has a significant Indigenous professoriate with 20 Professors and Associate Professors.

Progress toward Indigenous workforce target of 3%

UTS continues to make progress towards the target of 3% Indigenous staff participation. As of 31 March 2023, UTS employed 89 Indigenous staff as detailed below:

- Fixed-term and continuing Indigenous staff increased from 64 to 69.
- Fixed-term and continuing Indigenous academic staff increased from 38 to 42.
- Fixed-term and continuing Indigenous professional staff increased from 26 to 27.
- Indigenous casual staff decreased from 28 to 20.

As of 31 March 2023, UTS achieved:

- 1.93% Indigenous staff participation rate, up from 1.7% at the end of 2019.
- 2.9% Indigenous academic staff participation rate

From 31 July 2023, the Indigenous staff headcount increased to 75 fixed-term and continuing staff, which included 45 academic staff.

In progressing to the Indigenous workforce target of 3%, UTS Faculties and Divisions have Indigenous Employment Action Plans, which include the number of, and levels of positions for recruitment of Indigenous staff.

The UTS Academic Development Internship and Cadetship Program has been successful in preparing Indigenous students to be future employees in higher education. In 2022, 10 Indigenous higher degree research students were employed in part-time, fixed-term roles across UTS whilst completing their studies.

UTS Staff Agreement 2021

The current UTS Staff Enterprise Agreement recognises that Indigenous identity, and the skills, experience, and knowledge it brings, is a genuine professional qualification for Indigenous identified positions. Increasing the University's Indigenous capacity is fundamental to achieving our strategic

commitment to excellence in Indigenous higher education, research, community engagement and employment.

A new [UTS Staff Enterprise Agreement](#) was agreed in 2023. The agreement includes a specific section on Indigenous employment, which provides for paid language allowances, acknowledges the impact of cultural load on Indigenous staff, provides for 10 days of paid cultural leave and embeds the 3% Indigenous employment target from the Wingara Strategy.

These provisions are aligned with the University's vision to create a place where all Indigenous Australians can access education and employment, and be supported to succeed. This includes:

- Acknowledging the challenges faced by Indigenous people and recognition of cultural obligations and cultural load of our Indigenous staff.
- Respecting and valuing the unique contribution of Indigenous staff within the University community.
- Providing access to opportunities for professional development and for Indigenous staff to advance their career at UTS.

The role and functions of the [Wingara Indigenous Employment Committee](#), which oversees and advises on the development and implementation of Indigenous employment initiatives across UTS, in line with the Wingara Indigenous Employment Strategy is also included in the Agreement. This further embeds the University's commitment to the UNDRIP principles.

Section 2: Creating an Indigenous Residential College

UTS is creating the first, national Indigenous Residential College (the College) dedicated to Indigenous people, culture, citizenship and academic excellence. Led by Indigenous people and welcoming of students of all nations and cultural traditions, this new College will be a model of the inclusive Australian society we wish to see. The creation of the College is informed by evidence and driven by the Indigenous community, by embedding the principles of self-determination, and cultural expression and participation.

The College will provide a fully supportive environment for Indigenous young people travelling long distances from their homes in rural and remote parts of Australia. In doing so, the College will help remove barriers to education for Indigenous young people. While prioritising places for Indigenous students, the College will be diverse, providing accommodation for non-Indigenous students, both domestic and international, who have expressed a commitment to an Indigenous inclusive society.

The College will nurture graduates who are cultural leaders – empathetic, resilient, and driven to make a positive difference. It will do this through scholarships that raise aspiration, inspire achievement, and remove the financial barriers to education. Through its leadership and enrichment programs, the College will foster outstanding community members who can drive social change across their chosen fields and endeavours.

The purpose-built, world-class facility – which will offer a comprehensive range of services above and beyond accommodation – will be defined by its ethos of pride in Indigenous identity and culture, and its commitment to fostering academic excellence, leadership and service, and global citizenship.

There is a growing body of evidence that when organisations intervene deliberately, positively and purposefully, transformative impact is possible in the lives of Indigenous people. The College is the next tangible and strengths-based initiative that will have long term, intergenerational social and economic impact and help build a more inclusive Australia for all.

Key features of the College include:

- Accommodation for both Indigenous and non-Indigenous students, with approximately 250 beds envisaged.
- Architect designed landmark building – informed by Indigenous designers, architects and creatives with Indigenous culture and identity at its core – to be housed at the UTS Haymarket campus.
- Program of events and opportunities in collaboration with a range of education, cultural, community, industry and government partners.
- Scholarships and cost-covered accommodation for Indigenous students.
- The College will also build connections with schools and employers to create a pipe-line of leaders of the future.

In July 2023, UTS successfully launched the design competition for the College, inviting six design teams to participate in the design competition following an Expressions of Interest process in early 2023. The key elements of the design competition brief were prepared by an Indigenous Australian architect and include Guiding Design Principles, a Spatial Brief and a Schedule of Accommodation. This brief was prepared in consultation with UTS Indigenous leaders, staff, students, and alumni and reflects the wishes and requirements of the UTS Indigenous community.

In keeping with the philosophy of Indigenous self-determination and Indigenous leadership at all stages of this project, each of the six teams has appointed an Aboriginal and/or Torres Strait Islander architect or suitably qualified designer as Cultural Design Lead. The Cultural Design Lead is required to lead and will have agency over the cultural design of all aspects of the Indigenous Residential College project.

As an early part of the design competition briefing process, the Cultural Design Leads met with local Indigenous knowledge holders for an on-site Welcome Ceremony and an opportunity share to local cultural knowledge.

The winning design will be selected by a design competition jury comprising three UTS representatives including senior Indigenous representation, and three representatives from the City of Sydney Council.

More information is available from here: <https://www.uts.edu.au/partners-and-community/initiatives/indigenous-residential-college>

Section 3: Options to improve adherence to the principles of UNDRIP in Australia

Jumbunna submission to the Human Rights Inquiry

UTS wishes to draw the attention of the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs to the recommendations from the recent Jumbunna submission to the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework¹. The submission was prepared by Distinguished Professor Larissa Behrendt AO, Kirsten Gray, Dr Paul Gray and Professor Lindon Coombes.

The recommendations advanced by Jumbunna are provided below for the convenience of the Joint Standing Committee:

- We strongly support the development of federal Human Rights legislation that is underpinned by the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) and the seven major treaties to which Australia is a signatory. A principled approach that recognises Aboriginal and Torres Strait Islander self-determination, participation in decision making, respect for and protection of culture as well as equality and non-discrimination are critical to its establishment.
- That the Australian Human Rights Framework and the National Human Rights Action Plan is strengthened to include the rights articulated in the Declaration. This must specify opportunities for robust engagement and shared decision-making with First Nations and a process for the domestic implementation of the Declaration.
- That existing human rights mechanisms such as the Parliamentary Joint Committee on Human Rights and the statement of compatibility process are strengthened to better realise the human rights of First Nations people.
- That Human Rights Institutions such as the Australian Human Rights Commission are properly empowered and resourced to independently promote and protect the rights of all Australians, including those of First Nations peoples as outlined in the Declaration.
- That legislation be enacted across all state and territories in a way that is consistent with the new federal human rights legislation.
- That greater investment is required to enable the effective participation of First Nations Australians in the promotion and protection of their human rights.

Why a Human Rights Act?

As the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) and the Bringing them Home Report (BTH) both articulate, First Nations people are overrepresented in the criminal justice and child protection systems. This is because, as those reports detail, of the historic treatment of First Nations people and the ongoing impact of the process of colonisation on First Nations people, families and communities. Discriminatory laws and practices have been a constant mechanism for this unequal treatment including dispossession of traditional lands, destruction of cultural property, prohibition on language and cultural activities, regulation on freedom of movement, rights to work and rights to marriage, removal of children and structural and systemic racism. This history shows both the use of Australian laws to regulate and control First Nations people and at the same time fail to protect their rights to the same level as all other Australians.

Historic and current policies perpetuate discriminatory outcomes that undermine the rights and interests of First Nations people, including particularly First Nations women and children and those living with disability. The experiences of these groups through burgeoning removal and incarceration rates, and their treatment while in the 'care' of the state, remain a pressing human rights issue. The ongoing indefinite detention of First Nations people with disability, and poor outcomes achieved for Aboriginal and Torres Strait Islander children removed from their family by statutory child protection authorities, including

¹ Submission 227

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Submissions

increased likelihood of incarceration, provide striking examples of why stronger human rights protections are urgently needed. Despite countless national reviews and commissions of inquiry, there has not been sufficient action from governments to implement their recommendations through laws and policies to better realise the rights of First Nations Australians. Many recommendations and calls for structural change from the landmark RCIADIC and BTH Reports have still not been effectively implemented, more than 25 years later.

There is a need to provide a legislative basis for human rights for all Australians, including First Nations people, that will provide a strong and enduring foundation for rights-based policy. It should be noted that neither the initial Human Rights Framework nor National Action Plan have been updated in over a decade. Both are significantly outdated; for example, the National Congress of Australia's First Peoples has since been abolished by government, and the process to constitutionally recognise First Nations people remains ongoing. These were core human rights commitments pertaining to First Nations people that were contained within the previous framework and action plan.

The position of First Nations people within the legal system highlights that there are very few rights protected within the Australian legal system. *Kruger v Commonwealth* was the first case to be heard in the High Court that considered the legality of the formal government assimilation-based policy of removing Indigenous children from their families. The plaintiffs had brought their case on the grounds of the violation of various rights by the effects of the Northern Territory Ordinance that allowed for the removal of Indigenous children from their families. The plaintiffs had claimed a series of human rights violations including the implied rights to due process before the law, equality before the law, freedom of movement and the express right to freedom of religion contained in s.116 of the Constitution. They were unsuccessful on each count, a result that highlighted the general lack of rights protection in our system of governance.

The *Kruger* case illustrated the way in which the issue of child removal – seen as a particularly Indigenous experience and a particularly Indigenous legal issue – can be expressed in language that explains what those harms are in terms of rights held by all other people – the right to due process before the law, equality before the law, freedom of movement and freedom of religion. *Kruger* also highlights how few of the rights that many Australians would assume are protected by our legal system are in fact adequately protected. It is a reminder of the silences about rights in our Constitution and that these silences were intended. It gives us a practical example of the rights violations that can be the legacy of that silence.

Legislation has been enacted that protects rights and incorporates Australia's obligations under human rights instruments. The Racial Discrimination Act 1975 (Cth) is one such instrument. Incorporating Australia's obligations under the Convention to Eliminate All Forms of Racial Discrimination, it should be a key protection for First Nations people. However, it has been repealed three times, on each occasion to enable the government to implement racist policies that have breached the rights of First Nations people:

- the Wik Amendments in 1998,
- the Hindmarsh Island Bridge case in 1997 in a situation which saw the suspension of federal heritage protection laws, and
- as part of the legislative implementation of the Northern Territory Emergency Response (the NTER) or the Northern Territory intervention.

This not only shows the limitation of rights protections in the Australian legal system but also shows that the failure to protect rights impacts most heavily on those who are most vulnerable within society.

Conversely, strengthening the rights for the most marginalised within the community ensures a strengthened safety net for the whole community.

What should a Human Rights Act include?

Australia was not a signatory to the Declaration but subsequently endorsed it in 2008. While it remains an important standard against which to measure the protection of the rights of First Nations peoples in Australia, there has been no implementation of these standards into domestic law. National human rights legislation should incorporate Australia's obligations through the Declaration.

National human rights legislation should contain recognition that First Nations peoples have the right to self-determination. This is consistent with the provisions of the Declaration, including:

- Article 3 – Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- Article 4 – Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

- Article 18 – Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

In addition to the rights in the Declaration, there are rights protections under other international human rights instruments, particularly the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. This includes rights such as due process before the law, equality before the law, rights to adequate health services, education, and housing.

Legislative or Constitutional protection?

We have always supported a process where there would be a legislative Human Rights framework that might eventually lead to the inclusion of a cluster of rights into the Constitution.

The progression from legislative to constitutionally enshrined rights was undertaken in Canada. It saw a provision included in the Canadian constitution that says:

35(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognised and affirmed.

However, we would advocate for the eventual Constitutional enshrinement of due process before the law, equality before the law and the protection from racial discrimination.

Constitutional enshrinement is critical to ensuring that human rights protections withstand political cycles where legislative provisions can be eroded.

Strengthening existing human rights mechanisms

It is important to acknowledge that the introduction of Australia's Human Rights Framework in 2010 introduced some welcome processes for rights protections, such as the Parliamentary Joint Committee on Human Rights and the requirement for new Bills entering the Australian Parliament to contain a Statement of Compatibility. However, such processes require changes to best promote and protect the human rights of First Nations people.

There is an opportunity to better recognise the significance of the Declaration to the promotion and protection of the human rights of First Nations Australians. This can be achieved by formally including it alongside the seven core treaties currently considered by the Parliamentary Joint Committee on Human Rights (PJCHR) in the fulfilment of its functions under section 7 of the PJCHR Act. Its current omission reflects the history of silence within such processes that marginalises the rights of First Nations Australians.

Requiring current and new Bills to provide a Statement of Compatibility with the Declaration is an important improvement on the current process, where the Declaration is notably absent. Doing so sends an important message to First Nations Australians and to governments about the centrality of the Declaration to any proposed reforms.

There is a need to appropriately position and adequately resource organisations charged with upholding the human rights of all Australians, including First Nations people. This includes particularly that such institutions are independently empowered to undertake monitoring and review activities (including powers to undertake inquiries) in order to hold governments accountable for human rights obligations, and resourced to effectively deliver on this mandate. Consideration should also include how to appropriately safeguard these important institutions from interference (including through budgeting decisions) from the governments they are intended to hold accountable for human rights protections. Such arrangements are critical to maintaining the independence and rigour of Australia's national human rights institutions, including the Australian Human Rights Commission, which discharges many of its functions under the office of the Aboriginal and Torres Strait Islander Social Justice Commissioner.

We are similarly aware of the calls of First Nations Children's organisations, including SNAICC – National Voice for Our Children, for a national Aboriginal and Torres Strait Islander Children's Commissioner, that is independent and adequately empowered to promote and protect the rights of our children. This is critical given the rights of First Nations children continue to be precarious, including ongoing over-representation of First Nations children and young people in child removals and youth detention. In our work supporting the First Nations communities to negotiate the establishment of similar roles, we heard that such roles should be positioned with its own independent powers, the opportunity to shape their own presence that is oriented towards the First Nations children and young people they serve, the authority to undertake meaningful advocacy on individual and systemic issues relevant to the rights of First Nations children, and the resources to do so effectively. We support these calls for stronger, more focused mechanisms to safeguard the rights and interests of First Nations children. Governments have committed to establishing oversight roles in all jurisdictions through Safe and Supported: The National Framework for Protecting

Australia's Children, however the Commonwealth has framed this as a national 'Advocate'. Regardless of its apparent title, it is critical that such roles are established with appropriate powers and responsibilities such as those outlined above, and properly resourced, to deliver on their mandate and responsibilities to First Nations children.

Genuine engagement, shared decision making and adequate resourcing

First Nations peoples must be meaningfully engaged across all current and future processes aimed at promoting and protecting their human rights in a way that shares decision making powers. Such processes must recognise the right of First Nations to determine their own representatives, through their own processes, to engage in agreement making with Australian governments.

In order to do this, First Nations peoples and their institutions must be appropriately resourced to actively participate in the development of strategies and structures to promote and protect human rights, including the proposed national human rights legislation. This approach not only assists First Nations to participate effectively, challenging the existing silence in policy and processes, but also increases the likelihood that Australia's human rights framework will be consistent with our international obligations and positions Australia as a human rights leader in the international community.

Recommendations from the International Law Association Committee on the Implementation of the Rights of Indigenous Peoples

UTS notes that the International Law Association (ILA) Committee on the Implementation of the Rights of Indigenous Peoples, endorsed the following recommendations from the Final Report of the International Law Association, presented at the Kyoto Conference (2020)²:

- The international community, in all its components, ought to increasingly respect and recognise the rights of Indigenous peoples, especially through promoting and advancing the interrelated standards endorsed and affirmed by the UNDRIP, primarily those concerning self-determination, autonomy, cultural heritage, land rights, and free, prior and informed consent;
- The competent bodies, specialised agencies and mechanisms of the United Nations system – including the treaty bodies, the Human Rights Council, the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the Rights of Indigenous Peoples – are encouraged to continue and strengthen their activities, in cooperation with States and Indigenous peoples, in order to ensure further protection, promotion and improvement of Indigenous peoples' rights throughout the world, consistently with the relevant rules of international law, as identified in ILA Resolution No. 5/2012, and the minimum standards of human rights established by the UNDRIP;
- States ought to enhance their domestic legislation in the field of Indigenous peoples' rights, so as to ensure that, within their respective territories, human rights of Indigenous peoples are fully realised, and that the rules and standards established by UNDRIP are fully implemented;
- States ought to remove from their territories all social, cultural, structural and institutional obstacles hindering the actual realisation of Indigenous peoples' rights;
- States ought to establish effective mechanisms for the demarcation, legal recognition and titling of Indigenous traditional lands, in accordance with the customary laws of the Indigenous peoples concerned and with their traditional use of the relevant territories, as well as to put such mechanisms in practice through formally establishing for such peoples property rights recognised pursuant to domestic law and enforceable in domestic courts in the event of competing claims over the lands concerned;
- States ought to adopt appropriate legislation explicitly recognising the right of Indigenous peoples to autonomy or self-government in matters relating to their internal and local affairs and to the ways and means for financing their autonomous functions;
- States ought to establish effective mechanisms in view of guaranteeing that Indigenous peoples are properly consulted before any kind of project of exploitation or use of their traditional lands, territories and resources is started, as well as that their prior, free and informed consent is obtained before any activity which may have a significant impact on their rights and ways of life is carried out;

² See https://www.ila-hq.org/en_GB/documents/resolution-3-kyoto-2020-implement-rights-indiq-peoples-final, accessed 21 August 2023.

- States ought to establish effective mechanisms aimed at ensuring the participation of the Indigenous peoples concerned in decision-making concerning matters which would affect their rights, at all levels of the political and administrative organisation of the State, through representatives chosen by themselves in accordance with their own procedures and customary laws;
- Judges, administrators and other competent State officials should be instructed and sensitised with regard to the rights of Indigenous peoples, especially those affirmed by the Indigenous specific international human rights instruments, with particular attention for the necessity to properly understand the specific features, needs and peculiarities characterizing each single Indigenous community;
- Indigenous peoples should be guaranteed a primary role in monitoring the steps towards the actual execution and implementation of judgments, administrative acts, and other decisions concerning them;
- Foreign investors ought to refrain from investing in projects that might violate the rights of indigenous peoples, as well as to exercise their influence on host States to offer Indigenous people(s) access to legal protection in case economic projects have a negative impact upon their rights;
- All relevant actors, at the international, regional and domestic level, ought to promote consciousness and awareness-raising on the rights of Indigenous peoples, to be conceived as an integral part of existing human rights standards, not only among State officials and members of the judiciary, but also among the general public, including all sectors of the civil society;
- Valorisation of cultural diversity should be an integral element of adjudication and enforcement of Indigenous peoples' rights (at the domestic, regional and international level), following the example of, in particular, the Inter-American Court of Human Rights, as well as the African Commission and Court on Human and Peoples' Rights;
- All relevant actors, including the business sector, ought to contribute to promoting a social and cultural environment characterised by full respect, understanding and appreciation for the richness of cultural diversity – in particular for the worth of Indigenous peoples and their cultures, worldviews, ways of life, values and interests – with no room for whatever form of racial or cultural discrimination, as well as for the positive role which may be played by Indigenous peoples to further sustainable life in the world;
- Scholars and other actors concerned are encouraged to increase interdisciplinary research on the causes, consequences, and solutions regarding the deficits of implementation of national and international standards concerning Indigenous land rights and other Indigenous peoples' rights.

Contact details

UTS appreciates the opportunity to contribute and would welcome future engagement regarding this inquiry. Please do not hesitate to contact Ellen Goh, Manager of Government Affairs (ellen.goh@uts.edu.au) in the first instance should you wish to discuss this submission further with the following UTS representatives:

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