



IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COURT OF APPEAL
CIVIL DIVISION

S EAPCI 2025-0023

Case: S EAPCI 2025 0023

Filed on: 23/05/2025 01:59 PM

B E T W E E N

UNCLE ROBBIE THORPE

Applicant

and

MAGISTRATES' COURT OF VICTORIA

First Respondent

ATTORNEY-GENERAL OF VICTORIA

Second Respondent

AFFIDAVIT OF KEIRAN STEWART-ASSHETON

Date of Document: 23 May 2025

Filed on behalf of: Keiran Stewart-Assheton

Prepared by: Keiran Stewart-Assheton
Permangeua Bermagui
Dyirringanj Country
Yuin Nation NSW

Telephone: 0402798013
Ref: *Intervenor — Vic Court of Appeal—
King Charles Aboriginal Genocide case*
Email: keiran.stewart.assheton@gmail.com

I, Keiran Stewart-Assheton of the Wani Wandian clan of the Yuin Nation, traditional owner, founding President of the Black Peoples Union (2022), Bachelor of Psychology (University of Wollongong 2011) and Director of Austro-Pacific Relations for the Institute for Global Decolonization (2024) affirm:

1. I make this affidavit in support of my Form 64B application dated 23 May 2025 to intervene in this King Charles genocide case in the Court of Appeal of the Supreme Court of Victoria.
2. I know that Dr Aunty Alma Thorpe, Uncle Robbie Thorpe, Senator the Honourable Lidia Thorpe, Tjilpi Murray George and Puralia Meenamatta of Lutruwita all support my application to intervene as do all the other proposed intervenors preparing their applications.
3. I believe that my intervention would be broadly supported by Our community across this continent and seen as essential.
4. One experience We all have in common is We have all experienced and continue to experience until you decide to stop your ongoing genocide against Us— your armed military invasion, your attempted occupation and destruction of Our Lands, your theft of Our Resources and your purported usurpation of Our Law, the ancient unchanging unchangeable law from this country.

KB
Alma

5. The impacts of the Smallpox massacres of the 1700's and early 1800's had a devastating impact on my Nation's population, causing the genocide of some 94% of our population at the time.

6. The impacts of colonisation and the subsequent genocide continue to play out to this day in various forms, such as our mass over-incarceration, the forced removal of our children through Australian government policies, and the on-going impacts on our health and well-being – notably our mental health and associated suicide rates, as well as the impacts on our physical health through the ADF's use of forever chemicals such as PFAS which have subsequently contaminated the waters and soils of the Wreck Bay Aboriginal community, resulting in unprecedented rates of cancer as well as other detrimental health impacts such as birth defects and sterility.

7. The ongoing genocide will continue until there is a declaration of the end of hostilities and the recognition that this is Our Land, and that Our Law still governs this continent.


8. Now produced and shown to me and marked **Exhibit KSA 1** and set out at pages 4 to 8 below is an extract from <https://www.blackpeoplesunion.org/> titled 'Our Demands'.

The contents of this affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.

Affirmed at Collingwood
in the State of Victoria
on 23 May 2025



Before me



Rebecca Courtier
Senior Registrar
Neighbourhood Justice Centre
241 Wellington Street, Collingwood 3066

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UNCLE ROBBIE THORPE

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MAGISTRATES' COURT OF VICTORIA

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Second Respondent

CERTIFICATE IDENTIFYING EXHIBIT

Date of Document: 23 May 2025

Filed on behalf of: Keiran Stewart-Assheton

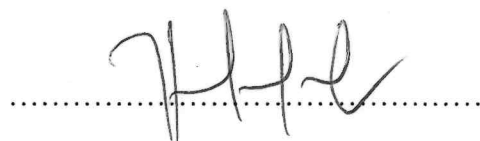
Prepared by: Keiran Stewart-Assheton
Permageua ~~Bermagui~~
Dyirringanj Country
Yuin Nation ~~NSW~~

Telephone: 0402798013
Ref: *Intervenor — Vic Court of Appeal—
King Charles Aboriginal Genocide case*
Email: keiran.stewart.assheton@gmail.com

This is the extract titled 'Our Demands' marked **Exhibit KSA 1** now produced and shown to the deponent at the time of affirming the person's affidavit on 23 May 2025


.....

Signature of Deponent


.....

Signature of person taking affidavit

Name Address and Statement of capacity

Rebecca Courtier
Senior Registrar
Neighbourhood Justice Centre
241 Wellington Street, Collingwood 3066

Exhibit KSA 1

Our Demands

The European invasion and colonial occupation of Australia has wrought devastation on the Indigenous people of the continent and surrounding Islands. The natural environment has also suffered major damage due to reckless capitalist exploitation. Sustainable, stable, traditional communities were dispossessed and subjected to attempted genocide and the destruction of our social relations, cultures and languages. The results of these policies are still with us. Racism still persists within the broader Australian community and its capitalist institutions today with as many as 3 in every 4 non-Indigenous people harbouring anti-Indigenous beliefs and sentiments.

Capitalist and Imperialist interests dominate all Australians' lives, but they have particularly impacted those of First Nation's peoples. Outcomes for life expectancy and overall health, infant mortality, education levels, incarceration rates and deaths in custody are all far worse than for the overall population. This shameful legacy can never be fully compensated for and remediation to the fullest extent possible will take the commitment of massive resources.

Our fundamental priority is to further Aboriginal and Torres Strait Islander conditions in immediate and long-term goals. As the movement grows so will the pressure that will be placed on the Capitalist system in Australia and the colonial attitudes and practices of institutions of the state towards our people. With the push for change growing from strength to strength, the achievement of significant reform and relief from the scourges currently afflicting their communities will come. We also do not acknowledge a treaty/ies as a solution to reconcile the historical and ongoing issues faced by First Nations people. The goal of national and economic liberation will only be achieved once the capitalist and colonial social relations cease to exist in Australia. National liberation will always be an intrinsic part of the revolutionary struggle against capitalism, colonialism and imperialism.

The national liberation of the First Nations people in Australia against Colonial-Capitalist rule and remaining colonial practices is intrinsically tied with the common call of the working class internationally, that is the call for land, peace and bread.

This list is a work in progress, and is always being updated to reflect calls from grass-roots Indigenous voices and best practices, as well as to tackle the immensely complex and varied issues we face.



Aboriginal Stolen Generations and How They Still Continue Today

Australia has a shameful history of forcibly removing Indigenous children from their families in an effort to “assimilate” these children into “white culture”, whilst forcing them to reject their Indigenous heritage. Between 1910 and 1970 the Australian government forcibly removed children from their families under the authority of various ‘Assimilation’ policies. The generations of children removed from their families have now become known as the ‘Stolen Generations’. These children were often placed into the “care” of institutions where abuse and neglect were rife. Whilst these policies of ‘Assimilation’ officially ended in 1973, the non-consensual and forced removal of indigenous children is still ongoing. Shamefully Australia leads the world with the removal of

children from their parent's custody, and the rates of child removal from Indigenous families has been on the rise in recent years. In 2006 an indigenous child was 5.7 times more likely to be placed in out-of-home care than a non-Indigenous child, but in 2019 this figure ballooned out to 10.2 times. In order to reduce the number of children placed in out of home care the Black Peoples Union demands the following:

- Both state and federal governments and their respective agencies need to adopt and implement all the recommendations of the 'Bringing Them Home Report' as an immediate priority.
- That any protocols, procedures or legislation that allows for the non-consensual adoption of children need to be repealed. Agencies will need to apply this repeal retrospectively to any and all children (Indigenous or non-Indigenous) who are currently in a non-consensual adoption arrangement. All levels of parliament should also make laws restricting the ability to ever again entertain the idea of non-consensual adoption laws, and to denounce them as the vile and archaic attacks on liberty and human rights that they are.
- That a mandate be given to all agencies involved with the removal or custody of Indigenous children that the custodial placement of Indigenous children should be first and foremost with extended family members. Failing the ability to be placed with suitable extended family members, the custody of the children should then go to members of their local Indigenous community, then other Indigenous families as local as possible. The selection of suitable, locally living non-Indigenous families should be considered only once all preferred options have been exhausted.
- That the government fully fund the implementation of culturally sensitive parental education programs, which should be made freely and readily available to all Indigenous people who are parents or expecting to become parents in order to address the severed link of parenting skills. These programs are to be written, managed and facilitated by Indigenous people.
- In situations where a child is likely to be removed, emphasis should first and foremost be placed on addressing the underlying issues for the family that are causing or contributing to the need for removal. This should be done by providing suitable culturally sensitive services such as counselling, parental education, housing, food and health supplies, and other services or materials necessary to ensure that the child can safely remain with their family.
- The removal of the child should be done as an absolute last resort only when needed to protect the child from immediate danger with only senior case workers and local managers in consultation with Indigenous representatives being able to make an interim order for a short-term temporary removal to protect the child from immediate harm.
- Applications for permanent removal of children to be made through a board consisting of chosen/elected community leaders (such as Elders or community appointed representatives). Permanent removal of children will only be made by the parents or Indigenous courts.
- As a part of professional development, all workers who have contact with, or make decisions regarding Indigenous children will need to undergo regular cultural education courses written, managed and facilitated by Indigenous representatives to ensure that they can deliver their service in a manner that is sensitive to Indigenous culture and the historical and current issues Indigenous people face. That agencies involved with the removal of Indigenous children prioritise the hiring of suitably qualified Indigenous workers. In the instance that suitably qualified Indigenous applicants aren't identified for a position, efforts should be made to train Indigenous people for the position by means of providing traineeships and/or funding the education and qualifications of suitable Indigenous applicants. Further to this point, people undertaking community liaison positions such as Aboriginal Community Liaison Officers should be nominated and vetted by the local Indigenous community. Community groups should have the power to hire and dismiss

people in these positions to ensure a higher level of accountability. This is one pillar of indigenous self-determination: the ability to choose workers that are favoured by the community, and to facilitate the Indigenous management of Indigenous affairs.



Over-Incarceration, Deaths in Custody & Police/Correctional Services Brutality

Indigenous people in Australia are viciously targeted by Australia's judicial system and have been ever since British invasion. Despite the fact that Indigenous people officially only account for 3 percent of the population, they make up 28 percent of the national prison population. It's figures like these that show the blatant racism that has been left to fester in Australia's judicial system. Since 1991, over 500 Indigenous people have died in police custody, many of whom died as a result of medical neglect whilst in custody, or injuries sustained from police/correctional services' brutality. In February 2020, a report was released by the Law Enforcement Conduct Commission (LECC). The report by the LECC revealed that NSW Police Force had disproportionately targeted Indigenous children from 2016 to 2018 under a repeat offender monitoring scheme called the 'Suspect Target Management Plan'. The report stated that 72% of children aged between 9 and 17 who were being monitored by NSW Police Force under the scheme were "possibly Aboriginal and Torres Strait Islander". It also stated that many of these children had never actually been charged with an offence. NSW Police Force challenged the report claiming that the LECC's figure of 72% was incorrect and that the real figure was in fact 47% [7]. The truth is that both of these figures are indicative of Police disproportionately targeting Aboriginal youth.

To combat police/correctional services brutality, the over-representation of First Nations people in Australia's judicial system, and deaths in custody, the Black Peoples Union demands the following:

Immediate Changes:

- The abolition of all systemically racist surveillance programs including the 'Suspect Target Management Plan'.
- The establishment of a government-funded independent review; a government funded independent organisation that would audit prisons and police stations, place hidden cameras within the premises to curb assault and deaths in custody, regularly review body camera footage, and investigate all incidences of police/correctional-services brutality and deaths in custody.
- That all police officers and correctional services guards be fitted with a body camera that cannot be switched off at their discretion.
- A substantial increase in funding to Legal Aid and Aboriginal Legal Services to ensure that everyone has access to adequate services, no matter how small the charges laid against them are. Legal aid should also cover legal costs in full for those who are pursuing justice for themselves if they have been a victim of police/correctional-services misconduct, or for those who have lost a loved one as a result of neglect or brutality at the hands of police or correctional-services.
- The strengthening and introduction of laws regarding the punishment and accountability of those involved in deaths in custody.
- The end of police patrols in Indigenous Communities and communities of high Indigenous population, with police only allowed to enter these communities if they're responding to an active incident.
- Prohibiting police firearms in our communities.

- Raising the age of responsibility for minors to 16, with those under 16 who have committed serious offences to receive culturally appropriate and Indigenous facilitated rehabilitation.
- The implementation of circle sentencing or other culturally appropriate trial and sentencing programs for all Indigenous people charged with an offence.

Long-Term changes

- The introduction of an independent, state funded inmate representative body (like a union) that would represent inmates and their concerns.
- The replacement of the modes of incarceration that exist under capitalism with community-based modes of accountability and social rehabilitation. The ending of the prison-industrial complex and the revision of the Crimes Act to remove the punitive emphasis on “crimes” compelled by poverty. The re-targeting of the law against those who reap profits from the misfortunes of others, or who seek to impede the revolutionary overhaul of society.
- Consonant with the above, the supporting of Indigenous processes of achieving justice and accountability in Indigenous communities through the establishment of Indigenous Courts that work independently of Australia’s laws and judicial system and have the complete power and authority to try and sentence Indigenous people in accordance with our own culture, values and ethics.



Land Rights

The struggle for Land Rights in Australia has been fought bravely by many First Nations people specifically in the fight against cultural and environmental destruction. Questions like land rights will never be resolved under colonialism and capitalism. Private ownership of land and resources are the enemies of both First Nations peoples and the non-Indigenous workers of Australia and both share a mutual interest in the abolition of land held in private capitalist modes.

Immediate changes:

- The preservation and maintenance of Indigenous sacred sites.
- The immediate cessation of all major projects that may lead to the harming of sacred sites awaiting local Indigenous re-assessment of project/s.
- The immediate repeal of discriminatory legislation like the Northern Territory Emergency Response Act.
- The abolition of foreign ownership of Indigenous land and disputed Indigenous land.
- The establishment of a joint committee between the state and Indigenous groups to manage national parks and bushlands.
- Rental payments to Land Councils, as well as Government and Social Housing providers should cease and rent should be worked out based on the resident’s income and be used to cover the maintenance of the property only.
- Indigenous people made exempt from land rates, water rates, and other taxes associated with the use or ownership of our own lands.

Long-term changes:

- The abolition of Native Title as a process for Indigenous people to assert custodial ownership of land. As it stands, Native Title may be extinguished by the government for many reasons as shown in the case of the Wangan and Jagalingou nation having 1,385 hectares extinguished to make way for the now notorious Adani mine. This shows that Native Title is a token reform which staying true to its reformist nature, is temporary and may be repealed when it is in the interests of capital.
- The abolition of private property.
- The return of all crown land and waters and all land and waters used as a primary resource to the custodianship of their rightful Indigenous owners.
- The redirecting of taxes related to land and water usage and ownership paid by non-Indigenous homeowners to their relevant Indigenous Nation.