



SNAICC

National Voice for our Children

Social Services Legislation Amendment (Omnibus
Savings and Child Care Reform) Bill 2017

Submission to the Senate Community Affairs Legislation
Committee

March 2017

SNAICC – National Voice for our Children (Aboriginal and Torres Strait Islander Corporation) is the national non-governmental peak body for Aboriginal and Torres Strait Islander children.

SNAICC works for the fulfilment of the rights of our children, in particular to ensure their safety, development and well-being.

The SNAICC vision is an Australian society in which the rights of Aboriginal and Torres Strait Islander children, young people and families are protected; our communities are empowered to determine their own futures; and our cultural identity is valued.

SNAICC was formally established in 1981 and today represents a core membership of Aboriginal and Torres Strait Islander community-controlled organisations providing child and family welfare and early childhood education and care services.

SNAICC advocates for the rights and needs of Aboriginal and Torres Strait Islander children and families, and provides resources and training to support the capacity of communities and organisations working with our families.

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Introduction

SNAICC – National Voice for our Children has developed a wealth of experience over the past few decades on understanding the issues of our children, families and communities, and gathering both literature and experience based evidence on the needs of children and the strategies that work to improve their outcomes. SNAICC has strong relationships at community, state and national levels. We are active in supporting and advocating on behalf of Aboriginal and Torres Strait Islander early childhood education and care (ECEC) services, and bring the experiences of services throughout the country to this submission.

The Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017 (Omnibus Bill) incorporates the existing Jobs for Families Child Care reform package that was proposed under the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016 and the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015.

This submission is focused primarily on the Jobs for Families Child Care package component of the Omnibus Bill. SNAICC notes that this is the third occasion the Jobs for Families Child Care package has been referred to Senate inquiry, and has attached the detailed and comprehensive submissions made by SNAICC to the two previous inquiries (Appendix 1 and Appendix 2). As the Jobs for Families Child Care amendments proposed in the Omnibus Bill are predominantly the same as those proposed under the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016, SNAICC's key concerns and recommendations remain the same.

SNAICC acknowledges the amendments that have been made to the operation of the Community Child Care Fund and the Additional Child Care Subsidy – most notably the establishment of a discretionary fund for Budget Based Funding services (BBFs) and the provision of longer term funding agreements. SNAICC also welcomes the advice of the Department of Education and Training that centres established under the Aboriginal and Torres Strait Islander Child and Family Centres (ACFCs) initiative will receive specific consideration of their funding needs under the Community Child Care Fund. SNAICC acknowledges that these are significant advances for services, but that there is still a long way to go to ensure that all Aboriginal and Torres Strait Islander children have access to ECEC services through adequate, secure and sustainable funding arrangements for BBFs and ACFCs.

The Jobs for Families Child Care package recognises that access to early childhood education and care is “one of the most effective early intervention strategies to break the cycle of poverty and intergenerational welfare dependence”.¹ Yet as highlighted by SNAICC over the past year, the Jobs for Families Child Care package in its current form will lead to a systemic failure of early childhood outcomes for a generation of Aboriginal and Torres Strait Islander children.

¹ House of Representatives, *Explanatory Memorandum, Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017*, Parliament of Australia, pp.214-215.

The Omnibus Bill ties child care reform with other welfare savings measures, which will have additional impact on Aboriginal and Torres Strait Islander families. As identified by ACOSS in their submission to this inquiry, the broad suite of reforms proposed in the Omnibus Bill would have a significant financial impact on many low income and vulnerable families. ACOSS highlights that more than \$12 billion has been cut from the family payment system since 2009, and that the Omnibus Bill would take another \$2.7 billion out of the system.

SNAICC recognises the early childhood sector is desperate for the reforms to be passed to ensure that families are receiving adequate supports for childcare. SNAICC wholly supports a better system being implemented. However, it is unnecessary to couple child care reforms with other measures and detracts from the critical importance and value of quality early childhood education and care services. From the outset the design of the Jobs for Families Child Care package included changes that would inadvertently reduce the access of Aboriginal and Torres Strait Islander children and families to quality early childhood education and care. For over a year SNAICC has repeatedly outlined a pathway for making minor amendments to the Jobs for Families Child Care package to ensure that the needs of Aboriginal and Torres Strait Islander children are captured in these essential reforms.

While we believe there has been movement on the government's side to consider those needs, SNAICC is still seeking greater clarity and a firm commitment from the government to address the concerns of our sector.

Our ongoing concerns: the Jobs for Families Child Care Package leaves Aboriginal and Torres Strait Islander children behind

The Jobs for Families Child Care Package will fail as a policy that supports the interests of all children unless adequate measures are included that reflect the understanding that Aboriginal and Torres Strait Islander early childhood education and care (ECEC) services are not just about childcare. They are about engaging with children and families experiencing high levels of vulnerability. They are an essential part of the Australian childcare system. These services play a critical role in the nation's commitment to Closing the Gap in all areas of vulnerability experienced by Aboriginal and Torres Strait Islander children by 2030.

Adequately understanding and accommodating for the ECEC service needs of Aboriginal and Torres Strait Islander children and families experiencing vulnerability can only occur when specific consideration is given to the increased costs services face when delivering culturally informed and integrated education and care.

Currently, Aboriginal and Torres Strait Islander Children are twice as likely to be developmentally vulnerable early in life,² and only half as likely to access early education as

² Productivity Commission. 2014). Child Care and Early Childhood Learning. Productivity Commission Inquiry Report Volume 2.No. 73. Australian Government, p. 526

non-Indigenous children.³ The Productivity Commission has identified a 15,000 place gap in early learning places for Aboriginal and Torres Strait Islander children.⁴

The government has declared a commitment to increasing the participation of Aboriginal and Torres Strait Islander children's participation through the new child care system.⁵ Yet, all modelling presented to the government has shown the new system will cause a decrease in participation for our children, particularly those experiencing vulnerability, and that the services set up to serve their unique needs may face closure.⁶ The government has not provided any evidence or modelling to support their claims that the Omnibus Bill accommodates for the unique early childhood education and care service delivery needs of Aboriginal and Torres Strait Islander children.

A key finding in the landmark Taskforce 1000 investigation conducted in Victoria by the Commissioner for Aboriginal Children and Young People Andrew Jackomos identified that:

*The present service system, particularly the Aboriginal community controlled sector, lacks sufficient resources for, and emphasis on, early years programs to support families and reduce the growing number of Aboriginal children entering the child protection and out-of-home care systems. Furthermore, there is concern that many mainstream services do not provide culturally responsive services to Aboriginal children.*⁷

Taskforce 1000 also raised concern that Commonwealth funding changes had resulted in effective ECEC services facing uncertainty about their future operations, and possible viability to continue providing services to Aboriginal and Torres Strait Islander children facing vulnerability.⁸

Given the extensive evidence on the importance of quality early learning for all children, and particularly for children experiencing vulnerability, the government has a clear responsibility to demonstrate that they are not widening the gap in disadvantage between Aboriginal and Torres Strait Islander children and non-Indigenous children by failing to providing adequate supports for Aboriginal and Torres Strait Islander children and the services that meet their unique needs.

³ Australian Government (2013). A Snapshot of Early Childhood Development in Australia 2012 – AEDI National Report. Re-issue November 2013. Australian Government, Canberra, p.13

⁴ Productivity Commission. (2014). Child Care and Early Childhood Learning. Productivity Commission Inquiry Report Volume 2.No. 73. Australian Government, p. 644.

⁵ Australian Government (2016). 'Minister Morrison: Better start for Indigenous children', media release, 19 August 2015, available: <http://www.indigenous.gov.au/news-and-media/announcements/minister-morrison-better-start-indigenous-children>.

⁶ Deloitte Access Economics and Secretariat of National Aboriginal and Islander Child Care. (2016). [Impact of aspects of the Jobs for Families Child Care Package on Indigenous Communities](#); and Phillips B (2016). Distributional Modelling of Proposed Childcare Reforms in Australia. ANU Centre for Social Research and Methods. Australian National University, Canberra.

⁷ Commission for Children and Young People, 'Always was, always will be Koori children': Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria. Commission for Children and Young People, 2016, p.13.

⁸ Commission for Children and Young People, 'Always was, always will be Koori children': Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria. Commission for Children and Young People, 2016, p.54.

The Jobs for Families Child Care package essentially fails to understand that Aboriginal and Torres Strait Islander ECEC services have a different purpose to other services. Their aim is to support the wellbeing of the most vulnerable children and families in our community by reducing the service access barriers that many Aboriginal and Torres Strait Islander families experience in the mainstream system.

The experience of our services that administer the mainstream funding model suggests that in reality the impacts for Aboriginal and Torres Strait Islander services and families may be worse. Administrative hurdles and prescriptive requirements to accessing subsidies are likely to further reduce service revenue and families' ability to access the Child Care Subsidy.

The Community Child Care Fund is the central component that seeks to redress the disconnect between a mainstream user pay model and Indigenous services, whose mission is to support the most vulnerable children in a community to thrive. It aims to reduce barriers to accessing child care and will provide competitive, time limited grants. Minister for Education and Training, Senator the Hon. Simon Birmingham has advised SNAICC that the Community Child Care Fund will be structured in such a way to have *capacity* for discretionary funding and 3-5 year funding agreements but this is not a guarantee that the Aboriginal and Torres Strait Islander sector will be adequately catered for.

SNAICC is deeply concerned that the Child Care Safety Net, and in particular the Community Child Care Fund, is not constructed in a way that will redress identified concerns with the package, and will lead to a range of additional unintended policy consequences.

Specifically:

- a) **There is insufficient funding:** the total allocation for the Community Child Care Fund available to services is about \$100 million is per annum, or under 1% of the \$10.5 billion investment in the mainstream Child Care Subsidy. This will be grossly inadequate to meet the needs of the most vulnerable families. A further \$100 million should be cashed out from the Child Care Subsidy and allocated to an Aboriginal and Torres Strait Islander specific program. A specific program model should also be provided for other children in rural and remote settings.
- b) **Community services can't compete:** the Community Child Care Fund will provide competitive grants open to an estimated 4,000 services. While the Department of Education and Training has indicated that there will be a discretionary fund allocated specifically for Aboriginal and Torres Strait Islander services, there has been no further detail provided on what proportion of funding under the Community Child Care Fund will be directed towards this discretionary fund. Small community services set up to meet the needs of remote and vulnerable communities will struggle to secure adequate funds in competition with strongly resourced mainstream providers.
- c) **Vulnerable children will receive less education:** Despite over \$3 billion new funding in this package, the Child Care Safety Net halves minimum hours of subsidised access to early learning, while evidence shows that vulnerable children's development and school readiness benefits most from quality early childhood education and care.

- d) **The Aboriginal and Torres Strait Islander community controlled service sector will be diminished**, contrary to evidence that Aboriginal and Torres Strait Islander service delivery increases Indigenous family engagement and provides the best results for vulnerable children. It also defeats policy objectives to empower and build capacity for Aboriginal and Torres Strait Islander communities.
- e) **The 15,000 place gap in ECEC participation for Aboriginal and Torres Strait Islander children identified by the Productivity Commission will increase.**
- f) **Traditional market failures ignored:** Aboriginal and Torres Strait Islander services have grown organically to respond to a gap in the market and a failure of mainstream services.
- g) **Potential closure of a range of vital services that do not fit a mainstream ECEC model:** playgroups, mobile services and out of school hours care, for example, are not eligible for funding under the Jobs for Families Child Care package. Alternative funding arrangements have been proposed, such as funding allocations under the Department of the Prime Minister and Cabinet's Indigenous Advancement Strategy, however further confirmation has not been provided on the security of funding arrangements for these services.

Aboriginal and Torres Strait Islander ECEC services are driven by the dedication and commitment of community members who want a better future for their children. All the evidence supports Aboriginal and Torres Strait Islander ECEC services as the most successful organisations in engaging with Aboriginal and Torres Strait Islander children because:

- They actively access vulnerable children who are not accessing services – particularly due to the discrimination families experience in mainstream services.
- They engage with the most vulnerable and isolated families in our community and are a key entry point for vulnerable families to engage with a broad range of support services that can enhance the safety and wellbeing of children.
- They support parents who may be experiencing long-term or entrenched unemployment to access support in their transition into the workforce and provide an incentive to transition into the workforce. They often offer culturally safe options for training and a stepping stone into paid local work, some being among the larger employers in their communities.

SNAICC's recommendations for amending the Social Services Legislation Amendment (Omnibus Savings and Child Care Reform) Bill 2017 (Omnibus Bill)

By placing Aboriginal and Torres Strait Islander ECEC services in competition for funding with other mainstream providers under the Community Child Care Fund, the Commonwealth is generating a system that has the potential to marginalise small-scale community organisations and support larger, established organisations to secure more funding, thus eroding local community and cultural leadership in service delivery.

This was the experience of the implementation of the Indigenous Advancement Strategy by the Department of the Prime Minister and Cabinet (PM&C) which saw many small and under-resourced Aboriginal and Torres Strait Islander organisations struggling to compete for funding against large and well-established mainstream non-government organisations.⁹ We have been encouraged by the recent advice to sector organisations provided by the Minister for Education and Training, Senator the Hon. Simon Birmingham, that a discretionary component of funding within the Community Child Care Fund will assist to ensure that Aboriginal and Torres Strait Islander services are not unfairly disadvantaged through the competitive funding process. However, we strongly believe that a sustainable approach that meets the government's responsibility to address the inequities in service access and outcomes for Aboriginal and Torres Strait Islander children requires a dedicated Aboriginal and Torres Strait Islander service stream.

SNAICC's proposals for amending the Omnibus Bill are:

1. Split the Jobs for Families Child Care package reforms from the additional welfare reforms proposed in the Omnibus Bill.

It is unnecessary to couple the childcare reforms with other measures and detracts from the critical importance and value of quality early childhood education and care services. The childcare reforms do not require additional savings measures – the package pays for itself.

2. An Aboriginal and Torres Strait Islander specific program within the Child Care Safety Net and an attuned funding model for other rural and remote services.

A dedicated discretionary and non-competitive funding allocation should be established for Aboriginal and Torres Strait Islander services to top up funding from Child Care Subsidy and fees to ensure viability of both services operating under the Budget Based Funding program and services established under the Aboriginal Child and Family Centre (ACFC) initiative. This funding stream also needs to accommodate for additional investment into existing or new services in locations where high numbers of Aboriginal and Torres Strait Islander children are not currently engaged in the ECEC system. This funding allocation could be within or alongside the Community Child Care Fund.

The objective of the Aboriginal and Torres Strait Islander program and funding allocation would be to provide repeated three to five year grants to top-up the income to Aboriginal and Torres Strait Islander services to enable them to continue flexible service provision to the most disadvantaged children within their communities. Savings from the delayed roll-out of the Jobs for Families Childcare Package could be drawn upon to provide the estimated additional \$100m p.a. required to implement this program on top of funds reallocated from the proposed Community Child Care Fund.

⁹ Senate Finance and Public Administration References Committee (2016), *Commonwealth Indigenous Advancement Strategy tendering processes*, Australian Government, Canberra, p.16.

Funding agreements under this stream of funding would be provided on a long-term basis to ensure the sustainability of services and enable effective programming to support the needs of families in light of best-practice models for intervention surrounding family violence, drug and alcohol misuse and community violence.

3. Provision of at least two full days (22.5 hours) of subsidised quality early learning to all children to support their development, regardless of their parents' activities.

This is a compromised position from the full 24 hours provided now, offered in the spirit of compromise as a part of a package of recommendations. This requires an amendment to the Omnibus Bill to ensure that families on incomes less than \$100,000 per annum receive 22.5 hours of subsidised care per week. This could taper down between the current proposed \$65,700 and \$100,000 p.a. This proposal would require, specifically, an amendment of Schedule 1, Clause 13 1) of the Omnibus Bill to state that "The low income result is 48" so that families on incomes less than the lower income threshold (\$100,000) per annum receive two full days (up to 22.5 hours) of subsidised care per week or an amendment reflecting the tapering component. This removes unfair cuts in subsidy caused by the cliff at \$65,710 which would mean children have to drop out of early learning or have a significant increase in their fees if their estimated income goes above \$65,710. It also retains workforce incentives for families with incomes over \$65,710 because subsidy for working families will be paid at a higher Child Care Subsidy (CCS) percentage as well as including additional CCS hours. It finally ensures families in the bottom two quintiles who do not meet the activity test are not worse off moving to CCS.

Given the budget ask for shifting the number of subsidized hours for all children to 22.5 hours is significant, a potential option would be to implement a special measure to enable a specific provision for 22.5 subsidised hours for all Aboriginal and Torres Strait Islander children in recognition of the need to close the gap in early childhood services access and outcomes for Aboriginal and Torres Strait Islander children.

4. An amendment to the Omnibus Bill to secure a recognition and commitment to the rights of Aboriginal and Torres Strait Islander children.

The Omnibus Bill currently references Australia's obligations under the United Nations Convention on the Rights of the Child (CRC), specifically articles 2, 3, 18 or 23 of the Convention.

SNAICC proposes adding particular reference to articles 29 and 30 of the CRC, as well as reference to Australia's obligations under the United Nations Declaration on the Rights of Indigenous Peoples (DRIP), particularly articles 2, 8, 14, 19, 21, 22, and 23.

SNAICC makes specific reference to Article 14:

Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

This could possibly be inserted under Schedule 4, Division 7 – Miscellaneous of the current Omnibus Bill - 85GA 1) b) (ii-iii).

SNAICC also proposes that the following be included within the Minister's rules for implementation of the Omnibus Bill: *The Commonwealth recognises the need for unique, flexible and tailored funding agreements with Aboriginal and Torres Strait Islander community controlled early childhood education and care services to accommodate for the increased vulnerability and access gap to early childhood education and care that Aboriginal and Torres Strait Islander children experience in comparison to non-Indigenous children.*

5. The Australian Government guarantee that playgroups, mobiles and other unique services supported within the BBF program, such as youth programs, continue to be funded either through the Community Child Care Fund or another program.

The BBF program currently funds a number of diverse and unique services operating to service the needs of Aboriginal and Torres Strait Islander children. While alternative funding arrangements have been proposed for these services, no firm guarantees have been made and as it stands they may cease to exist leading to an increased service gap for vulnerable Aboriginal and Torres Strait Islander children – particularly children in remote areas.

6. A commitment to increase places for Aboriginal and Torres Strait Islander children by 5,000 over the first three years of the package to redress the current 15,000 place early learning gap.

The government has committed to improving the access gap for Aboriginal and Torres Strait Islander children with Minister Morrison stating in relation to the package that “the Government is committed to Indigenous children having the same opportunities as other children to access child care and early learning”.¹⁰

All evidence, however, points to the Omnibus Bill having a contrary impact on Aboriginal and Torres Strait Islander children. To ensure that the Omnibus Bill becomes a positive driver for change for Aboriginal and Torres Strait Islander children the government needs to commit to address the 15,000 place early learning gap, and establish a collaborative monitoring process on implementation of this commitment. SNAICC is committed to working collaboratively with the government to develop and implement effective strategies to achieve this target.

¹⁰ Australian Government media release: ‘Minister Morrison: Better start for Indigenous children’, 19 August 2015, available: <http://www.indigenous.gov.au/news-and-media/announcements/minister-morrison-better-start-indigenous-children>

Identified savings measures required to implement recommended amendments

As outlined in the submission made by the early childhood education and care sector, the costs of Jobs for Families Child Care package have already been recouped by the government via:

- the savings the Government achieved in the Family Day Care compliance measures enacted in September 2015¹¹ and September 2016¹² (at least \$1.5 billion over the forward estimates);
- the savings the Government has achieved in reduced forward estimates for child care assistance in the 2016 MYFEO statement (\$7.6 billion over the forward estimates).
- the savings the Government has already achieved in cuts to Family Tax Benefit Part A supplements for families earning more than \$80,000 passed by the Parliament in September 2016 (\$1.6 billion over the forward estimates).¹³

Conclusion

SNAICC urges the Senate Community Affairs Legislation Committee to consider the needs of Aboriginal and Torres Strait Islander children and implement the minor changes required to ensure their safety and wellbeing is not compromised.

It is the responsibility of the Government to **not widen** the extreme gap in disadvantage Aboriginal and Torres Strait Islander children currently experience. How Aboriginal and Torres Strait Islander children fare will be a litmus test for the Jobs for Families Child Care Package. Now is the time to ensure we have the details right.

¹¹ Ministerial media statement 8/9/2015 <http://www.formerministers.dss.gov.au/15741/changes-to-end-child-swapping-in-family-day-care/> Costings provided in MYFEO December 2015

¹² Ministerial media statement 11/9/2016 <https://ministers.education.gov.au/birmingham/turnbull-government-boost-powers-child-care-compliance-cops>

¹³ Budget Savings (Omnibus) Bill 2016

Appendix 1

SNAICC Submission

Inquiry into the provisions of the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2015

February 2016

Appendix 2

SNAICC Submission

Inquiry into the provisions of the Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Bill 2016

September 2016