

# Family Matters

## Report 2023



**FAMILY  
MATTERS**

Strong communities. Strong culture.  
Stronger children.



## ACKNOWLEDGEMENTS

The Family Matters Report is a collaborative effort of SNAICC – National Voice for our Children, Family Matters Leadership Group, Monash University and the University of Technology Sydney.

### AUTHORS

Family Matters Leadership Group: Catherine Liddle, A/Professor Paul Gray (co-chairs).

SNAICC – National Voice for our Children:  
John Burton, Mandy Taylor, Gretchen Young,  
Rashmi Kumar, Lou Turner, Luke Hutchins,  
Benjamin French, Lili Ann Jones, Ruby Holt,  
Rennai Marlais, Emily Armstrong, Lily Harris,  
Daniel Hill, Niamh Cronin and Devon LaSalle.

Monash University (Health and Social Care Unit):  
Dr. Tatiana Corrales.

Dr. Nicole Schlesinger.

Edited by: SNAICC – National Voice for our Children.

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Stronger culture. is an initiative of SNAICC.

### FINANCIAL CONTRIBUTORS

Life Without Barriers; OzChild

COVER artwork designed by Tovani Cox. Tovani Cox is a proud Bunuba, Gija and Karajarri woman based in Naarm/Melbourne.

TYPESETTING: Mazart Communications.  
A proud certified Supply Nation and Kinaway  
Indigenous business. [www.mazartdesignstudio.com](http://www.mazartdesignstudio.com)

**Family Matters – Strong communities. Strong culture. Stronger children.**  
annual report examines what governments are doing to turn the tide on over-representation and the outcomes for Aboriginal and Torres Strait Islander children. It highlights Aboriginal and Torres Strait Islander-led solutions and calls on governments to support and invest in the strengths of Aboriginal and Torres Strait Islander peoples to lead on child wellbeing, development and safety responses for our children.

**Family Matters' goal is to see Aboriginal and Torres Strait Islander children and young people grow up safe and cared for in family, community and culture. Family Matters aims to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care within a generation (by 2040).**

**Family Matters is led by SNAICC – National Voice for our Children and a group of eminent Aboriginal and Torres Strait Islander leaders from across the country. The campaign is supported by a Strategic Alliance of over 150 Aboriginal and Torres Strait Islander and non-Indigenous organisations.**



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# ABBREVIATIONS

AbSec	NSW Child Family and Community Peak Aboriginal Corporation
ACCO	Aboriginal community-controlled organisations
ACCHO	Aboriginal community-controlled health organisations
ACFC	Aboriginal Child and Family Centres
ACMS	Australian Child Maltreatment Study
ACWA	Association of Community Welfare Agencies
AEDC	Australian Early Development Census
AFLDM	Aboriginal family-led decision-making
AHRC	Australian Human Rights Commission
AIHW	Australian Institute of Health and Welfare
ALS	Aboriginal Legal Service (NSW/ACT)
ALCC	Aboriginal Led Case Conferencing
APGR	Annual population growth rate
ARO	Aboriginal Representative Organisations (WA)
ASDB	Aboriginal Service Development Branch (ACT)
ATSICCO	Aboriginal and Torres Strait Islander community-controlled organisations
ATSICPP	Aboriginal and Torres Strait Islander Child Placement Principle (referred to as the Child Placement Principle)
CB	Connected Beginnings
CaPS	Children and Parenting Support services
CAPO	NSW Coalition of Aboriginal Peak Organisations
CASWA	Council of Aboriginal Services Western Australia
CCS	Child Care Subsidy (as of July 2018)
CCYP	Commissioner for Children and Young People (CCYP)
CSD	Community Services Directorate (ACT)
CSO	Community services organisation
CSP	Cultural Support Plans
CYPS	Child and Youth Protection Services (ACT)

DA	Delegated Authority
DFFH	Department of Families, Fairness and Housing (VIC)
DFV	Domestic and family violence
ECEC	Early childhood education and care
ECPP	Early Childhood Care and Development Policy Partnership for Closing the GaP
FASD	Foetal Alcohol Spectrum Disorder
FCS	Family Connect and Support (NSW)
FGC	Family Group Conferencing
FLDM	family-led decision-making
FNFSST	First Nations Family Support Team (ACT)
GCO	Guardianship custody order
IFS	Intensive Family Support
IFSS	Intensive Family Support Service
MAP Group	Ministerial Aboriginal Partnership Group (NSW)
NIAA	National Indigenous Australians Agency
OCC	Office of the Children's Commissioner (NT)
OOHC	Out-of-home care
PFC	Pregnancy Family Conferencing
QATSICPP	Queensland Aboriginal and Torres Strait Islander Child Protection Peak
QFCC	Queensland Family and Child Commission
RoGS	Report on Government Services
SEIFA	Socio-Economic Indices for Areas
TPPRO	Third-party parental responsibility order
VACCA	Victorian Aboriginal Child Care Agency
WACOSS	Western Australian Council of Social Service
WWGGD	Wunguriltwil Gapgapduir: Aboriginal Children and Families Agreement (VIC)



## FOREWORD BY FAMILY MATTERS CO-CHAIRS

Each year since 2016, *Family Matters* has told the continuing story of our children and families affected by child protection systems around Australia. Two key themes have characterised those stories: one is the way our children, families and communities remain safe and strong in their cultures. The other is how governments continue to disappoint us. Under the data and evidence outlined in this report lies the suffering of Aboriginal and Torres Strait Islander children and families that continue to be separated at disproportionate rates.

It is not because there is a lack of solutions. At SNAICC, and Aboriginal community-controlled organisations around the country, our people and communities continue to develop strategies for meaningful change. *Family Matters* brings together the perspectives and actions that our communities have been calling for over many years. We are frustrated by the limited commitment to back these solutions.

Target 12 in the National Agreement on Closing the Gap, to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031, remains very much off-track. The number of Aboriginal and Torres Strait Islander children affected by the child protection system is increasing. In 2022 there were 22,328 Aboriginal and Torres Strait Islander children in out-of-home care in Australia, the highest number ever recorded. Most disturbingly, Aboriginal and Torres Strait Islander children are 10.5 times more likely than non-Indigenous children to be in out-of-home care – the highest rate of over-representation ever recorded. Through Family Matters we continue to call for accountability to deliver on the commitment in the National Agreement. All governments need to do more to transform child protection systems, consistent with the Family Matters Roadmap and the Priority reforms.

The Productivity Commission draft report this year from its *Review of the National Agreement on Closing the Gap* found that governments across Australia are not meeting their commitments. The report questioned whether governments have grasped the scale of systemic change required.

This year our communities have been further let down by the Referendum that sought to recognise our people in the Constitution and establish a Voice to Parliament. The Referendum sought to enact the

call in the Uluru Statement from the Heart for a Voice for our people in matters that affect us. The Uluru statement acknowledged the ‘unprecedented rates’ of child removal, and our enduring love and hope for their futures. It recognised the ‘torment of our powerlessness’ in repeated failures and government inaction to implement these meaningful, community-based solutions to address these enduring structural problems and create a better future for our children and the generations to come.

That aspiration was denied and the Referendum result returned us to the status quo that has failed us for so long.

This disappointing result has not and will not silence us. The simple truth of the Uluru Statement remains: when our communities have power over our destiny, our children will flourish. SNAICC and the Family Matters National Leadership Group continue to call for the means for our people to make decisions in the matters that affect us, and to hold governments to a higher standard of accountability, to do better.

It is time to establish a National Commissioner for Aboriginal and Torres Strait Islander Children, who will be the champion, the voice and facilitator for our children, young people and families, and who will hold governments to account. Similar independent and empowered roles must be present in every jurisdiction, providing a national system of oversight to uphold the rights and interests of our children.

We need independent scrutiny of the systems that intervene in our children’s and families’ lives. Periodic reviews through inquiries and Royal Commissions have produced extensive reports and recommendations about the dimensions of these challenges, but little action from governments once the inquiry wraps.

## JOINT STATEMENT

### ORGANISATIONS REJECT CALLS FOR ROYAL COMMISSION INTO ABORIGINAL CHILDREN

19 October 2023

Child abuse is a serious crime, which has a devastating impact on children, family and communities.

The safety of children should not be politicised or used as a platform to advance a political position.

It is frustrating and disappointing to hear the Opposition Leader and Senator Price repeating the same claims and calls they made earlier this year, again with no evidence and no credible solutions.

If any politician, or anyone at all, has any evidence about the sexual abuse of children then they must report it to the authorities.

These calls for a Royal Commission into the sexual abuse of Aboriginal children have been made without one shred of real evidence being presented. They play into the basest negative perceptions of some people about Aboriginal people and communities.

In April this year, the Australian Child Maltreatment Study revealed the majority of Australians (62 per cent) have experienced at least one type of child abuse or neglect, with domestic violence, physical, emotional or sexual abuse the most common.

Child abuse is far too prevalent in Australia full stop.

Singling out Aboriginal families and communities is harmful and puts ideology before evidence.

The evidence and the solutions are very clear.

There have been more than 33 reports into child protection since the Bringing Them Home Report in 1997.

SNAICC produces an annual report, Family Matters, and has done for many years which details the evidence-based solutions that will enable our children to grow up safe, loved and protected. These solutions have been developed by Aboriginal and Torres Strait Islander people and organisations.

They prioritise Investment in effective, culturally safe supports for families and children before they reach crisis point, through Aboriginal community-controlled services.

The most effective and immediate action Government can take to make children safe and protect their human rights is to stand up a National Aboriginal and Torres Strait Islander Children's Commissioner, with the legislated power to investigate and make recommendations on issues impacting our children.

This will be more effective and more powerful than any Royal Commission.

We have been calling for a National Commissioner for many years.

We now call for bipartisan support to make this happen.



Ongoing oversight through empowered, independent, rights-based advocates provides a better opportunity for lasting change.

Enabling self-determination for our people is the way out of this crisis. This report outlines the promising path our communities and their community-controlled organisations are forging. Aboriginal and Torres Strait Islander community-controlled organisations are establishing holistic systems of care, and increasingly exercising greater authority in decision-making, and this is leading to positive outcomes for our children.

Through dismantling government systems perpetuating colonialism and restoring authority for raising children in safe and nurturing hands, we will see lasting change.

We still have a long way to go in realising this vision.

This slow progress continues to expose our children to avoidable harms that are detrimental to their futures.

The Family Matters report has consistently called for a system wide reimagining and transformation of child protection systems. To achieve this, systems must be rebuilt on new foundations, what we refer to as the four Building Blocks.

Giving families equitable access to high quality and culturally safe supports is the first vital building block. Second is enabling communities to make decisions about their children. Third are laws, policies and practices that are culturally safe and responsive to our needs. And fourth are mechanisms to ensure that governments and services are accountable to the communities they serve. With these foundations in place, we know that our children can thrive.

At a national level, reforms are underway that can drive meaningful change. *Safe and Supported: the National Framework for Protecting Australia's Children*, has been designed with us – a ground-breaking commitment to shared decision-making. In January this year, the Aboriginal and Torres Strait Islander First Action Plan 2023-26 of the framework was released. The plan includes commitments to transfer authority of child protection to community and to our organisations, investment in the community-controlled sector and our workforce, data sovereignty, and full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle to the standard of active efforts. It includes establishing robust national standards for oversight and advocacy through Aboriginal and Torres Strait Islander Children's Commissioners, including the establishment of a National Commissioner. This Action Plan can be a game changer, but only if the matched by real, resourced action from governments.

At a state and territory level, some governments are already moving forward in partnership with local communities. Governments in Victoria and Queensland are transferring authority to ACCOs to lead child protection decisions and practice about their children. Queensland has legislated requirements for active efforts to implement the Aboriginal and Torres Strait Islander Child Placement Principle's five elements, and the Australian Capital Territory and South Australia are progressing legislative reviews to bring their legislation into line with the Principle. South Australia has progressed community-led design for a new children and families peak body and is undertaking law reform to progress the transfer of authority to Aboriginal and Torres Strait Islander communities, while the Australian Capital Territory is progressing establishment of its new Aboriginal and Torres Strait Islander Children's Commissioner. The Northern Territory has launched a 10-year Generational Strategy to improve services for children and families, along with the First Action Plan which includes commitments to transfer authority for child protection decision-making to Aboriginal communities, and to develop the ACCO sector. Western Australia has designed a 10-year roadmap to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in partnership with Aboriginal communities and organisations. Numerous jurisdictions have established greater oversight through Commissioner roles, although there remains significant variability in the positioning and powers vested in these roles.

At the heart of this report is a call to urgent action. We need governments to address the ongoing harm that is caused when they remove Aboriginal and Torres Strait Islander children from families. As the report says, families matter. Strong families mean our kids have a bright future.







# INTRODUCTION

## Goal of the report

*Family Matters report* is an annual report that highlights progress towards achieving our goal that Aboriginal and Torres Strait Islander children and young people grow up safe and cared for in family, community and culture. Eliminating the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care within a generation, by 2040, is a core part of achieving this goal.

Family Matters reports focus on what governments are doing to turn the tide on over-representation and outcomes for our children. They also highlight Aboriginal and Torres Strait Islander-led solutions and call on governments to support and invest in the strengths of Aboriginal and Torres Strait Islander peoples to lead on child wellbeing, development and safety responses for our children.

The reports contribute to efforts to change the story by explaining the extent of the challenges, reporting on progress towards implementing evidence-informed solutions and profiling promising policy and practice initiatives. The Family Matters Roadmap (published separately on the SNAICC website) proposes four inter-related building blocks, underpinned by evidence, ethics and human rights, detailing systemic changes needed to achieve this aim:

- 
1. All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive
  2. Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children
  3. Law, policy and practice in child and family welfare are culturally safe and responsive
  4. Governments and services are accountable to Aboriginal and Torres Strait Islander people

*The Family Matters Report 2023* is also an opportunity for us to exercise decision-making in the presentation and interpretation of data related to Aboriginal and Torres Strait Islander children and families. Government interpretations of data are often used in support of government policy agendas and servicing requirements. The Family Matters report use data to interpret current efforts to address the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care from our standpoint and to demand government accountability.

## Structure of the report

The report is structured in three parts, preceded by the **Family Matters Report Card** – a traffic light assessment of the progress of each state and territory to implement the four Family Matters building blocks.

**Part 1: Current data for Aboriginal and Torres Strait Islander children and families.** In order to understand the extent of the challenges and responses required, it is important to detail the current situation and trends in child protection intervention in the lives of Aboriginal and Torres Strait Islander families. This part describes data relating to children's interactions with child protection systems and provides a projection of how over-representation is likely to increase over the next 10 years if current conditions are maintained. Also included are descriptions of the types of child protection data that are publicly available, data provided by state and territory governments and key data gaps that need to be addressed to properly gauge progress. Finally, this part summarises data relating to the structural drivers that contribute to children and families encountering

the child protection system (including trauma, systemic racism, socio-economic disadvantage, access to safe and stable housing, exposure to family violence, access to disability supports, and substance use) and analyses service engagement and availability barriers in the service sectors that have been identified as the highest priorities in responding to issues impacting on children's development, wellbeing and safety.

**Part 2: The year in review.** This part outlines a range of legislative, policy, program, practice and system developments over the previous year at state, territory and national levels. An overview of policy developments is outlined, as well as, for each state and territory:

- the perspectives of Aboriginal and Torres Strait Islander community and sector leaders from each state and territory, reflecting on the efforts of their respective governments to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care – these perspectives are also reflected throughout the report
- the perspectives of independent Commissioners for Aboriginal and Torres Strait Islander children and young people, if such a position exists in a jurisdiction
- input provided by governments on their efforts to eliminate over-representation (legislation, policy and practice).

**Part 3: Case studies of Aboriginal and Torres Strait Islander-led transformation:** To effectively respond to the needs of children and families and ensure that Aboriginal and Torres Strait Islander peoples' rights to participation and self-determination are fulfilled, Aboriginal and Torres Strait Islander community-controlled organisations must have adequate roles, resources and funding. Across the country, Aboriginal and Torres Strait Islander peoples and organisations are demonstrating excellence in supporting families and transforming the lives of our children for the better. Our communities have continued to grow, innovate and thrive despite the ongoing impacts of systemic racism – we know the solutions that work best to deliver strengths-based, community-driven initiatives, which empower localised processes and cultural understandings to support the holistic wellbeing of our children and families.

This section presents case studies of Aboriginal and Torres Strait Islander community-controlled organisations that are at the forefront of change and are achieving positive impacts for communities. These case studies are examples of the inspiring and transformative work occurring right across the sector.

**Conclusion and recommendations:** Family Matters highlights the need for action and accountability to deliver solutions for Aboriginal and Torres Strait Islander children and families. Data presented in the report highlights the need for transformative change. The stories of strength and creativity from Aboriginal and Torres Strait Islander children and families and the Aboriginal and Torres Strait Islander community-controlled sector highlight the solutions that need systematic support and sustainable funding.

Critical to achieving better outcomes for Aboriginal and Torres Strait Islander children and families are accountability mechanisms that centre children. This is why we call for a National Commissioner for Aboriginal and Torres Strait Islander Children that can be a voice for Aboriginal and Torres Strait Islander children and young people and hold governments to account.

It is crucial that governments implement the recommendations of this report in partnership with Aboriginal and Torres Strait Islander peoples to ensure that our children grow up safe and cared for in family, community and culture, and connected to their languages and Country.



# SUMMARY OF RECOMMENDATIONS

Refer to the conclusion of the report for further detail on the recommendations

## BUILDING BLOCK 1

All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive

1. Increase the availability of universal and targeted prevention and early intervention support by:
  - a. increasing investment in prevention and early intervention support programs delivered by ACCOs
  - b. setting targets for the percentage of family support and intensive family support services funding directed to ACCOs in each jurisdiction and each region to be equivalent to the representation of Aboriginal and Torres Strait Islander children in child protection services.
2. Establish a dedicated funding model and program for Aboriginal and Torres Strait Islander community controlled integrated early years services, including new investment to expand their scope and coverage.
3. Develop and resource a joint state- and Commonwealth-funded national program for ACCO-led integrated family support services.

## BUILDING BLOCK 2

Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children

4. Set targets for the proportion of funding for child protection and family support services directed towards ACCOs to be equivalent to the proportion of Aboriginal and Torres Strait Islander children involved in child protection systems in each jurisdiction and each region.
5. Establish, resource and support independent Aboriginal and Torres Strait Islander family-led decision-making models in every state and territory and across all regions, supported by legislation, for all families across all significant child protection decision-making points.
6. Expand and appropriately fund the transfer of authority to ACCOs for statutory child protection functions across Australia, ensuring ACCOs are fully resourced to perform statutory roles.
7. Develop community-based, youth-led models for participation of children and young people in matters that affect them, as part of mechanisms for partnership and shared decision-making with Aboriginal and Torres Strait Islander communities.





## BUILDING BLOCK 3

### Law, policy and practice in child and family welfare are culturally safe and responsive

8. End adoption of Aboriginal and Torres Strait Islander children from OOHC.
9. Legislate requirements that ACCOs must approve permanent care orders for Aboriginal and Torres Strait Islander children and partner with ACCOs to create alternative, culturally safe approaches to promoting stability and permanency, including ensuring ACCOs have information and roles to support ongoing cultural connections for Aboriginal and Torres Strait Islander children on permanent orders.
10. Establish national standards to ensure family support and child protection legislation, policy and practices adhere to all five elements of the Child Placement Principle to the standard of active efforts, including:
  - a. nationally consistent standards for implementation of the Child Placement Principle to the standard of active efforts, and linked jurisdictional reporting requirements under Safe and Supported
  - b. increased representation of Aboriginal and Torres Strait Islander families, children and communities at each stage of the decision-making process, including through independent Aboriginal and Torres Strait Islander family-led decision-making in every jurisdiction
  - c. comprehensive, active and dedicated efforts to connect Aboriginal and Torres Strait Islander children in OOHC to family and culture, through cultural support planning, family finding, return to Country and kinship care support programs.
11. Increase investment in reunification services to ensure Aboriginal and Torres Strait Islander children are not spending longer in OOHC than is necessary due to inadequate planning and support for parents and increase investment in support services for families once children are returned to support sustained reunification outcomes for children and families.
12. Establish ongoing initiatives to improve practice, knowledge, responsiveness and accountability to Aboriginal and Torres Strait Islander people in government agencies, in accordance with Priority Reform 3 under the National Agreement, including:
  - a. applying the Family Matters Reflective Practice Tool on a regular basis to assess agencies' progress with regard to cultural safety, support for shared decision-making and self-determination, staff capability and safe and effective practice with Aboriginal and Torres Strait Islander children and families
  - b. identifying and eliminating racism – by assessing capability to understand, apply and promote anti-racism
  - c. employing Aboriginal and Torres Strait Islander people in both identified and non-identified roles at all levels
  - d. commitment to increasing capability and practice improvement to ensure culturally safe engagement with all Aboriginal and Torres Strait Islander stakeholders including service users, partner agencies and staff
  - e. partnering with ACCOs to engage with Aboriginal and Torres Strait Islander communities, deliver services, to promote truth-telling and ongoing healing and to improve service delivery by government and non-Indigenous agencies
  - f. improving engagement with Aboriginal and Torres Strait Islander people with transparent feedback processes and Aboriginal and Torres Strait Islander leadership of these processes



#### BUILDING BLOCK 4

##### Governments and services are accountable to Aboriginal and Torres Strait Islander people

13. Establish and resource peak bodies that support and enable equal participation of Aboriginal and Torres Strait Islander people in shared decision-making and partnership for policy and service design and in the oversight of systems impacting children, in accordance with the National Agreement Priority Reform 1.
14. Establish Commissioners for Aboriginal and Torres Strait Islander Children nationally and in every state and territory, in accordance with the UN Principles relating to the Status of National Institutions, empowered and resourced by legislation.
15. Establish partnerships between Aboriginal and Torres Strait Islander communities and governments to guide the design, collection, interpretation and use of data relevant to Aboriginal and Torres Strait Islander children. As a priority, we call on all jurisdictions to address data gaps identified throughout this report.
16. Change the definition and counting rules for OOHHC to include children on permanent care orders.







# FAMILY MATTERS

Strong communities. Strong culture.  
Stronger children.



# THE FAMILY MATTERS REPORT CARD 2023

COLOUR GUIDE

Very poor

Poor

Promising/improving

Stronger practice/outcomes

### ABBREVIATIONS

OOHC: out-of-home care  
ACCO: Aboriginal and Torres Strait Islander community-controlled organisation  
ATSICPP: Aboriginal and Torres Strait Islander Child Placement Principle  
AEDC: Australian Early Development Census  
CTG: National Agreement on Closing the Gap  
IFS: Intensive Family Support  
TPPRO: third-party parental responsibility order

References to Aboriginal people refer to Aboriginal and Torres Strait Islander people.



THE FAMILY MATTERS REPORT 2023

Headline indicator Over-representation in OOHC + TPPRO (rate)		BUILDING BLOCK 1 Universal and targeted services	BUILDING BLOCK 2 Participation, control and self-determination	BUILDING BLOCK 3 Culturally safe and responsive systems	BUILDING BLOCK 4 Accountability
ACT	14	<ul style="list-style-type: none"><li>Over-representation in OOHC above national average</li><li>Third highest proportion of investment in ACCOs for family support and IFS (17.5%)</li><li>Proportion of expenditure on family support and IFS below national average (12%)</li><li>Second lowest rate of Aboriginal children on track in all 5 AEDC domains (27.3%)</li></ul>	<ul style="list-style-type: none"><li>Progress made on investment to ACCOs, but continuing distrust between sector and government</li><li>Lack of resources for ACCOs to support families to participate in child protection processes, including AFLDM</li><li>Co-design network provides Aboriginal community advice based on lived and living experience</li></ul>	<ul style="list-style-type: none"><li>Highest placement with Aboriginal kin (42.6%)</li><li>Second highest reunification rate for Aboriginal children (12.3%)</li><li>Did not provide data on relationship status of carer for children on TPPROs in accordance with request</li><li>Community identifies practice improvement, including promising Aboriginal restoration taskforce</li></ul>	<ul style="list-style-type: none"><li>Interim Aboriginal Children's Advocate appointed and Aboriginal Children's Commissioner legislated</li><li>Independent Aboriginal oversight body monitors implementation of Our Booris, Our Way review</li><li>Community voices highlight improvements in partnerships with ACCOs and community for reform</li></ul>
NSW	10.5	<ul style="list-style-type: none"><li>Reduced rate of Aboriginal children in OOHC over past 3-years, but over-representation continues to rise</li><li>Proportion of expenditure on family support and IFS below national average and dropping (12.1%)</li><li>Relatively low proportion of investment in ACCOs for family support and IFS (7.7%)</li><li>Highest rate of Aboriginal children on track in all 5 AEDC domains (38.8%)</li></ul>	<ul style="list-style-type: none"><li>Highest proportion of investment in ACCOs for care services (7.4%)</li><li>Minimal progress to transfer case management to ACCOs – lack of plan, resources and accountability</li><li>Peak and sector representatives highlight poor transparency and lack of partnership in reform</li><li>Case consultation and family participation largely internalised rather than with independent ACCOs</li></ul>	<ul style="list-style-type: none"><li>Third highest rate of Aboriginal children on long-term orders (63.4/1,000)</li><li>Only state to adopt out Aboriginal children in 21-22 (5 of 6 children adopted by non-Indigenous carers)</li><li>Lowest reunification of Aboriginal children (2.3%)</li><li>Poor transparency in review of decision-making tools and low implementation of Aboriginal Case Management Policy</li></ul>	<ul style="list-style-type: none"><li>Lack of plan and demonstrated progress to implement recommendations from Family is Culture review 4-years after it was completed</li><li>Deputy Aboriginal Children's Guardian role vacant since 2022 and new Aboriginal Advocate for Children appointed but without community consultation</li><li>Officer Level Working Group to progress Closing the Gap Target 12 ineffective and has stalled – a Ministerial Aboriginal Partnership Group is still being established</li></ul>
NT	14.8	<ul style="list-style-type: none"><li>Reduced rate of Aboriginal children in OOHC over past 3-years, but over-representation continues to rise</li><li>Second lowest rate of Aboriginal entry to OOHC (6.2/1,000)</li><li>Highest proportion of expenditure on family support and IFS (29.4%) but second lowest expenditure per child on IFS (\$34,860)</li><li>Lowest rate of Aboriginal children on track in all 5 AEDC domains (16.4%)</li></ul>	<ul style="list-style-type: none"><li>Increases in ACCO family support, but investment in ACCOs remains low overall in a system that predominantly engages Aboriginal children</li><li>No AFLDM model implemented despite commitment 5 years ago</li><li>Limited access to legal services for families and low referrals to Aboriginal legal services</li></ul>	<ul style="list-style-type: none"><li>Third lowest placement with Aboriginal kin (25.5%)</li><li>Lowest rate of Aboriginal children on long-term orders (23/1,000)</li><li>Investment increasing in purchased home based care despite commitment to phase it out in favour of kinship and foster care</li><li>Third highest reunification of Aboriginal children (9.3%)</li></ul>	<ul style="list-style-type: none"><li>Delays and lack of resources to implement <i>10-year Generational Strategy for children and families</i></li><li>No dedicated Commissioner for Aboriginal Children and Young People</li><li>Tripartite Forum with APO NT membership guides government reform for children and families</li><li>No peak body for Aboriginal children and families</li></ul>
QLD	9.2	<ul style="list-style-type: none"><li>Second lowest rate but increasing over-representation in OOHC, with third highest Aboriginal entry (13.3/1,000)</li><li>Proportion of expenditure on family support and IFS below national average and dropping (12.3%)</li><li>High proportion of family support and IFS provided by ACCOs (20%), but dropping</li><li>Budget allocation to expand ACCO Family Wellbeing</li></ul>	<ul style="list-style-type: none"><li>Commitment to transfer services for Aboriginal children and families to ACCOs within 10 -years</li><li>Equal funded teams in peak body (QATSICPP) and Department of Child Safety, Seniors and Disability Services to support expansion of ACCO delegated authority</li><li>Budget allocation to expand ACCO Family Participation Program</li><li>Enhanced role of peak body in strategy, policy, co-design and sector development</li></ul>	<ul style="list-style-type: none"><li>Second lowest placement with Aboriginal kin (22.8%)</li><li>Increasing number of Aboriginal children in residential care, including younger children</li><li>Planned implementation of Family Caring for Family and Delegated Authority by ACCOs will increase family and community care for children</li><li>Child Placement Principle included in legislation to standard of Active Efforts, but work needed on quality implementation</li></ul>	<ul style="list-style-type: none"><li>Queensland First Children and Families Board oversees Our Way Strategy</li><li>Aboriginal leadership and peak body partnership to develop the Breaking Cycles Action Plan</li><li>Action plan includes driving better reporting and monitoring – data improvements needed</li><li>No dedicated Commissioner for Aboriginal Children and Young People</li></ul>
SA	11.4	<ul style="list-style-type: none"><li>Second highest Aboriginal entry to OOHC (15.2/1,000)</li><li>Second lowest proportion of expenditure on family support and IFS (9.8%)</li><li>Third highest expenditure per child on IFS (\$111,580)</li><li>Relatively low proportion of investment in ACCOs for family support and IFS (6.9%)</li></ul>	<ul style="list-style-type: none"><li>Investment in family group conferencing is promising, but not delivered through ACCOs</li><li>Commissioner identifies limited engagement of Aboriginal stakeholders in legislative review</li><li>Advancing new peak body through Aboriginal-led process to input to service and system design</li><li>Limited scope of Gazetted Organisation role</li></ul>	<ul style="list-style-type: none"><li>Second highest rate of Aboriginal children on long-term orders (81.3/1,000) and low placement of children on TPPROs with Aboriginal carers (38.3%)</li><li>Second lowest reunification rate for Aboriginal children (3.8%)</li><li>Service model design led by government resulting in services unsuitable to meet Aboriginal family needs</li></ul>	<ul style="list-style-type: none"><li>New Aboriginal children and families peak body establishment in process with ongoing funding committed</li><li>Fully legislated independent Commissioner for Aboriginal Children and Young People</li><li>Lack of a dedicated plan to address over-representation overseen by Aboriginal people</li></ul>
TAS	5.2	<ul style="list-style-type: none"><li>Lowest over-representation in OOHC, but community concern about identification practice</li><li>Lowest Aboriginal entry to OOHC (6.2/1,000)</li><li>Early Intervention Unit being established in partnership with Tasmanian Aboriginal Legal Service and Tasmanian Legal Aid to deliver pre-litigation advocacy for families</li><li>Second highest rate of Aboriginal children on track in all 5 AEDC domains (38.3%)</li></ul>	<ul style="list-style-type: none"><li>No Aboriginal Family Group Conference facilitators employed despite government commitments</li><li>No policy or program for ACCO involvement in child protection decisions or AFLDM</li><li>Commission of Inquiry identified ad hoc approach to engaging ACCOs in child protection decisions</li></ul>	<ul style="list-style-type: none"><li>Lowest placement with Aboriginal kin (12%)</li><li>Second lowest rate of Aboriginal children on long-term orders (26.3/1,000)</li><li>Third lowest reunification rate for Aboriginal children (4.3%)</li><li>Peak body reports that the Child Placement Principle is being ignored in child protection decisions</li></ul>	<ul style="list-style-type: none"><li>Funding to the TAC to develop an evidence-based strategy and action plan to address over-representation in OOHC in Tasmania</li><li>No dedicated commissioner for Aboriginal children</li><li>Commission of Inquiry identified ad hoc engagement with ACCOs and recommended reform and investment to increase ACCO authority</li></ul>
VIC	17.3	<ul style="list-style-type: none"><li>Second highest over-representation in OOHC</li><li>Highest Aboriginal entry to OOHC by far (31.9/1,000)</li><li>Second highest proportion of expenditure on family support and IFS (28.1%)</li><li>Highest expenditure per child on IFS (\$149,730)</li><li>Lowest over-representation of Aboriginal children commencing IFS (7.3)</li></ul>	<ul style="list-style-type: none"><li>Second highest proportion of investment in ACCOs for care services (5.3%)</li><li>Progress remains stalled on case management transfer to ACCOs for Aboriginal children (48%)</li><li>Trial extension of ACCO delegation to investigations</li><li>AFLDM program statewide, but only implemented in 24% of cases and only after harm is substantiated</li></ul>	<ul style="list-style-type: none"><li>Second highest placement with Aboriginal kin (39.6%)</li><li>Highest rate of Aboriginal children on long-term orders (83.1/1,000)</li><li>Highest reunification rate for Aboriginal children (22.6%)</li><li>Legislative change to include the 5 elements of the Child Placement Principle and extend ACCO delegation to investigation</li></ul>	<ul style="list-style-type: none"><li>Partnership with ACCOs through the Aboriginal Children's Forum and the <i>Wungurilwil Gaggapduir Agreement</i>, but Aboriginal community voices identify a lack of genuine partnership</li><li>Dedicated Commissioner for Aboriginal Children and Young People, but the role is not in legislation</li><li>Yoorrook Commission found lack of accountability of Victorian Government for improving outcomes</li></ul>
WA	19.1	<ul style="list-style-type: none"><li>Highest over-representation in OOHC</li><li>Reduced rate of Aboriginal children in OOHC over past 3-years, but over-representation continues to rise</li><li>Lowest proportion of expenditure on family support and IFS (5%) and lowest expenditure per child on IFS (\$24,080) – high proportion invested in ACCOs (21.1%)</li></ul>	<ul style="list-style-type: none"><li>Prescriptive program requirements and short-term pilots limit potential for ACCO-led service delivery</li><li>AFLDM continues to only be implemented in 2 locations with no commitment to broader roll-out</li><li>Aboriginal Representative Organisation pilot has not met community expectations with limited authority and resources for ACCOs</li></ul>	<ul style="list-style-type: none"><li>Third highest placement with Aboriginal kin (38.8%)</li><li>Highest over-representation of Aboriginal children on long-term orders (19.4)</li><li>Recommissioning of some OOHC services to ACCOs in progress</li><li>Community voices highlight major gaps in culturally safe and trauma-informed services and harmful child protection practice across the state</li></ul>	<ul style="list-style-type: none"><li>WA 10-year Roadmap to address over-representation completed with extensive state-wide community consultation and leadership but not yet committed to by government</li><li>No dedicated Commissioner for Aboriginal Children and Young People</li><li>No Aboriginal child and family peak body resourced for state-wide leadership</li></ul>

Note on data: The reference date and source for data is often excluded in this abbreviated table, but is available in the relevant sections of the report. The headline indicator is based on children in 'out-of-home care' and on third-party parental responsibility orders.





# PART 1

## CURRENT DATA FOR ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND FAMILIES

### OVERVIEW

Data continues to demonstrate that governments with responsibility for child protection systems are not taking sufficient action to turn the tide on the rising rate of Aboriginal and Torres Strait Islander children in out-of-home care (OOHC). Current trends indicate that the *National Agreement on Closing the Gap's* Target 12 (to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031) will not be met. A substantial transformation of child protection systems and practice is needed to change course and achieve this target.

Each year, the Family Matters report has consistently identified that turning the trajectory around will require a comprehensive approach to address the drivers of child protection intervention and create a new system of child protection and family supports that are grounded in the strengths of culture and led by Aboriginal and Torres Strait Islander peoples.

It is important to note early in this report that the numbers presented regarding children in OOHC will appear different to figures reported by other sources because the Family Matters Report includes children on long-term third-party parental responsibility orders (TPPROs) in the OOHC count. In contrast, the definition of OOHC used by government agencies in Australia excludes children on TPPROs. However, given that these children have been removed from their families by child protection authorities, SNAICC and the National Family Matters Leadership Group have consistently disagreed with their exclusion from OOHC data. In fact, consistent advocacy has seen the Australian Institute for Health and Welfare (AIHW) include a data table that provides a transparent breakdown of children in OOHC and children on TPPROs in the *Child Protection Australia* publication. More detail on this issue is provided in the following pages.

From a systems perspective, the number of children in OOHC at any point in time is a function of four interrelated processes:

#### 1. Children already in out-of-home care

This is a count of all children who are recorded as living away from their parents in OOHC on a given day. Some children will have been in OOHC for one day and others for up to 17 years. This gives a **point-in-time** count of the **prevalence** of children in care and is reported nationally at 30 June in Child Protection Australia (published by the AIHW and the *Report on Government Services*, by the Steering Committee for the Review of Government Service Provision).

#### 2. Children entering out-of-home care

This is a count of all distinct entries into OOHC in a given period of time (usually over one year). Some children may have been in OOHC in an earlier year and others have had no prior entries, but all commenced a placement in a given year. This is known as the **incidence** of children in care (that is, new cases) or an **entry cohort**.

#### 3. Children exiting out-of-home care

This is a count of all children exiting OOHC in a given period (usually a year). This is known as an **exit cohort**. Many children exit care because they reach 18 years of age (that is, age out of care), others return to the care of their parents or other family members and some exit to other jurisdictional permanent care arrangements. However, SNAICC does not consider exit to permanent care to be a



genuine exit from the system because governments are still responsible for those children having removed them from the care of their parents. As such, this report re-includes data on children in permanent care wherever possible.

#### 4. The time children spend in out-of-home care

When a child enters care, they may stay for a very short to a very long period of time (as noted in point 1 above) depending on whether (and when) they are returned to the care of their parents, they reach the age of 18, or they exit the system for another reason. This is commonly referred to as **length of stay** or duration in care (and is a main driver of prevalence), or the total number of children living in OOHC.

Over-representation and under-representation could occur in any or all of these processes. Focusing only on those children currently in OOHC, or those exiting OOHC, leads to poor policy decisions. It is crucial to acknowledge that these are point-in-time indicators and are therefore limited in their ability to highlight the experiences of children over time. Other research is beginning to better capture the experience of children over time – for example in New South Wales, almost 1 in 2 Aboriginal children between 2009-2012 were subject to a Risk of Significant Harm report by the age of five (Davis 2019).

Reducing the over-representation of Aboriginal and Torres Strait Islander children in OOHC will require simultaneous initiatives targeted at children **entering** care, **in** care and **exiting** care. Crucially, the evidence supports that the greatest effort needs to occur even earlier before children are in contact with the system. Prevention and early intervention to strengthen families and communities will provide the best possible opportunity for children to be safe and thrive in connection with their cultures.

### The need for systemic reform

A lack of culturally safe and responsive service systems results in Aboriginal and Torres Strait Islander children and families being under-represented in universal prevention and early intervention services, which contributes to over-representation in statutory service systems. In SNAICC's consultations throughout 2021 and 2022 to inform the development of *Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031* (Safe and Supported), one of the most consistently identified barriers to families accessing support was fear of an interventionist system that drives towards the removal of children without offering sufficient supports to families, even when they are actively reaching out for help.

The national data confirms that most child protection systems predominantly drive in one direction – towards permanent removal of Aboriginal and Torres Strait Islander children – which causes intergenerational harm, rather than pursuing healing for families and communities.

There is an urgent need for a transformation of the current legislative and policy settings that are failing to reduce the inequities children experience across all decision-making points of Australia's child protection systems. SNAICC has long advocated for the development of a national, comprehensive strategy to eliminate the over-representation of Aboriginal and Torres Strait Islander children in OOHC, with oversight from independent, empowered Aboriginal and Torres Strait Islander Children's Commissioners. While an ambitious target has now been adopted through the *National Agreement on Closing the Gap* (the National Agreement), it will be critical for all jurisdictions to invest in significant reforms, designed and led by Aboriginal and Torres Strait Islander people and organisations, under the First Aboriginal and Torres Strait Islander Action Plan for Safe and Supported.

## 1.1 Current indicators and trends in child protection for Aboriginal and Torres Strait Islander children

### A. Over-representation of Aboriginal and Torres Strait Islander children in child protection systems

#### Out-of-home care - National

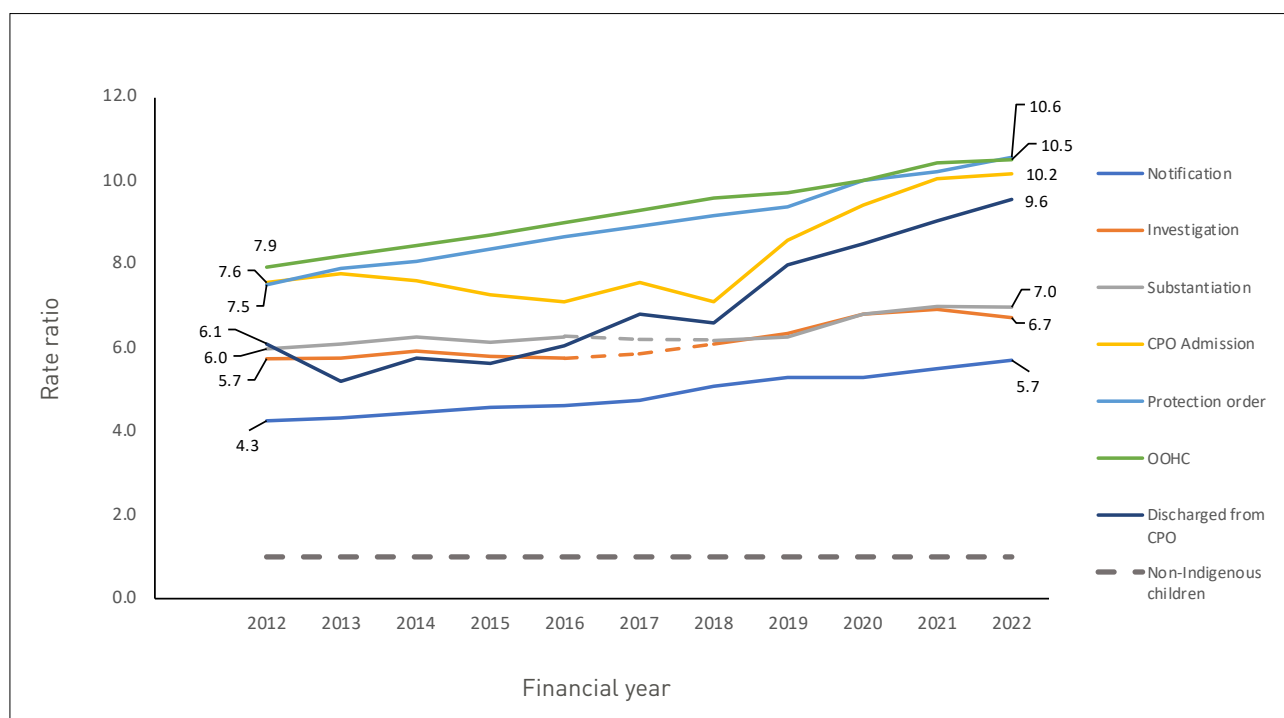
Aboriginal and Torres Strait Islander children continue to be over-represented across all key decision-making points within child protection systems.

In 2021-22, Aboriginal and Torres Strait Islander children nationwide were 5.7 times more likely than non-Indigenous children to be reported to child protection authorities, 10.6 times more likely to be subject to a child protection order and 10.5 times more likely to be in OOHC (including on permanent care orders) (see **Figure 1**).

As **Figure 1** shows, this over-representation at all stages of the child protection system has generally continued to increase over time. The number of Aboriginal and Torres Strait Islander children in OOHC also continues to increase, from 22,243 at June 2021 to 22,328 at June 2022 (AIHW 2023c).

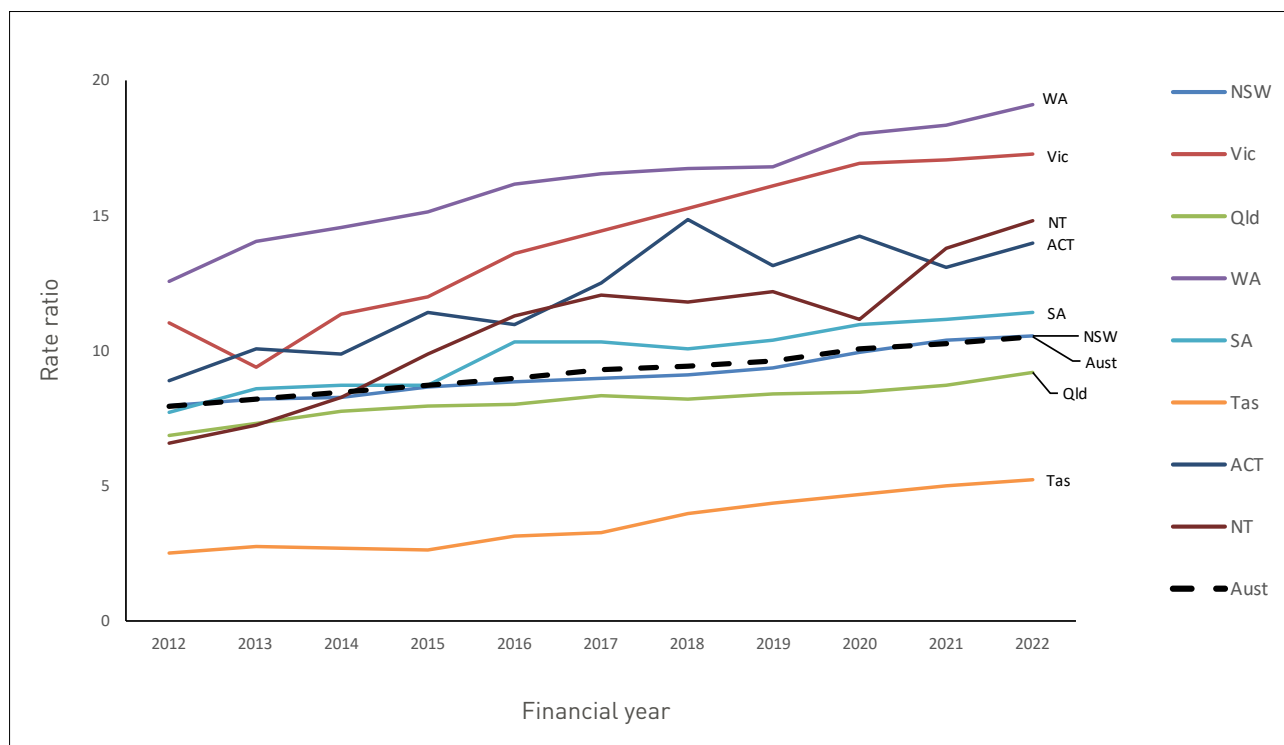


**FIGURE 1:** Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children involved with child protection in Australia (2012-2022)



Note: Data for investigation and substantiation in NSW not available for the 2017 -18 financial year.  
Data source: Table 16A.1 [Report on Government Services (ROGS) Part F Community Services, Child Protection Services, 2023]; Table T3 AIHW, Child Protection Australia (2023).

**FIGURE 2:** Ten Year trend in rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children in OOHC (2012-2022)



Note: Data from 2011-2016 is not directly comparable with data from 2017 onwards due to changes in the way children in OOHC were counted across all jurisdictions. Data from 2017 onwards includes children in OOHC or on Third-Party Parental Responsibility Orders consistent with new standard definition 'children in OOHC'.  
Data sources: Children in OOHC 2014-15 to 2018-19 AIHW (2016, 2017, 2018, 2019, 2020); Children in OOHC or TPOs 2017-2022 Table T3 AIHW (2022, 2023)

## DATA GAP

### EXCLUSION OF CHILDREN ON PERMANENT CARE ORDERS

National OOHC counting rules changed for all states and territories from 2018–19 and now exclude children on TPPROs from the count of children in OOHC. SNAICC believes that this change seriously undermines transparency and accountability, effectively rendering these children invisible in the system. Our governments must remain accountable for protecting the rights of all children removed from parental care. The National Agreement Target 12, which aims to reduce statutory intervention in Aboriginal and Torres Strait Islander family life, will be frustrated if governments seek to achieve it by permanently removing children from their families and excluding them from the count of children in OOHC. Consequently, the data presented in Figures 1, 2 and 3 re-includes children on third-party parental responsibility orders in the count.

As with 2021, the over-representation of Aboriginal and Torres Strait Islander children in cases of *substantiated* child neglect or abuse stayed steady in 2022 at 7 times the rate of non-Indigenous children, but the over-representation of Aboriginal and Torres Strait Islander children in OOHC has continued to increase. This is the result of several variables (some discussed in part 1.1 below) including higher rates of removal of Aboriginal and Torres Strait Islander children following substantiation of child abuse or neglect, the lower rates at which they are reunified with parents and family members and the longer periods they spend in care.

### Out-of-home care - States and Territories

When over-representation trends for Aboriginal and Torres Strait Islander children in OOHC are viewed at the state and territory level (**Figure 2**), it becomes apparent that over-representation is a significant issue right across the country, increasing in every state and territory over the last 10 years. There was an increase in all jurisdictions in over-representation between 30 June 2021 and 30 June 2022.

The highest rate of over-representation in 2021–22 was observed in Western Australia (19.1, up from 18.4 in 2020–21), followed closely by Victoria (17.3, up from 17.1 in 2020–21). Tasmania displayed the lowest rate of over-representation (5.2, up from 5.0 in 2020–21), followed by Queensland (9.2 up from 8.7 in 2021–22). The sharpest increase over the past reporting year was observed in the Northern Territory, where the rate ratio increased from 13.8 to 14.8.

There were reductions in the rate per 1,000 Aboriginal and Torres Strait Islander children in OOHC over the

past three years from 2020–22 in Western Australia (77.5 to 72.6), Northern Territory (35.7 to 31.1) and New South Wales (68.5 to 67.5). Larger reductions were achieved for non-Indigenous children in these jurisdictions over the same period and, as a result, over-representation continued to increase in all states and territories.

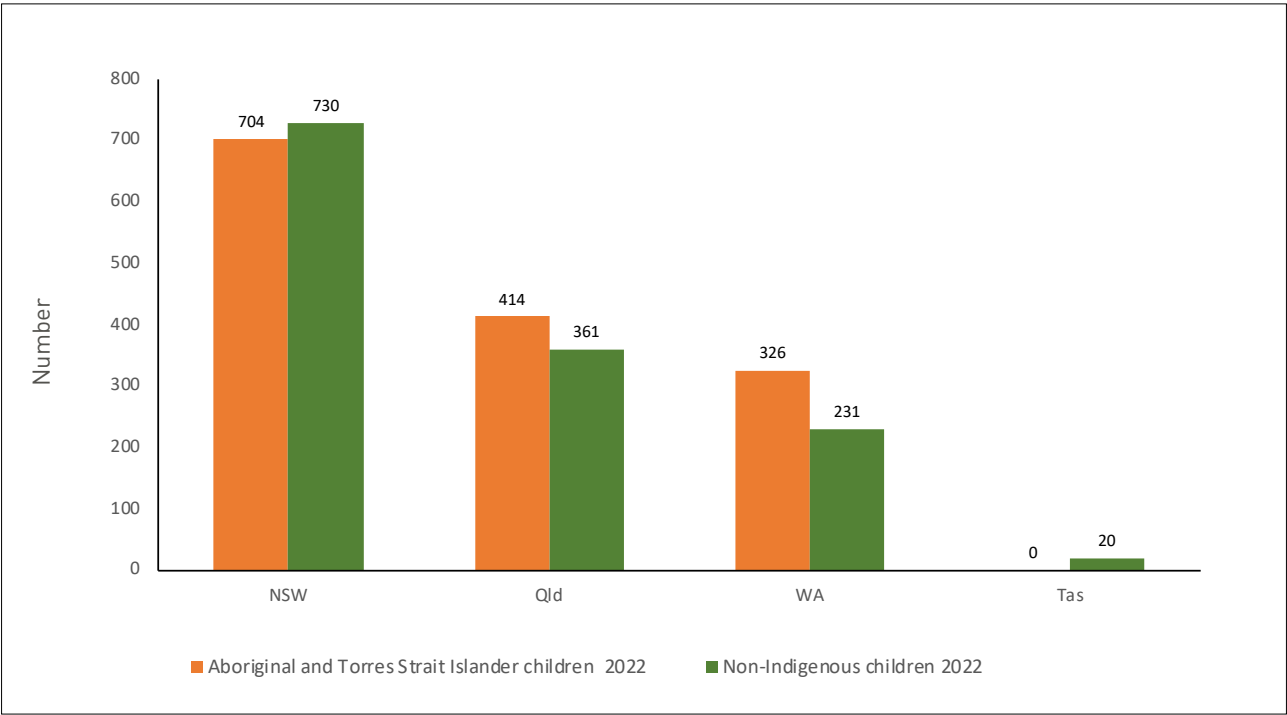
### Unborn reports and removal of infants

Over recent years, SNAICC has consistently drawn attention to the high rates of unborn reports (or pre-birth notifications) for unborn Aboriginal and Torres Strait Islander babies and the removal of Aboriginal and Torres Strait Islander infants under the age of one year from their mothers. This includes the high rate of notifications for Aboriginal children before birth. For example, the *Family is Culture* report, drawing on linked data from New South Wales, noted that almost 1 in 10 Aboriginal children entering kindergarten in 2012 were subject of a Report of Significant Harm before they were born (Davis 2019). As shown by the compounding rate of over-representation at successive stages of the child protection system, this early removal often sets Aboriginal and Torres Strait Islander children and families on a path of ongoing involvement with child protection, including the permanent removal of children.

Research has shown a link between unborn reports and the removal of infants. For example, a New South Wales study of newborns who were admitted into care within the first seven days of life, conducted over eight years (2006–2014), showed that 87% of newborns who were removed had an unborn report. The same study showed that Aboriginal and Torres Strait Islander newborns who were removed were almost twice as likely as non-Indigenous newborns to have an unborn report (Marsh et al. 2017). Data for Victoria provided to the Yoorrook Justice Commission showed that the rate of unborn reports for Aboriginal and Torres Strait Islander children is more than double that for non-Indigenous children and for Aboriginal and Torres Strait Islander children subject to one or more unborn reports in 2021, over one quarter (28.4%) had entered care within 12 months of birth (Yoorrook Justice Commission 2023b).

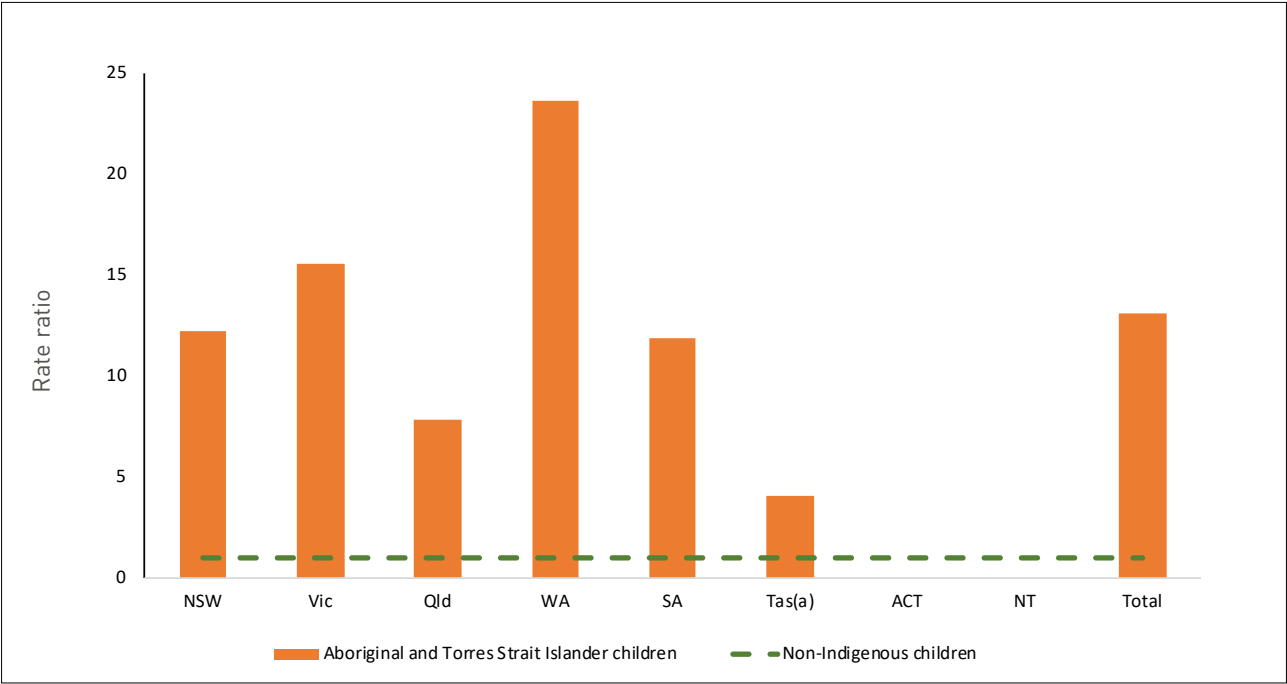
Data for unborn reports is not available for all jurisdictions, as not all states and territories accept pre-birth notifications. For the three jurisdictions where data is available for 2021–22, Aboriginal and Torres Strait Islander children were the subject of unborn reports at disproportionately high rates, with half or more than half of all unborn reports in these states comprising reports of Aboriginal and Torres Strait Islander children. Western Australia had the highest proportion at 58.5% of all unborn reports, followed by Queensland at 53.4% and New South Wales at 49.1%. Victorian data is not reported through the Australian Institute of Health and Welfare but calendar year data from 2017–2022 was provided to the Yoorrook Justice Commission. In 2022 in Victoria, unborn reports about Aboriginal and Torres Strait Islander children made

**FIGURE 3:** Number of Aboriginal and Torres Strait Islander children subject to an unborn report (2021-2022)



Notes: (a) Differences in statutory provisions to intervene before a child is born mean that data presented here should be interpreted with caution. Victoria, SA, the ACT and the NT do not have the statutory authority to commence investigations prior to a child's birth. Therefore, no data are available for these jurisdictions. (b) Tasmania data needs to be interpreted with caution – a very high number of children are categorised as 'unknown' in relation to their Indigenous status. Data on the number of unborn reports for Aboriginal and Torres Strait Islander children subject to an unborn report in 2021-22 were not published.  
Data source: Table S2.3 AIHW (2023).

**Figure 4:** Rate ratio comparing Aboriginal and Torres Strait Islander and non-Indigenous infants in out-of-home care (2022)



Notes: Infants are defined as children under 1 year old. Rates are calculated as number of children under 1 year old in OOHC at 30 June 2022 divided by population of children under 1 year old at 30 June 2022 for Aboriginal and Torres Strait Islander and non-Indigenous children/ data for ACT and NT not available.  
Data source: Table S5.5 and Table P4 AIHW (2023).

up 19.3% of all unborn reports (Yoorrook Justice Commission 2023a). Comparison between jurisdictions should be undertaken with caution as data for unborn reports are not represented as a proportion of population and the relative size and proportion of the Aboriginal and Torres Strait Islander population varies significantly between jurisdictions.

**Figure 3** shows the numbers of unborn reports in 2021-22 for Aboriginal and non-Indigenous children for Western Australia, Queensland, New South Wales and Tasmania.<sup>1</sup>

As with all Aboriginal and Torres Strait Islander children in OOHC, **Figure 4** shows that Aboriginal and Torres Strait Islander infants under one year old are significantly over-represented in OOHC. The highest over-representation in 2021-22 was in Western Australia, where Aboriginal and Torres Strait Islander infants were 23.7 times more likely than non-Indigenous infants to be in OOHC. In Victoria, Aboriginal and Torres Strait Islander infants were 15.5 times more likely to be in OOHC than non-Indigenous infants. In New South Wales, Aboriginal and Torres Strait Islander infants were 12.2 times more likely to be in OOHC than non-Indigenous infants and in South Australia they were 11.9 times more likely. The over-representation rates for

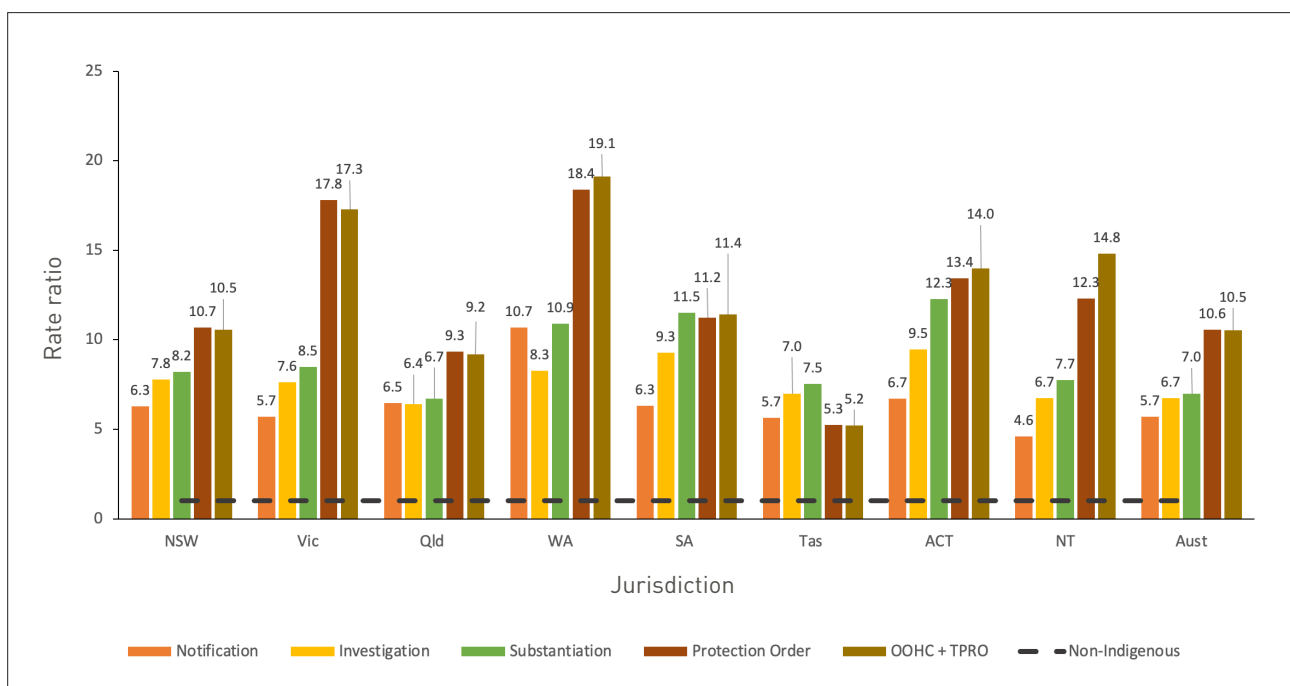
Queensland and Tasmania were lower, with Aboriginal and Torres Strait Islander infants 7.9 and 4.1 times more likely to be in care, respectively. There is no data available for the Australian Capital Territory and the Northern Territory.

## Other child protection processes – states and territories

Aboriginal and Torres Strait Islander children are over-represented in every jurisdiction for other child protection processes, as shown in **Figure 5**, which compares rate ratios of Aboriginal and Torres Strait Islander children and non-Indigenous children subject to child protection notifications, investigations, substantiations, protection orders and OOHC placement. Nationally, in 2021-22, Aboriginal and Torres Strait Islander children were over eight times more likely than non-Indigenous children to be in receipt of child protection services: Aboriginal and Torres Strait Islander children were receiving child protection services at a rate of 169.4 per 1,000 children, compared with 20.9 per 1,000 for non-Indigenous children. As a population, Aboriginal and Torres Strait Islander children in Victoria received child protection services at the highest rate in Australia at 297.2 per 1,000.

1 The Victorian data is not included in this chart as it was provided by calendar year, rather than by financial year, and is therefore not comparable.

**FIGURE 5:** Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children involved with child protection, by jurisdiction (2021-22)



**Notes:**

a) Rate ratios for notifications, finalised investigation and substantiations for South Australia, ACT, NSW and Victoria should be interpreted with caution as there are substantial but unexplained changes in the rates of Aboriginal and Torres Strait children subject to these processes from 2020-21 to 2021-22.

b) Rates for OOHC include children and young people in OOHC and on Third Party Parental Responsibility Orders.

Source: Tables 16A.1 (ROGS, 2023); Table T3 (AIHW, 2023)

This was more than 10 times the rate that non-Indigenous children received child protection services (28.6 per 1,000 children). Victoria's rate of Aboriginal and Torres Strait Islander children receiving child protection services is also much higher than the jurisdictions with the next highest rates - Northern Territory at 206.2 per 1,000 (compared with 27.9 per 1,000 for non-Indigenous children) and Australian Capital Territory at 200.2 per 1,000 (compared with 18.7 for non-Indigenous children). The lowest rates are in Tasmania where 63.8 Aboriginal and Torres Strait Islander children per 1,000 receive child protection services (compared with 11.3 per 1,000 for non-Indigenous children) and Queensland where 143.8 Aboriginal and Torres Strait Islander children per 1,000 receive child protection services (compared to 20.0 for non-Indigenous children) (AIHW 2023c).

For most jurisdictions, the level of Aboriginal and Torres Strait Islander over-representation compounds throughout successive steps in the child protection system – meaning that Aboriginal and Torres Strait Islander families are increasingly more likely to be investigated after a child protection notification, to have substantiations recorded against them and to have their children placed on care and protection orders (including removal from the family household to OOHC). The reasons underpinning this compounding over-representation are complex. While a higher likelihood of substantiation following investigations could reflect that there are more serious family safety concerns (resulting from systemic failures by governments to address the structural drivers of child protection involvement including poverty, inter-generational trauma, under-investment in service provision and lack of culturally safe services) driving initial notifications about Aboriginal and Torres Strait Islander families, discriminatory judgements are also being made about individual families at a range of points in the system, exacerbated by the use of inappropriate and invalid decision-making tools that contribute to bias in some jurisdictions.

In April 2023 the *Australian Child Maltreatment Study* (ACMS), a population sample study of abuse and neglect, demonstrated the widespread mistreatment of children in all population groups across Australia. The study collected data for people aged 16-65 and demonstrated that 62.2% of the population had experienced a type of abuse in their lifetimes. Among the 16-24 age cohort, 40.2% had experienced a type of abuse, with 28.2% having experienced physical abuse, 34.6% having experienced emotional abuse and 43.8% having been exposed to domestic violence (Haslam et al. 2023).

These high rates, compared with the rates of substantiated abuse and neglect in child protection systems, demonstrate the disproportionately high level of intervention of child protection into Aboriginal and Torres Strait Islander childrens and families' lives. 182.2 Aboriginal and Torres Strait Islander children per 1,000 were subjects of child protection notifications and 84.8

per 1,000 Aboriginal and Torres Strait Islander children were the subjects of investigations by child protection agencies. In contrast, 31.9 per 1,000 non-Indigenous children were the subjects of notifications and 12.6 per 1,000 non-Indigenous children were the subjects of finalised investigations (SCRGSP 2023). These figures do not correspond to the widespread prevalence of child abuse and neglect across the broader population demonstrated by the ACMS (Haslam, et al 2023). While many factors detailed in this report contribute to over-representation for Aboriginal and Torres Strait Islander children, this very high level of disparity points to disproportionate surveillance and intervention of child protection authorities into the lives of Aboriginal and Torres Strait Islander children and families compared to non-Indigenous children and families.

## B. Entry to and exit from out-of-home care

Achieving Target 12 of the National Agreement – to reduce the over-representation of Aboriginal and Torres Strait Islander children in OOHC by 45% by 2031 – will require a focus on enabling children to stay safely at home with their families, connected to their cultures and communities. Prevention and early supports for families and broader efforts to address the underlying issues that drive removal of Aboriginal and Torres Strait Islander children, are required to reduce the rate at which Aboriginal and Torres Strait Islander children are entering OOHC. Data on admission to OOHC can provide a proxy indication of whether these efforts are succeeding. However, data must be contextualised by considering the extent to which safety and wellbeing concerns are being addressed through enabling Aboriginal and Torres Strait Islander families to access quality support services.

Nationally, 4,067 Aboriginal and Torres Strait Islander children were admitted to OOHC in 2021-22, at a rate of 12.0 admissions per 1,000 children. This is fewer children than in 2020-21 (when 4,477 Aboriginal and Torres Strait Islander children entered OOHC at a rate of 13.3 per 1,000). At 10.0 times the rate of entry for non-Indigenous children, the 2021-22 rate continues the generally increasing disparity between Aboriginal and Torres Strait Islander and non-Indigenous children over time – in 2012-13, Aboriginal and Torres Strait Islander children were 8.5 times as likely as non-Indigenous children to be admitted to OOHC.

While rates of admission have remained consistently high, there has been relatively low variation in admission rates across a number of jurisdictions in recent years. Victoria continues to stand out as having by far the highest rate of entry for Aboriginal and Torres Strait Islander children to OOHC (31.9 admissions per 1,000 children in 2021-2022). Victoria's rate of entry into care is more than double the national average of 12.0 entries per 1,000 children and 1.9 times that of South Australia, the jurisdiction with the next highest rate of entries into care (at 15.2 per 1,000).



While continuing to have the highest rates of entry of Aboriginal and Torres Strait Islander children into care, Victoria and South Australia both recorded the biggest decreases. Victoria's rate decreased from 36.5 per 1,000 children in 2020-21 to 31.9 per 1,000 in 2021-22. South Australia's rate decreased from 17.9 per 1,000 children in 2021 to 15.2 entries per 1,000 in 2021-22. All jurisdictions, except the Australian Capital Territory, recorded decreases in rates of entry of Aboriginal and Torres Strait Islander children into care. The Australian Capital Territory recorded a rise from 11.8 entries per 1,000 children in 2020-21 to 13.9 entries per 1,000 in 2021-22. As a result of these decreases in most jurisdictions' admission rates, the *national* rate of Aboriginal and Torres Strait Islander children being admitted to OOHC also decreased slightly, from 13.3 admissions per 1000 children in 2020-21 to 12.0 admissions per 1000 children in 2021-22 (a 2.3% decrease).

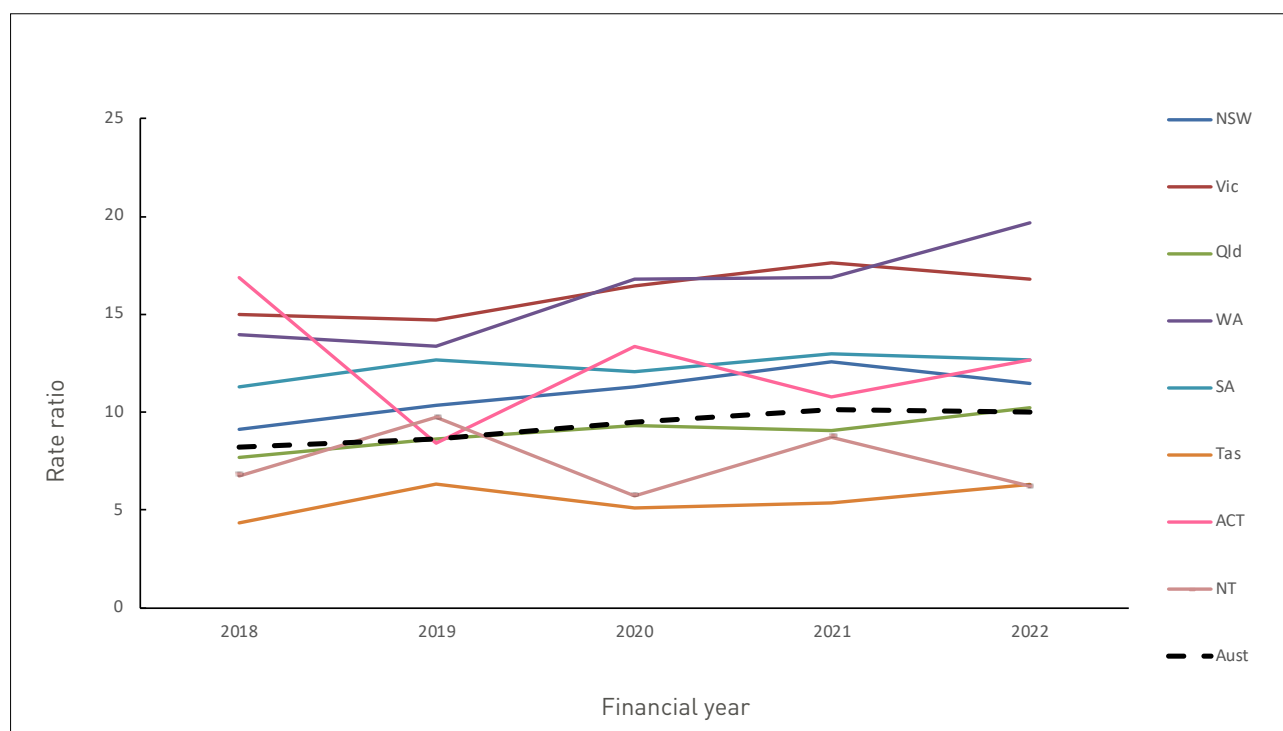
In 2021-22, Aboriginal and Torres Strait Islander children continued to be over-represented in admissions to OOHC (**Figure 6**). Nationally, Aboriginal and Torres Strait Islander children were admitted into OOHC at 10.0 times the rate of non-Indigenous children, which was very slightly less than in 2020-21, where Aboriginal and Torres Strait Islander children were admitted at 10.1 times the rate of non-Indigenous children. In 2021-22, the highest rate of over-representation of admissions to OOHC was in Western

Australia where Aboriginal and Torres Strait Islander children were admitted into OOHC at 19.7 times the rate of non-Indigenous children, increasing from 16.9 times the rate of in 2020-21. Victoria was the jurisdiction with the second highest rate of admissions of Aboriginal and Torres Strait Islander children into OOHC at 16.8 times the rate of non-Indigenous children.

Exits from OOHC may occur because children reach the age of 18 or are reunified with their parent/s. However, due to changes to the OOHC definition discussed above, exits may also be to third-party parental responsibility orders for children who remain separated from their families.

In 2021-22, there were 4,170 Aboriginal and Torres Strait Islander children who exited care, at a rate of 12.3 exits per 1,000 children, which was 9.6 times the rate of exit for non-Indigenous children (1.3 per 1,000 children). In every state and territory, Aboriginal and Torres Strait Islander children were discharged from care at a higher rate than non-Indigenous children in 2021-22. Exit rates were highest in Victoria (17.9 per 1,000 children) followed by Western Australia (17.6 per 1,000 children). Notably, high exit rates in Victoria were still far lower than the rate of entry to care noted above (31.9 per 1,000 children). Exit rates were lowest in the Northern Territory (5.8 per 1,000 children) and Tasmania (6.4 per 1,000 children).

**FIGURE 6:** Rate ratio for Aboriginal and Torres Strait Islander children admitted to out-of-home-care (2018-2022)



Note: Data from 2017 onwards have been updated to reflect the standardised definition of OOHC. Data for the ACT need to be interpreted with caution. There was a significant drop in the rate at which the Aboriginal and Torres Strait Islander children were admitted to OOHC in 2018. The cause of this drop is unclear.  
Data source: Table S5.17 AIHW (2022, 2023).

Despite slightly decreasing admission trends and relatively static exit trends nationally, the over-representation of Aboriginal and Torres Strait Islander children living in OOHc continued to increase over the last reporting period (as shown in Figure 2). In part, this reflects a greater reduction in entry rates for non-Indigenous children over the same period – from 1.3 admissions per 1,000 children in 2020-21 to 1.2 admissions per 1,000 children in 2021-22). However, as noted, there are many other factors that contribute to the total national rate of over-representation, including the longer periods that Aboriginal and Torres Strait Islander children stay in care and the lower rates at which they are reunified to the care of their parents and family members.

## DATA GAP

### IDENTIFICATION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

Without correct early identification of Aboriginal and Torres Strait Islander children at all stages of child protection involvement, children risk being deprived of culturally safe support, case planning and placement, and data will not accurately describe their interactions with the service system.

SNAICC members continue to report poor and inconsistent practice in identifying Aboriginal and Torres Strait Islander children. Policy and legislation in each state and territory must require children and families to be asked at their earliest engagement with child protection systems about their Aboriginal and Torres Strait Islander identity, and for this status to be recorded as early as possible. Implementation measures must include training to practitioners on culturally safe ways to discuss and explore cultural identity with children and families. There must also be protections against the de-identification of children without consultation with Aboriginal and Torres Strait Islander communities.

## DATA GAP

### REPEAT ENGAGEMENT WITH CHILDREN PROTECTION SERVICES BY INDIGENOUS STATUS

Child protection involvement is not just more likely for Aboriginal and Torres Strait Islander families but is also more likely to be repeated. Research has found that Aboriginal and Torres Strait Islander children are over-represented in recurrence at multiple stages of intervention (Jenkins *et al.* 2018). To better understand the full impact of over-representation, it is important to measure not just how many children have contact with child protection systems at each stage of contact (notification, investigation, substantiation, entry to child protection orders, entry to/from OOHc, reunification, entry to permanent care), but how often they experience this. National data on children who have repeated interactions with child protection systems are not currently reported by Indigenous status.

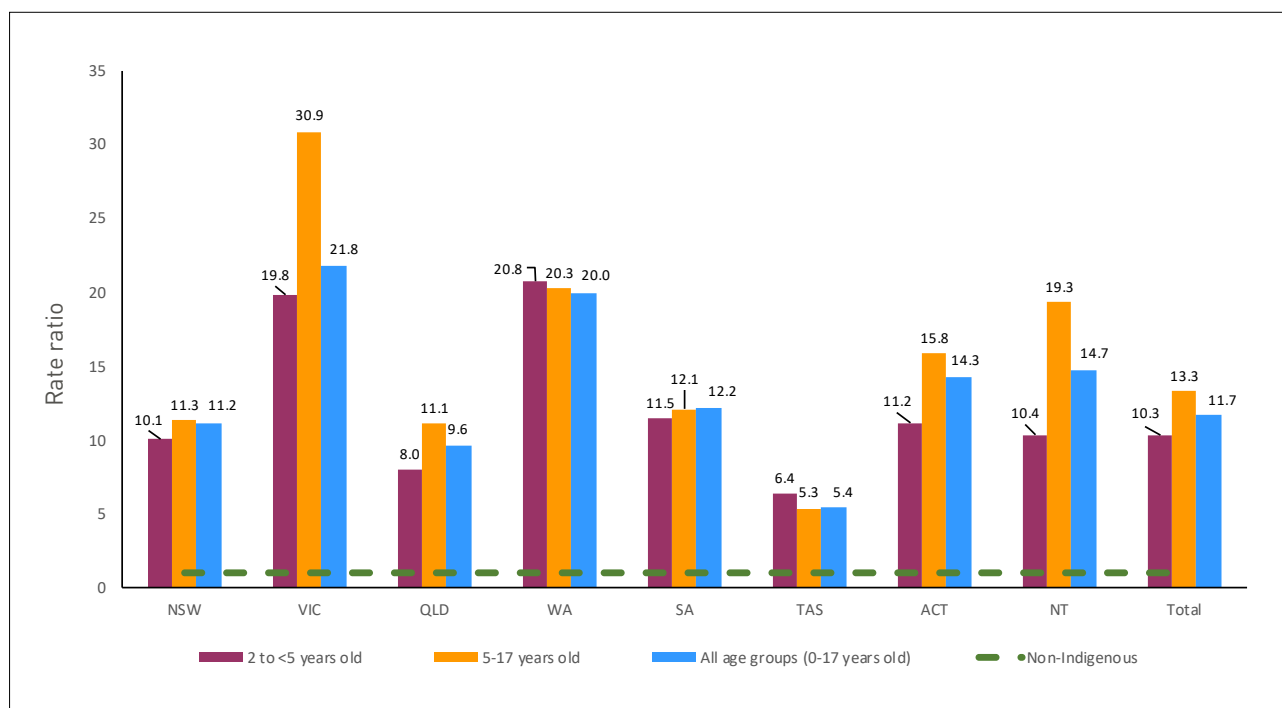
## Length of time in care

Across all jurisdictions, Aboriginal and Torres Strait Islander children are much more likely to stay in OOHc for longer periods than non-Indigenous children. On average, at 30 June 2022, Aboriginal and Torres Strait Islander children were in OOHc continuously for more than two years at a rate of 11.7 times that of non-Indigenous children. Victoria had the highest over-representation rate ratio with Aboriginal and Torres Strait Islander children 21.8 times more likely to be in continuous OOHc for more than two years than non-Indigenous children. Western Australia had the second highest rate ratio at 20.0. Tasmania had the lowest rate ratio at 5.4 and Queensland had the second lowest rate ratio at 9.6. This over-representation occurs across all age groups as shown in **Figure 7**.

Length of time in care is related to the data on entry to and exits from care discussed in the previous section. However, it is difficult to draw firm conclusions from the data on why Aboriginal and Torres Strait Islander children spend longer in care, as the most recent available exit data is not broken down by exit type to understand the reasons why children are leaving care and a lack of data that tracks individual children's experience in the system. Factors likely include lower reunification rates (discussed below) and higher entries to care early in life (discussed above). These data should be interpreted with caution as they do not include children on long-term TPPROs who are likely to stay in care for longer periods. Given that TPPROs are used at significantly higher rates for Aboriginal and Torres Strait Islander children, over-representation may be even higher than is reflected in **Figure 7**.



FIGURE 7: Rate ratio of children continuously in out-of-home care for two or more years by age group (30 June 2022)



Data source: Table S5,14, Table P3 and Table P5 AIHW (2023).

### C. Placement in out-of-home care

For Aboriginal and Torres Strait Islander children in OOHC, connection to Aboriginal and Torres Strait Islander relatives or kin is critical to maintaining their identity and connection to culture and community. This is reflected in the Placement element of the *Aboriginal and Torres Strait Islander Child Placement Principle* (Child Placement Principle) where placement with Aboriginal and Torres Strait Islander relatives or kin is the most desirable arrangement for Aboriginal and Torres Strait Islander children in OOHC, followed by non-Indigenous relatives or kin then Aboriginal and Torres Strait Islander members of the child's community or other Aboriginal and Torres Strait Islander family based carers. Placement with a non-related non-Aboriginal or Torres Strait Islander caregiver or in a residential setting is a last resort.

**Figure 8** shows the proportions of children living with Aboriginal or Torres Strait Islander relatives or kin in each state and territory. These proportions remain unacceptably low in every jurisdiction as at June 2022, with on average less than one third (31.8 %) of Aboriginal and Torres Strait Islander children in OOHC living with Aboriginal or Torres Strait Islander relatives or kin. There has been no significant improvement relative to June 2021 (31.3%). The ACT has the highest proportion of Aboriginal and Torres Strait Islander children living with Aboriginal and Torres Strait Islander relatives or kin at 42.6%, followed by Victoria at 39.6%, Western Australia (38.8%) and New South Wales (33.8%). Lower rates were reported in South Australia

(31.7%), Queensland (22.8%) and the Northern Territory (25.5%). The rate remains critically low in Tasmania at 12.0%.

While most jurisdictions except New South Wales (NSW), Western Australia (WA) and the Northern Territory (NT) reported a slight increase from 2020-21 in the number of children placed with an Aboriginal or Torres Strait Islander relative or kin, overall proportions of Aboriginal and Torres Strait Islander children placed with Aboriginal and Torres Strait Islander relatives or kin were static or reduced in 2021-22 (see **Figure 8**). Despite this, the continuing low proportions of Aboriginal and Torres Strait Islander children placed with Aboriginal and Torres Strait Islander relatives and kin represent a severe risk to the ability for Aboriginal and Torres Strait Islander children in OOHC to maintain connection with their culture and community.

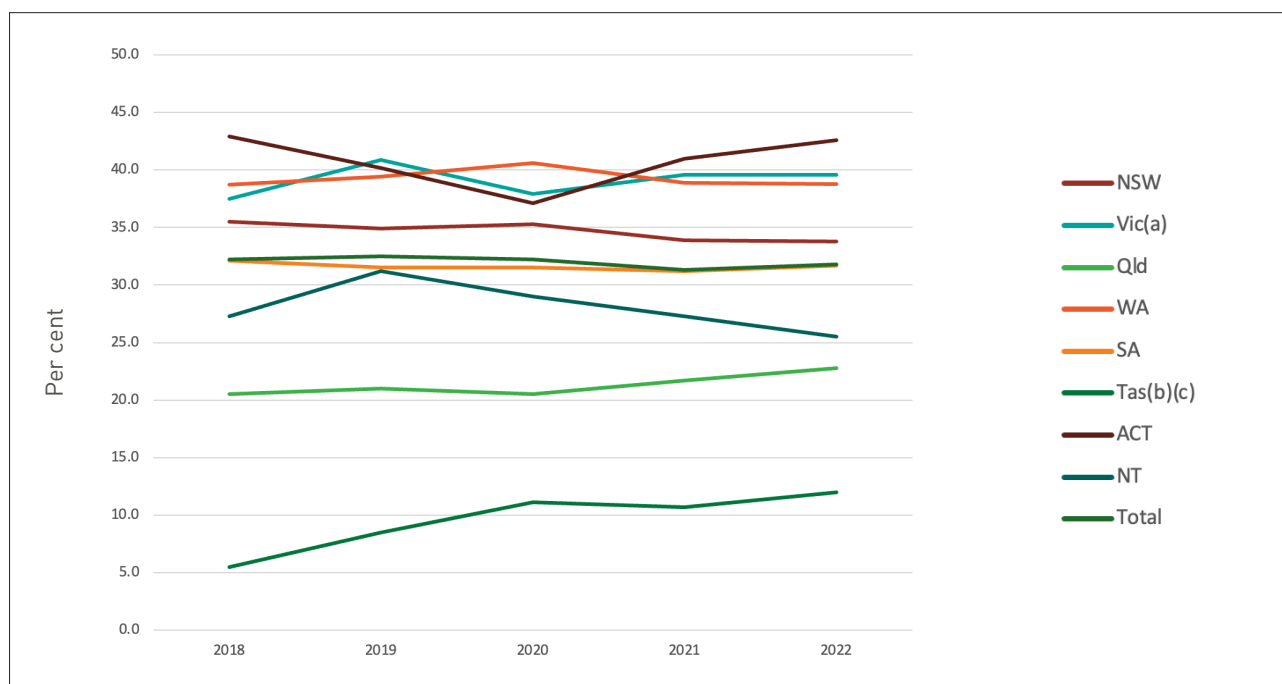
Increasingly, Aboriginal and Torres Strait Islander children are placed with non-Indigenous carers.

**Figure 9** shows the proportion of Aboriginal and Torres Strait Islander children living with any Aboriginal and Torres Strait Islander carers (including those who are not family or kin) from 2017-18 to 2021-22. During that time, the national proportion has decreased from 43.8% to 41.0%. (There has been a corresponding increase in the proportion of Aboriginal and Torres Strait Islander children placed with non-Indigenous relatives and kin – from 18.3% in 2017-18 to 22.0% in 2021-22.)

These data suggest systemic problems with the implementation of the Placement element of the Child Placement Principle that prioritises placements with



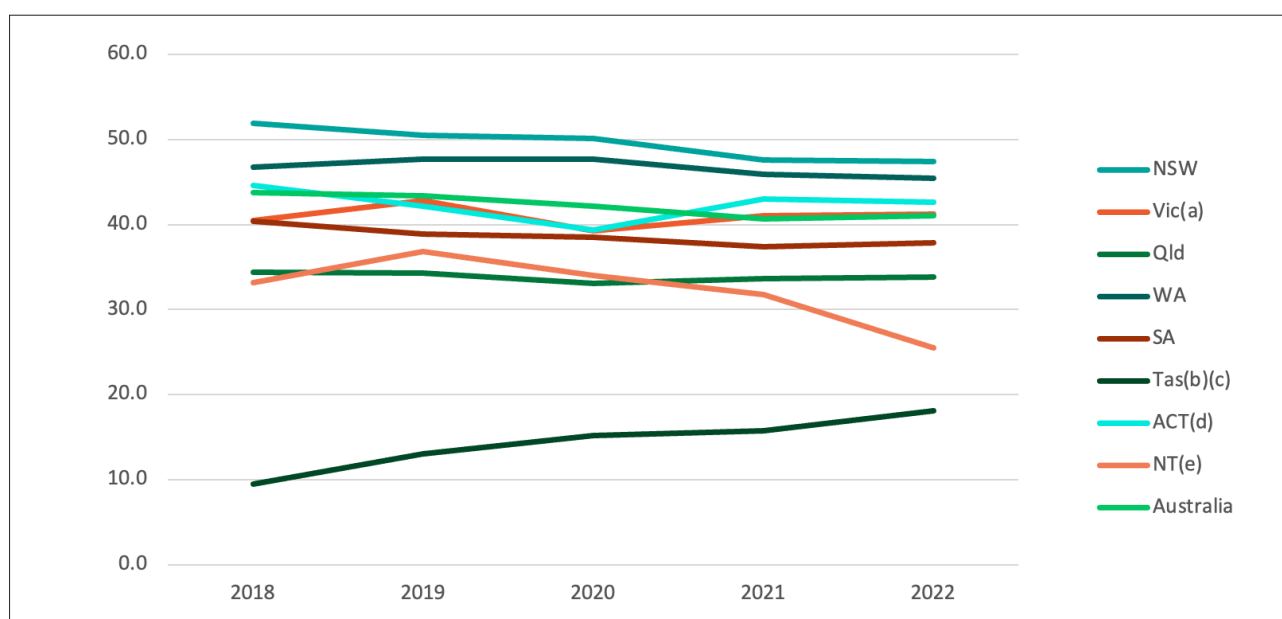
**FIGURE 8:** Proportion of Aboriginal and Torres Strait Islander children living with Aboriginal and Torres Strait Islander relatives or kin



**Notes:**

- a) In Victoria, caregiver type was unknown for 17% of children at 30 June 2017 and 13% of children at 30 June 2018. Therefore, actual proportions for Victoria may be higher than reported in this table.
  - b) Tasmania data exclude children not under care and protection orders placed with relatives for whom a financial contribution is made under the Supported Extended Family or Relatives Allowance programs. Tasmania is not able to include children in care where a financial payment was offered but was declined by the carer meaning Tasmania's data may be lower than would be the case if the counting rule was strictly applied.
  - c) In Tasmania, the high number of carers whose Indigenous status is unknown may affect the identification of children living with Aboriginal and Torres Strait Islander caregivers.
- Data source: AIHW (2023) Child Protection Australia, Table S5.12; AIHW (2022) Child Protection Australia, Table S5.12; AIHW (2022) ATSI CPP Indicators Table S1.1.

**FIGURE 9:** Proportion of Aboriginal and Torres Strait Islander children in out-of-home care living with any Aboriginal and Torres Strait Islander carer



- Notes: [a] In Victoria, caregiver type was unknown for 17% of children at 30 June 2017 and 13% of children at 30 June 2018. Therefore, actual proportions for Victoria may be higher than reported in this table.
- [b] Tasmania data exclude children not under care and protection orders placed with relatives for whom a financial contribution is made under the Supported Extended Family or Relatives Allowance programs. Tasmania is not able to include children in care where a financial payment was offered but was declined by the carer meaning Tasmania's data may be lower than would be the case if the counting rule was strictly applied.
- [c] In Tasmania, the high number of carers whose Indigenous status is unknown may affect the identification of children living with Aboriginal and Torres Strait Islander caregivers.
- [d] For the Australian Capital Territory, the proportion of Aboriginal and Torres Strait Islander children placed with other Aboriginal and Torres Strait Islander caregivers was not published for 2022. This chart therefore only uses the proportion of Aboriginal and Torres Strait Islander children in the ACT placed with Aboriginal and Torres Strait Islander relatives or kin.
- Data source: (AIHW 2023) Child Protection Australia, Table S5.12 and (AIHW 2022) ATSI CPP Indicators Table S1.1.



Aboriginal and Torres Strait Islander family members as key to promoting culture and identity formation (SNAICC 2017). Placements beyond their Aboriginal and Torres Strait Islander family threatens the enjoyment of the Connection element, including to family, community, culture and Country, and is destructive to their sense of identity and has long-term detrimental impacts on their overall wellbeing (SNAICC 2016).

## D. Harm experienced in out-of-home care

Government agencies that make the significant decision to remove a child due to concerns about safety and wellbeing at home have a profound responsibility to ensure the child is safe when placed in OOHC. Article 19 of the United Nations Convention on the Rights of the Child outlines that state parties, such as Australia, have a duty to protect children from harm while in care (UN Commission on Human Rights 1990). However, this does not always occur. In 2021–22, 1,236 children were the subject of a substantiation of abuse in care. Of these children, 46% were Aboriginal and Torres Strait Islander children.

Aboriginal and Torres Strait Islander children were more likely than non-Indigenous children to suffer sexual abuse in OOHC (1.15 times more likely) or emotional abuse in OOHC (1.12 times more likely). They were less likely than non-Indigenous children to suffer physical abuse and neglect.

The recent Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings reported that the over-representation of Aboriginal children in OOHC places them at greater risk of experiencing sexual abuse in OOHC (Neave et al. 2023).

## E. Reunification and the impacts of permanency planning

Child protection intervention and removal of children from their family into OOHC can have highly detrimental impacts on the continuity of a child's relationships, culture and identity. To best support child safety and wellbeing, efforts must focus on achieving and promoting relational and cultural continuity for children who come into contact with child protection services. For an Aboriginal and/or Torres Strait Islander child, those efforts must recognise that a child's wellbeing is inherently grounded in the permanence of their identity in connection with family, community, culture, and Country (SNAICC 2016). This understanding is often incompatible with permanent care orders imposed through state and territory legal systems, which tend to prioritise physical and legal stability over relational permanence and connection to culture and Country (SNAICC 2016), despite evidence that child wellbeing encompasses a broader scope of positive, caring and

consistent relationships *alongside* physical and legal permanency (Tilbury and Osmond 2006).

State and territory child protection systems have taken a focus over the last decade on the introduction of legislation, policy and practices that prioritise 'stability' for children through what is commonly referred to as 'permanency planning'. Family reunification is recognised as the best-practice permanency planning outcome for children who enter OOHC and, in all jurisdictions, ongoing child protection case management seeks to prioritise reunification where possible (AIHW 2022b). However, when reunification is deemed to be inappropriate within a certain timeframe, permanent care orders or adoption will be pursued. Permanent care orders transfer responsibility for a child's care to the state or a named third party until the child is 18 years old. For Aboriginal and Torres Strait Islander people, this presents deeply distressing parallels to the Stolen Generations.

Consequently, for Aboriginal or Torres Strait Islander people, the implementation of permanency planning measures is met with apprehension, particularly because the introduction of maximum timeframes to pursue reunification (before the focus turns to permanent legal orders) carries the risk of permanently severing a child's connections to family, community and culture. Aboriginal and Torres Strait Islander people have consistently identified that this systemic focus on permanent care and adoption reinforces a 'downstream model' of tertiary responses, without a concurrent focus to heal the damage to families and communities resulting from colonisation and discriminatory government policies and practices (Turnbull-Roberts, Salter and Newton 2021). For example, the *Family is Culture Review report* concluded that rigid time frames (in NSW) are problematic because "there are lengthy waiting lists for the services that are generally linked to restoration goals and restoration work is often limited to uncoordinated and cold referrals" (Davis 2019, p. 364; Yoorrook Justice Commission 2023b:216–217).

Aboriginal and Torres Strait Islander people also commonly question permanency decisions that are based on a narrow construct of attachment theory – one that pursues a singular attachment for a child to their carer and does not recognise the importance of kinship relationships and cultural identity development (SNAICC 2016). Relatedly, a particularly detrimental feature of permanent care orders (in many jurisdictions) is that there is no legal mechanism to ensure ongoing connection to family, community and culture (AbSec 2018a; AbSec 2018b). Even in jurisdictions where safeguards to ensure cultural connection – such as cultural support plans – are required, minimal compliance with these directives often means that a child's cultural rights are inadequately protected. (Yoorrook Justice Commission 2023b:186–187, 190, 218–219).

The significant impacts of permanency planning are evidenced in the data, which show that the vast majority

## PERMANENCY IN VICTORIA – YOORROOK FOR JUSTICE REPORT

The 2023 *Yoorrook* for Justice report noted the serious concerns of Aboriginal and Torres Strait Islander people and Aboriginal community-controlled organisations (ACCOs) about the application of Victoria's permanency provisions. The two main concerns were the short, non-flexible timeframes for family reunification and the lack of accountability for Aboriginal and Torres Strait Islander children's wellbeing, including connection to culture, following permanent placement (Yoorrook Justice Commission 2023b).

In Victoria, a parent whose child is removed has 12 months to meet protective concerns and be reunified with their child (Wright et al. 2022). In exceptional circumstances this may be extended to two years. The Commission heard that these strict timeframes for addressing protective concerns are often not long enough to address the significant and complex challenges families faced, often reflecting the devastating impacts of colonisation. This was exacerbated by poor access to services and supports, with many experiencing long wait lists for services. This is further evidenced by the data on reunification. The Commission reported that the proportion of Aboriginal children in OOHC who were reunified with their parents within two years declined between 2016 and 2022 (Yoorrook Justice Commission 2023b:223-225).

Additionally, the Commission was deeply concerned about the continued low rate and often low quality of cultural plans, as well as the lack of accountability and transparency for implementing these once children are permanently placed with non-Indigenous families.

To address these two issues, the Commission recommended allowing the Court flexibility to extend the timeframe for Family Reunification Orders and authorising ACCOs to monitor the cultural plans of Aboriginal and Torres Strait Islander children subject to permanent care orders (Yoorrook Justice Commission 2023b).

of Aboriginal and Torres Strait Islander children in OOHC are in long-term care arrangements, with reunification to their families not identified as a case plan goal.

### Reunification trends

Reunification is typically defined as children being reunified with their parents, although differing definitions also include other family members or guardians, particularly if the child was living with these adults prior to entry into care (AIHW 2022b).

When calculating proportions of children reunified from OOHC, the AIHW does not include children on long-term guardianship, custody or third-party parental responsibility orders in the denominator, because these children are not considered to be candidates for reunification in any jurisdiction (reflecting policymakers' desire for permanent outcomes). It is therefore unknown if any children on long-term guardianship, custody or third-party parental responsibility orders are reunified. The high prevalence of permanent care orders means that up to 80% of Aboriginal and Torres Strait Islander children in OOHC in 2020-21 were not considered as having a possibility of reunification with their families – in some jurisdictions this was up to 92% of children in OOHC. For this edition of Family Matters, SNAICC has calculated the proportions of children reunified using the total number of children in OOHC, including children on long-term guardianship, custody or third-party parental responsibility orders as the denominator. Children on long-term orders have often progressed to long-term care as a result of inadequate efforts to prioritise reunification and support

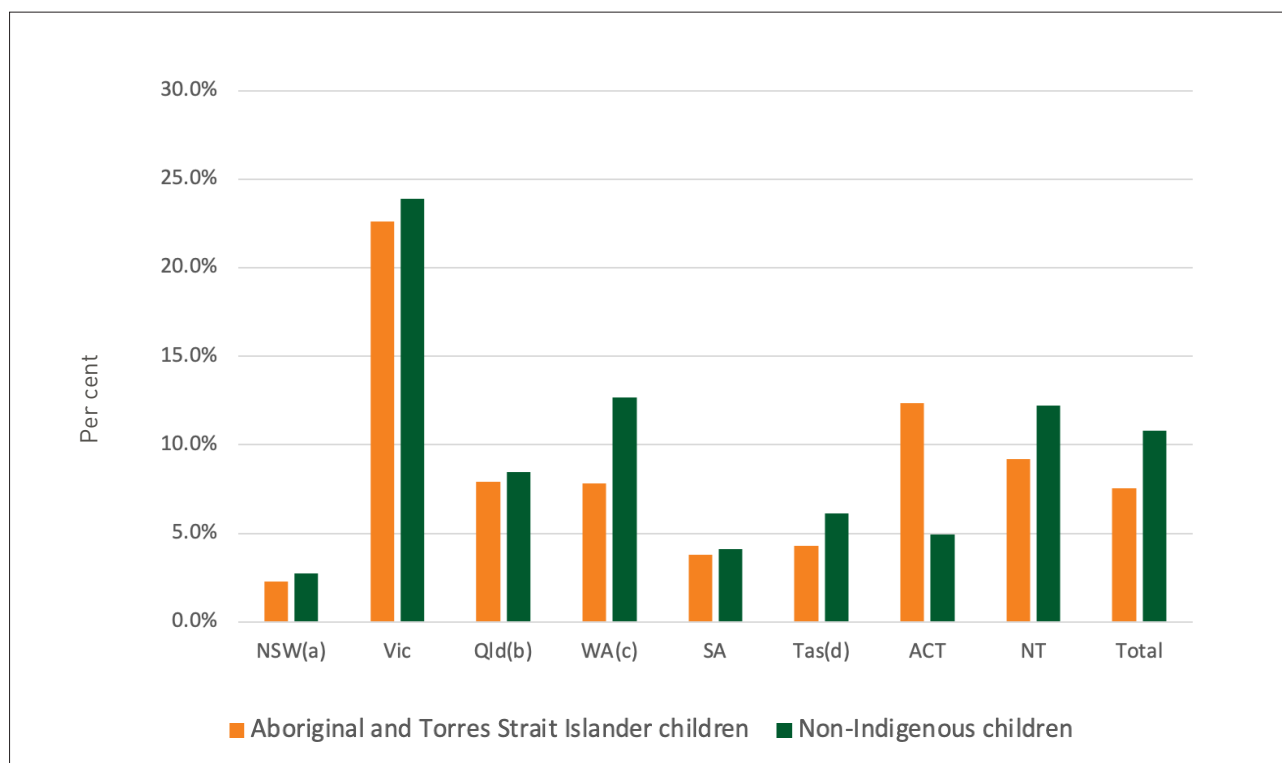
families to address the barriers to providing safe care for their children, or because of policies that limit reunification after short and unreasonable legislative or policy timeframes. Excluding these children from the denominator masks failures of child protection systems to prioritise reunification, and artificially inflates reunification rates. Including these children provides a more accurate overview of the proportions of children reunified, even though children on long-term care orders are substantially less likely to be reunified.

Reunification rates are reported in the AIHW publication *Aboriginal and Torres Strait Islander Child Placement Principle Indicators*. The Aboriginal and Torres Strait Islander Child Placement Principle Indicators for 2021-22 will not be published until February 2024, which is approximately 20 months after the reporting period. This long delay with publication of data severely limits the transparency and accountability of governments for achieving reunification outcomes for Aboriginal and Torres Strait Islander children. SNAICC has therefore used data for 2020-21 in this edition of Family Matters.

Nationally, 1,682 Aboriginal and Torres Strait Islander children were reunified with their families from OOHC in 2020-21. This represented 7.6% of Aboriginal and Torres Strait Islander children in care. **Figure 10** shows the proportions of Aboriginal and Torres Strait Islander and non-Indigenous children who were reunified in each state and territory for 2020-21.

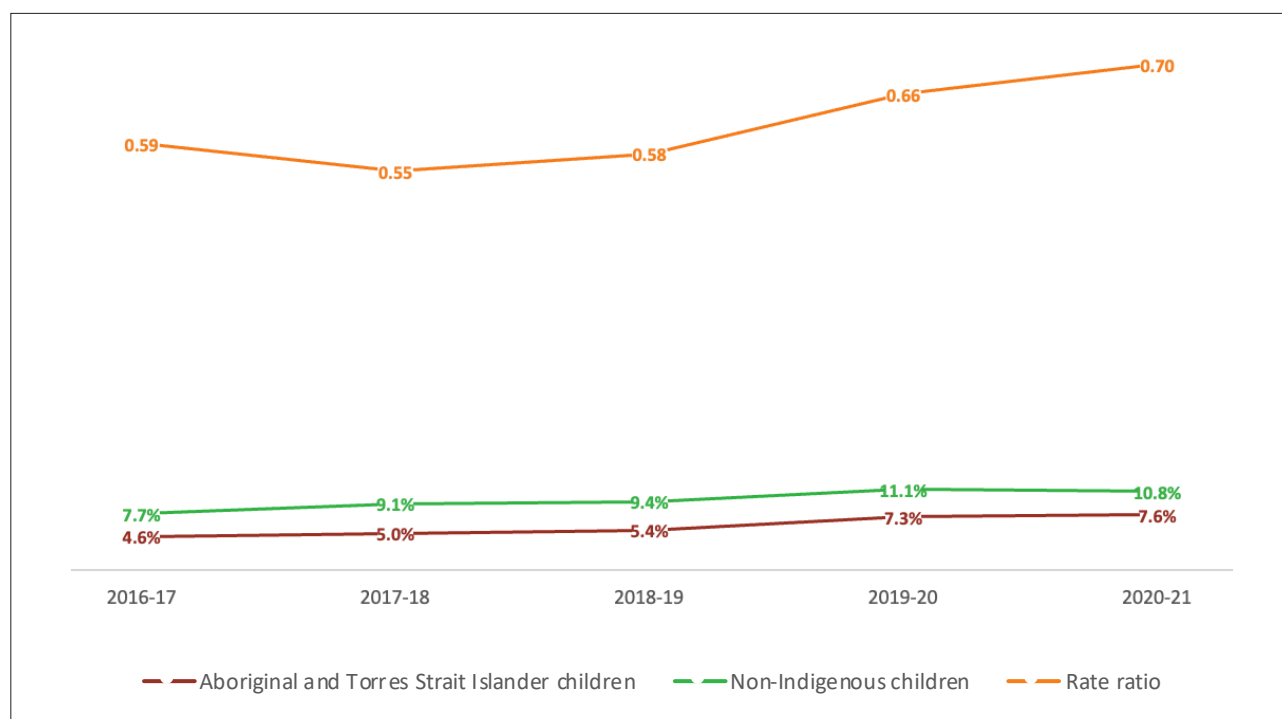
The highest rates of reunification for Aboriginal or Torres Strait Islander children were reported in Victoria (22.6%) and the ACT (12.3%). 88.5% of Aboriginal and Torres Strait Islander children in OOHC in the ACT were not considered eligible for reunification due to

**FIGURE 10:** Proportion of Aboriginal and Torres Strait Islander children and non-Indigenous children who were reunified with family from out-of-home care, by state and territory, 2020-21



Data sources: AIHW (2022) Aboriginal and Torres Strait Islander Child Placement Principle Indicators, Table S2.3a. AIHW (2022) Child Protection Australia, Table S4.10 & Table T3.

**FIGURE 11:** Reunifications of Aboriginal and Torres Strait Islander children compared to non-Indigenous children – national proportions and rate ratio, 2016-17 to 2020-21



Notes: (a) Reunification data were not available for NSW or Queensland for 2016-17. (b) Reunification data were not available for Queensland for 2017-18 and 2019-20. Data sources: AIHW (2022) ATSI CPP Indicators, Table S2.3a, AIHW (2022) Child Protection Australia, Table T3, AIHW (2021) Child Protection Australia, Table T3.

being placed on a long-term order. 66.2% of Aboriginal and Torres Strait Islander children in Victoria were ineligible. High reunification rates in Victoria must also be considered alongside the data discussed above that shows Victoria admits Aboriginal children to OOHC at a far higher rate than any other jurisdiction.

Reunification rates were significantly lower in Queensland (7.9%) and Western Australia (7.8%), and critically low in Tasmania (4.3%), South Australia (3.8%) and New South Wales (2.3%) (AIHW 2022e). 77.6% of children in OOHC in Western Australia were ineligible for reunification due to being placed on a long-term order, while 66.6% of children OOHC in Queensland, 86.5% in SA, 72.6% in Tasmania, and 92.4% of children in OOHC in New South Wales were ineligible for reunification due to being placed on a long-term order.

Rates of reunification varied slightly between 2019-20 and 2020-21. The total rate of reunification for Aboriginal and Torres Strait Islander children increased from 7.3% to 7.6% Australia-wide in 2020-21, while the rate for non-Indigenous children dropped slightly from 11.1% to 10.8%. In New South Wales reunification rates for Aboriginal and Torres Strait Islander children dropped from 3.1% to 2.3% between 2019-20 and 2020-21, which reduced the rate of reunifications for Aboriginal and Torres Strait Islander children to below the rate for non-Indigenous children (which stayed steady at 2.7% between 2019-20 and 2020-21).

All states and territories, except the ACT, reunified a higher percentage of non-Indigenous children compared to Aboriginal and Torres Strait Islander children in 2020-21. For example, 7.8% of Aboriginal and Torres Strait Islander children were reunified from OOHC in Western Australia, compared to 12.7% of non-Indigenous children; and in South Australia, 3.8% of Aboriginal and Torres Strait Islander children were reunified, compared to 4.1% of non-Indigenous children. After Western Australia, the difference was most pronounced in the Northern Territory, which reunified 9.2% of Aboriginal and Torres Strait Islander children compared to 12.2% of non-Indigenous children.

One potentially promising trend is that the national rate ratio for reunifications of Aboriginal and Torres Strait Islander children (compared to non-Indigenous children) has gradually been increasing since 2016-17 (see **Figure 11**). However, the proportions of children reunified each year have fluctuated significantly over this time period, so it is not yet possible to ascertain a clear positive or negative trend in either indicator. There is some evidence to suggest that, where ACCOs are sufficiently resourced and authorised to progress reunifications, this results in increased rates of reunification of Aboriginal and Torres Strait Islander children with their families (Queensland Family and Child Commission 2022).



## Return to out-of-home care after reunification

Children who are reunified with their families from OOHC do, at times, return to care, though this is not the case for most children. **Figure 12** depicts the proportion of Aboriginal and Torres Strait Islander children who were reunified with their families in 2019-20 and did not return to OOHC within 12 months of reunification (that is, up to 30 June 2021), as well as the rate ratio comparing Aboriginal and Torres Strait Islander children to non-Indigenous children, on a state-by-state basis. The data suggested that, in this reporting period, the proportion of Aboriginal and Torres Strait Islander children who did not return to care within 12 months of reunification increased from 80.8% in the previous reporting period to 84.1%. Further, this proportion was identical to that for non-Indigenous children. For individual states and territories, the lowest proportions were seen in Victoria (81.6%) and Queensland (82.4%), with the highest proportions occurring in the Northern Territory (96.3%) and South Australia (93.6%).

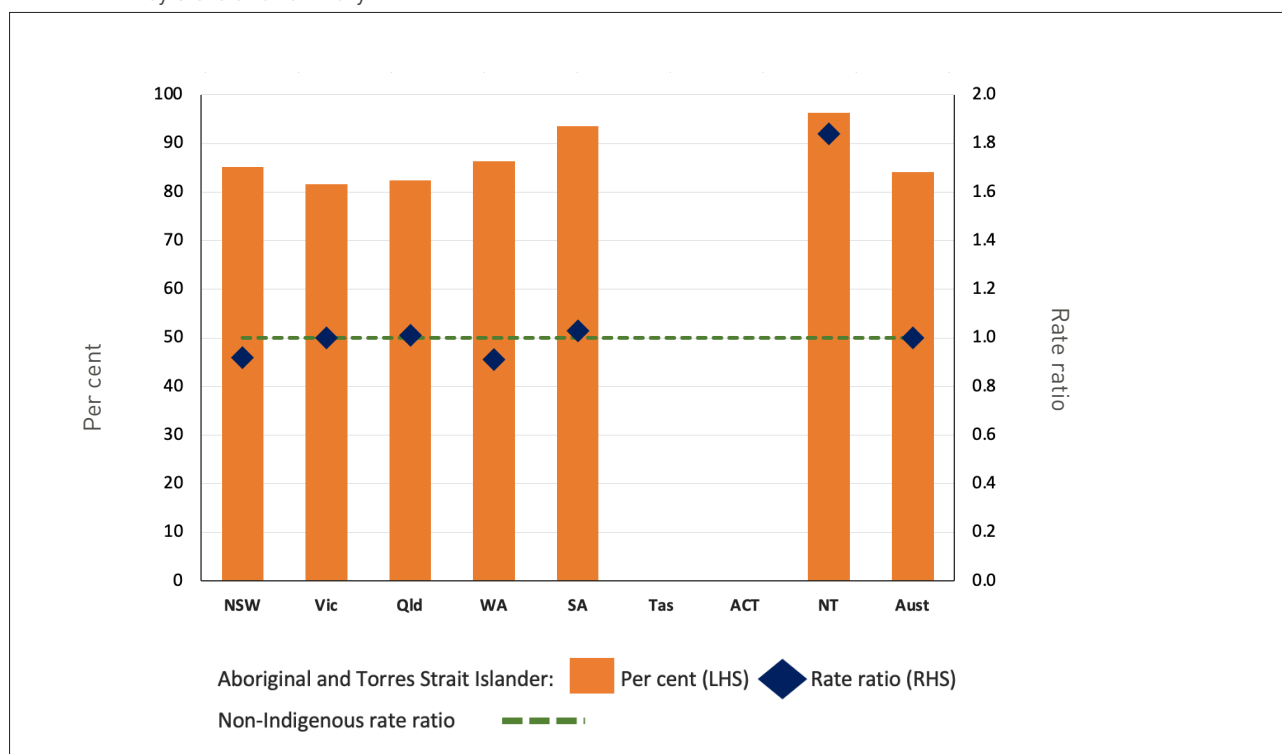
The only jurisdictions in which a lower proportion of Aboriginal and Torres Strait Islander children returned to care within 12 months following reunification, compared to non-Indigenous children, were New South Wales, where 14.8% of Aboriginal and Torres Strait

Islander children reunified returned to care within 12 months, compared to 7.2% of non-Indigenous children, and Western Australia, where 13.7% of Aboriginal and Torres Strait Islander children who were reunified returned to care within 12 months, compared to 5.3% of non-Indigenous children. The Northern Territory showed an extremely high rate ratio of 1.84, which was due to almost half of the non-Indigenous children who were reunified during 2019-20 returning to OOHC during 2020-21 (AIHW 2022e).

## Areas for data and research development in reunification

It is important to note that the Indigenous status of the families with whom Aboriginal and Torres Strait Islander children were reunified was not reported by any jurisdiction. Furthermore, the AIHW notes that a lack of national consensus on the definition of reunification negatively impacts the comparability of these data (AIHW 2022b). To support policy and practice aimed at maintaining Aboriginal and Torres Strait Islander children's connection to culture, data development should address these concerns.

**FIGURE 12:** Aboriginal and Torres Strait Islander children who were reunified in 2019-20 and did not return to out-of-home care within 12 months, percentage and rate ratio compared to non-Indigenous children, by state and territory



Notes: Tasmania does not publish data on children returning to care after reunification, due to concerns over the possible identification of children from small numbers. This indicator was also suppressed for the Australian Capital Territory in 2019-20 in order to prevent the identification of individuals.  
Data source: AIHW (2022b), Table 2.3a.





Research into the factors that support reunification is important to promote better reunification outcomes. Previous research has found that reunification is most likely to be achieved within the six months immediately following a child's initial entry into OOHC, and that the likelihood of reunification occurring after one year in care decreases rapidly (Delfabbro et al. 2003; Barber et al. 2004; Farmer et al. 2009; Fernandez and Lee 2011; Fernandez and Lee 2013). Recent research by Newton et al. (2023) points out the many systemic barriers to reunification, including lack of caseworker and carer support to maintain contact while in care and lack of support after reunification for parents to understand children's behaviour and experience while in care.

There is some evidence about what contributes to sustaining reunification outcomes for Aboriginal and Torres Strait Islander children and families reunified from OOHC. These factors include engagement by case workers, support for ongoing contact between the child and their family, addressing families' needs such as housing, support for parents, post-reunification support, and culturally-informed supports (Cunningham et al. 2021). Absence of these supports can create challenges for families to sustain reunification if issues, such as homelessness or housing insecurity, substance use and poverty, are not addressed.

Other research has highlighted a range of challenges to family reunification more broadly, finding that structural barriers such as poverty and homelessness impede the likelihood of reunification occurring within a short time frame (Delfabbro et al. 2015; Fernandez et al. 2019). These structural barriers are especially acute in the 2023 reporting period, as the interrelated issues of cost of living and housing affordability have reached a crisis point. Given that Aboriginal and Torres Strait Islander families experience both poverty and homelessness at higher rates compared to non-Indigenous families (part 1.3), it is likely that reunification for Aboriginal and Torres Strait Islander children and families is limited by inadequate action addressing these social determinants which are generally beyond the responsibility of families. That is, policy efforts to address social determinants associated with the likelihood of child protection involvement, such as through the Safe and Supported Action Plans, are likely to both contribute to reductions in the rate of entries to care and increases in the rate of successful reunification, particularly for Aboriginal and Torres Strait Islander families, thereby reducing persistent over-representation. Further effort to explore these issues, and effective approaches to address socio-economic inequality and housing insecurity, are urgently needed.

### **Long-term guardianship, custody and third-party parental responsibility orders**

Aboriginal and Torres Strait Islander children continue to be severely over-represented in permanent care arrangements, including long-term finalised

guardianship and custody orders (which permanently transfer guardianship of children to the state until age 18) and long-term finalised third-party parental responsibility orders (which permanently transfer guardianship of children to a nominated person, ordinarily a kinship or foster carer, until age 18).

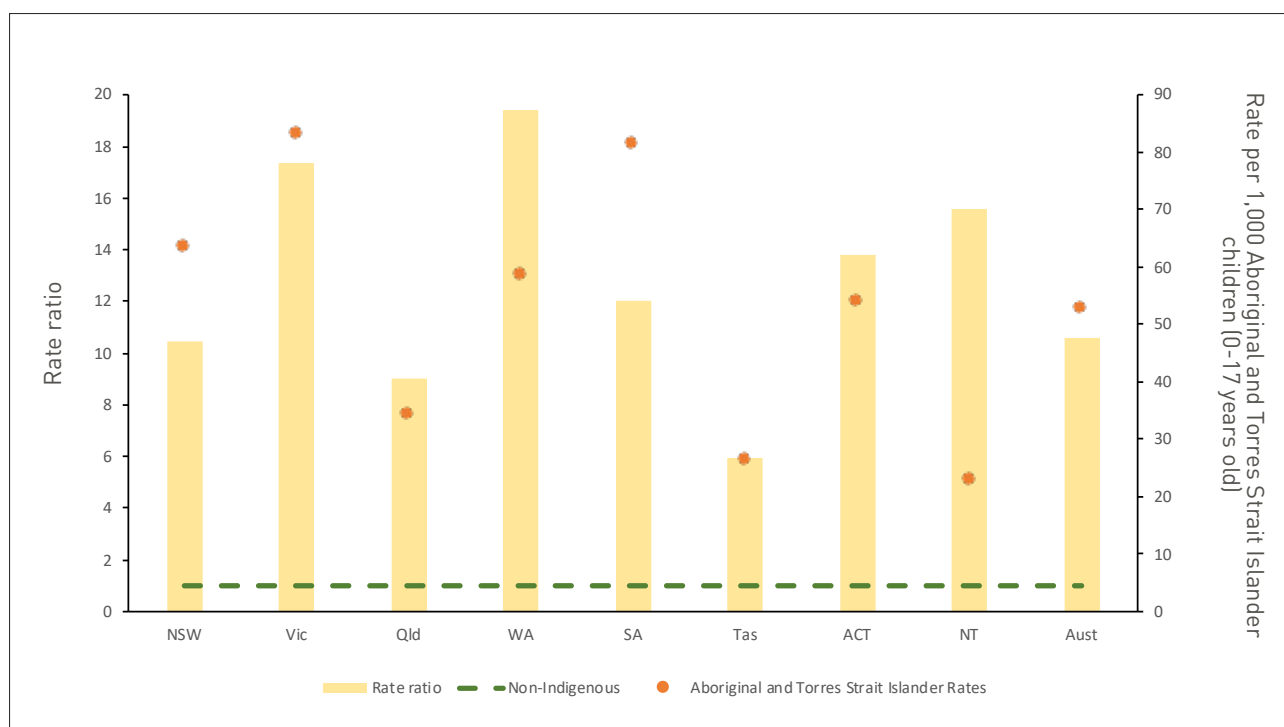
Across Australia at 30 June 2022, there were 18,082 Aboriginal and Torres Strait Islander children on finalised long-term TPPRO or finalised long-term guardianship/ custody orders (GCO), making up 80.9% of Aboriginal and Torres Strait Islander children in OOHC and 32.5% of all children in OOHC. Nationally, Aboriginal or Torres Strait Islander children are 10.6 times more likely to be subject to a finalised long-term TPPRO or GCO, at a rate of 52.8 for every 1000 children. **Figure 13** shows the rate ratio of children on finalised long-term TPPROs and GCOs in each jurisdiction for 2021-22.

The rate of Aboriginal or Torres Strait Islander children on a long-term finalised GCO or TPPRO increased in three states from 2020-21. The highest rate was reported in Victoria, where 83.1 per 1,000 Aboriginal or Torres Strait Islander children were on a long-term finalised GCO or TPPRO, up from 79.1 in 2020-21. South Australia and Queensland also reported increases from 80.1 and 33.1 in 2020-21 respectively to 81.3 and 34.4 in 2021-22 respectively. Rates for these types of orders decreased in New South Wales from 64.3 in 2020-21 to 63.4 in 2021-22, Tasmania from 28.8 in 2020-21 to 26.3 in 2021-22 and the Northern Territory from 24.0 in 2020-21 to 23.0 in 2021-22. The rate in Western Australia stayed the same at 58.5 over both years. However, even the lowest rate per 1,000 for Aboriginal or Torres Strait Islander children on these types of orders was more than twice the national average for non-Indigenous children, at 10.6 per 1,000.

These data show a systemic preference towards long-term placement for Aboriginal and Torres Strait Islander children. Comparatively low rates of short-term GCOs and TPPROs were reported across all jurisdictions. For example, 41.8 for every 1,000 Aboriginal or Torres Strait Islander children are on long-term finalised GCOs. This is in stark contrast to a national average rate of 8.9 per 1,000 Aboriginal or Torres Strait Islander children on a short-term GCO.

Long-term finalised TPPROs are particularly significant when considering the implications of permanent care for Aboriginal and Torres Strait Islander children because they reflect the circumstances where states and territories have transferred parental responsibility for a child to a kinship or foster carer and no longer count the child as being within the definition of OOHC. Arguably, children are most at risk of losing family and cultural connections on these orders as governments no longer take any responsibility for ensuring the maintenance of those connections and the protection of children's cultural rights. This is particularly worrying given the above analysis suggesting that Aboriginal and Torres Strait Islander children are increasingly placed

**FIGURE 13:** Rate ratios – children on long-term finalised third-party orders and long-term finalised guardianship or custody orders combined



**TABLE 1:** Placement of Aboriginal and Torres Strait Islander children on long-term finalised TPPROs by relationship with caregiver (proportion), by state and territory, at 30 June 2022

	Aboriginal and Torres Strait Islander relative/kin	Non-Indigenous relative/kin	Other Aboriginal and Torres Strait Islander carer	Non-Indigenous, non-relative/kin carer	Residential care
NSW <sup>(a)(b)</sup>	53.5	30.6	4.8 <sup>(a)</sup>	4.1 <sup>(a)</sup>	Unknown <sup>(b)</sup>
VIC	53.3	15.6	2.4	19.6	0.2 <sup>(c)</sup>
QLD	51.6	37.3	3.8	6.4	1.0
SA	31.9	22.8	6.4	23.9	15.0
TAS	23.6	33.3	27.8	8.3	0 <sup>(d)</sup>
ACT <sup>(e)</sup>	Not provided	Not provided	Not provided	Not provided	Not provided
WA	38.0	15.2	7.7	32.3	6.8

**Notes:**

- (a) Data from NSW were provided according to definitions which do not match the placement types under the Aboriginal and Torres Strait Islander Child Placement Principle, as children on Guardianship orders in NSW have the carer type for an order recorded as "Guardian" and the kinship status is unknown. Data provided have been approximated for the categories of 'Other Aboriginal and Torres Strait Islander carer' and 'Non-Indigenous, non-relative/kin carer' and the data do not total 100%. There were also 51 Aboriginal children in placements with relatives/kin whose Aboriginal and/or Torres Strait Islander status was unknown. The NSW Government stated that "These carers are not classified as a relative/kin carer or a foster carer. These terms are used for a child or young person in OOHC. Exit to Guardianship is a permanency outcome and in most cases carers who become Guardians were previously a relative/kin or foster carer."
- (b) Data provided by the NSW Government did not include the proportion of children in residential care. There were also 35 children in 'Other living arrangement/Unknown' placements, which the NSW Government reported as "children who were placed with parents, self placed, or no placement or whereabouts were recorded". The proportions reported in this table for NSW do not total 100%.
- (c) In Victoria, there were also 36 children (8.8%) in unspecified placements.
- (d) In Tasmania, there were also 5 children (6.9%) in independent living. The high number of carers whose Indigenous status is unknown may affect the identification of children living with Aboriginal and Torres Strait Islander caregivers. Carers whose Indigenous status is unknown are included in the count of non-Indigenous carers.
- (e) Data was not provided by the ACT Governments according to the requested definitions.

Data source: Data supplied by governments for the Family Matters Report.

with non-Indigenous carers, further compounding the risk of long-term disconnection.

The rate of placement for children on long-term finalised TPPROs with Aboriginal and Torres Strait Islander carers was requested directly from all states and territories for the purpose of this report. **Table 1** presents the numbers reported by the jurisdictions that responded to this question. Data are not shown for the Northern Territory because no permanent care orders were issued there in 2021-22.

## Adoption of Aboriginal and Torres Strait Islander children

The Family Matters Report has consistently identified that adoption from OOHC represents a significant risk to the rights and wellbeing of Aboriginal and Torres Strait Islander children. Aligned to the discussion above, adoption represents the extreme end of the risk associated with severing a child's family connections in the context of child protection systems that are largely not providing culturally appropriate and safe child protection services led by Aboriginal and Torres Strait Islander people. The concept of adoption raises strong parallels with the experiences of the Stolen Generations and the resulting intergenerational trauma experienced by Aboriginal and Torres Strait Islander people. As explained by Turnbull-Roberts et al. (2021):

*"Kinship processes play a foundational role in Aboriginal child development, and adoption represents a moment of rupture in these processes, particularly because adoption has not been part of Aboriginal customary culture"*

Part of the cultural misalignment of Aboriginal and Torres Strait Islander legal frameworks and those of existing settler-colonial legal systems is how they position, and also transfer, legal responsibility for children and young people. Western frames position legal responsibility for children with their immediate parents, whereas Aboriginal and Torres Strait Islander relational structures recognise broader networks of responsibility and obligation, particularly grandmothers, as well as uncles, aunts and other kin. Existing child protection orders focus only on immediate parents, ignoring these broader networks of care and, in doing so, fail to consider the implications for removal - particularly permanent removal - through adoption. From an Aboriginal perspective, when parents are unable to fulfil their care giving roles, others also share those responsibilities. This fundamental difference in the framing of legal responsibility and whether - or how - it might be exercised by various members of the community continues to undermine the integrity of Aboriginal and Torres Strait Islander families and communities. Adoption therefore represents a permanent and harmful severing of multiple relational connections, often without consideration of these connections.

A notable exception is Torres Strait Islander traditional child rearing practice, Ailan Kastom, where a child's birth parents and close relatives or friends agree to transfer parental responsibilities and rights. This practice had been in place since time immemorial in Zenadth Kes, or the Torres Strait Islands. Ailan Kastom is integrated as a practice to strengthen families, in contrast to western adoption. The practice was recognised in the *Meriba Omasker Kaziw Kazipa Act 2020* (Qld), which has enabled legal recognition of Ailan Kastom, intended to ensure children maintain their identity (Office of the Commissioner 2023).

In 2019-20 there were 12 adoptions of Aboriginal and Torres Strait Islander children, the same as in 2018-19. In 2020-21 there were five adoptions of Aboriginal and Torres Strait Islander children. In 2021-22 there were six adoptions of Aboriginal and Torres Strait Islander children, with one adoption by Aboriginal and/or Torres Strait Islander carers and the other 5 children adopted by non-Indigenous carers. This may have been affected by the disruption caused by the COVID-19 pandemic, which occurred during the data reporting period.

National adoption data is not broken down by state and territory. States and territories were invited to provide adoption data to inform the Family Matters report. Six adoptions of Aboriginal and Torres Strait Islander children were reported by NSW, suggesting no other adoptions took place in any other state or territory.

Consistent with evidence of the failure to adequately apply the Placement element of Child Placement Principle and the increasing placement of Aboriginal and Torres Strait Islander children with non-Indigenous carers, the majority of adoptions of Aboriginal and Torres Strait Islander children have been by non-Indigenous carers. Between 2002-03 and 2021-22, 104 Aboriginal and Torres Strait Islander children were adopted from OOHC, with 69, or 66.3%, of these children adopted by non-Indigenous carers (AIHW 2022a). Between 2017-18 and 2021-22, 36 Aboriginal and Torres Strait Islander children were adopted by non-Indigenous carers (Ibid.). This data shows that more than half of adoptions of Aboriginal and Torres Strait Islander children to non-Indigenous carers in the last 20 years have occurred in the last 5 years. It is, however, promising that the most recent data provided for this report shows that adoption of Aboriginal and Torres Strait Islander children reduced and did not take place outside of New South Wales in 2021-22.

## F. Inadequate investment in, and access to, family support services

Culturally appropriate, strengths-based family support services are vital for preventing children from coming into contact with child protection systems (Liddle et al. 2021). A lack of focus on measures designed to strengthen and support families is a major barrier to reducing child protection intervention and maintaining

the continuity of relationships, culture and identity for Aboriginal and Torres Strait Islander children. Bolstering efforts designed to prevent the removal of children from their families and support reunifications is critical for the achievement of Target 12 of Closing the Gap and the goals of Safe and Supported.

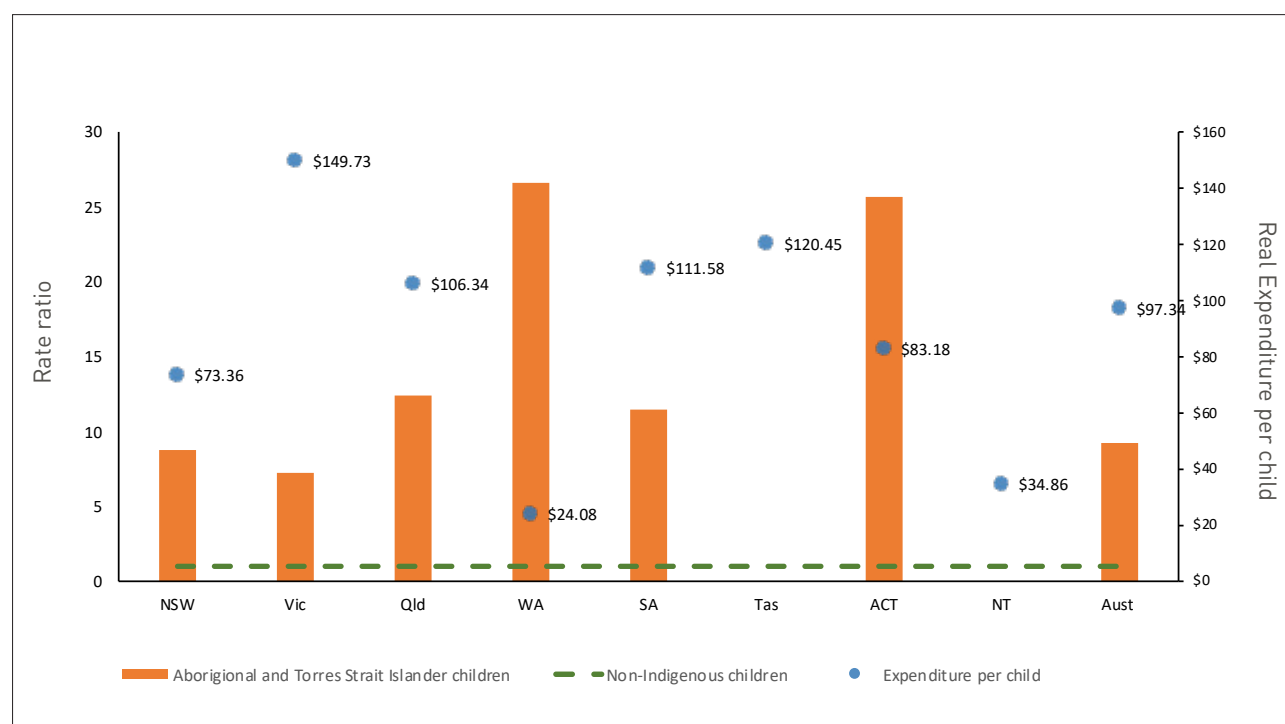
Quantitative data on family support services presented below considers both the proportion of Aboriginal and Torres Strait Islander children and families accessing services and governments' levels of investment. While quality data are not available to depict access rates for all family support services, data are published about access to and investment in IFSS. These models provide time-limited, typically in-home, intensive casework supports aimed at addressing the complex needs of families experiencing vulnerabilities. IFSS delivered by ACCOs have been found to bridge barriers to service access by providing culturally strong casework supports and assisting families to access and navigate the broader service system (SNAICC 2015). This report will explore both levels of investment in IFSS and Family Support, as well as investment directed to Aboriginal and Torres Strait Islander communities through ACCOS, identifying under-investment in prevention and family support generally, as well as discriminatory funding models that systemically under-invest in Aboriginal and

Torres Strait Islander communities relative to known levels of need.

Nationally in 2022, 3.8% of Aboriginal and Torres Strait Islander children commenced IFSS, which has been a steady increase from 2.1% in 2016. **Figure 14** shows the rate ratio at which Aboriginal and Torres Strait Islander children commenced IFSS in 2021-22, alongside each state and territory government's average per-child expenditure on IFSS. It can be seen that, nationally, Aboriginal and Torres Strait Islander children were 9.2 times more likely to commence an IFSS than non-Indigenous children, noting that data were unavailable for Tasmania. This represents an increase from 2020-21 (when Aboriginal and Torres Strait Islander children were 8.7 times more likely to commence a service) and continues a longer-term trend of growth in this rate ratio. Jurisdictional rate ratios of Aboriginal and Torres Strait Islander children commencing IFSS in 2021-22, compared to non-Indigenous children, ranged from 7.3 in Victoria to 26.6 in Western Australia.

Figure 14's illustration of each state and territory's expenditure on IFSS per child in the population provides a proxy indicator of the level of investment relative to children's needs; however, it is not a very precise measure of the adequacy of spending because circumstances and support needs for children and

**FIGURE 14:** Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children commencing intensive family support services in 2021-22, and intensive family support services expenditure per child (general population by \$'000), by state and territory



Notes: (a) National rates and expenditure excludes data from Tasmania and the Northern Territory. (b) NSW data for 2020-21 is based on estimates of the number of children commencing two programs that collectively represent 15% of IFSS programs. (c) Data collection issues in Victoria (2020-21) means that the number of children receiving IFSS are likely to be underestimated and the cost per child over-estimated. (d) South Australian data for 2020-21 are not directly comparable to previous years due to a redesign of the family support and intensive family support system which has resulted in programs that were previously excluded now being added. (e) ACT data for 2021 cannot be compared with previous years due to improvements in data collection relating to increased accuracy of the count of individual children. Data sources: Table P3, AIHW (2023); Table 16A.33 and 16A.34, ROGS (2023).



## DATA CAPS

### ACCESS TO INTENSIVE FAMILY SUPPORT SERVICES

Available data reported nationally is limited to commencement of IFSS by Aboriginal and Torres Strait Islander status in only some states and territories. This data does not capture rates of completion, length of participation, or measures such as whether a family's support needs were fully met, whether children stayed with their families, or children were reunified following completion of the service. National child protection data development should target these indicators.

### ACCESS TO NON-INTENSIVE FAMILY SUPPORTS

The gaps in understanding access to non-intensive family support services are compounded by definitional challenges and limited comparability of different types and levels of support provided by different services within and between states and territories. Data development should include the collection and publication of national data on Aboriginal and Torres Strait Islander children's and families' commencement of non-intensive family support services by program type, including efforts to more clearly define the types of services that are required and provided.

### EVALUATION

There is a lack of thorough evaluation of early support programs for Aboriginal and Torres Strait Islander children and families, which limits governments' and ACCOs' ability to confirm the extent of and reasons for effectiveness. Better evidence as to the impacts of services that keep Aboriginal and Torres Strait Islander children with their families is critical to informing future policy and program development and implementation. Monitoring, evaluation and learning efforts should prioritise culturally appropriate evaluations of early intervention programs for Aboriginal and Torres Strait Islander children and families, particularly programs delivered by community-controlled organisations.

families vary across jurisdictions. For example, in Western Australia, while access for Aboriginal and Torres Strait Islander families to IFSS appears high when compared to non-Indigenous children, the government invests far less per child (\$24,080) in these services than any other state or territory, which has significant impacts on service availability and quality. By contrast, Victoria, South Australia and Queensland invest in intensive family support at the highest rates per child in the population (\$149,730, \$111,580 and \$106,340 respectively) of the states and territories with available data. While Tasmania appears to have a significant investment per child, this is skewed by a definition of IFSS in Tasmania that is inconsistent with the national definition and inclusion of all family support services in the definition of intensive family support.

Although access to these support services is encouraging (that is, Aboriginal and Torres Strait Islander children are more likely than their non-Indigenous counterparts to receive needed services), the data should be approached with caution. Broadly speaking, the referral pathways for IFSSs prioritise families who have been screened in for investigation of a *risk-of-harm* report. It is therefore unclear about the extent to which these services can act as an extension of investigative child protection functions driving child removal rather than supporting families to stay safely together, particularly when they are not delivered by ACCOs (SNAICC 2015, SNAICC 2021). Furthermore,

the over-representation of Aboriginal and Torres Strait Islander children across every stage of the child protection system necessitates higher rates of service access, therefore the high reported rates of access should not necessarily be looked upon with a view that the service system is somehow *more accessible* for Aboriginal and Torres Strait Islander children and families.

### Broader family support services

As noted above, data on access to broader and earlier family support services, outside of intensive services, are limited and inconsistent due to a lack of agreed definitions of family support and inconsistent reporting frameworks between jurisdictions. Public expenditure data on child protection and family support services are also not available by Indigenous status nationally, which means that there is no clear picture of whether Aboriginal and Torres Strait Islander families receive an equitable share of resources relative to needs.

However, examination of real recurrent expenditure provides a useful indication of the level of funding dedicated to intensive and non-intensive family support for the purposes of family preservation or reunification/restoration, as compared to expenditure on protective intervention services – for example, receiving reports of child maltreatment, investigation and assessment of maltreatment concerns, children's court proceedings

and child protection interventions – and OOHC services. A key premise of Safe and Supported is that redressing the over-representation of Aboriginal and Torres Strait Islander children in OOHC requires an increased focus on prevention and early support. In the short term, this would require a period of *double budgeting*, where increased resources are allocated to early intervention and prevention services in addition to full funding of tertiary services, in anticipation of long-term reduced demand in tertiary services (Burns et al. 2008).

**Table 2** provides a snapshot of state and territory government investment in family support and IFSS as a percentage of total child protection government expenditure. Nationally, proportional investment in these services decreased from 2020-21 (16.1%) to 2021-22 (15.8%). These data indicate that we are losing ground nationally on shifting investment to prevention and early intervention, despite extensive policy commitments at the state, territory and national levels. In 2021-22, the vast majority of child protection funding continued to be directed at protective intervention

services (22.3%) and OOHC services (61.9%). In dollar figures, this means that, out of a total of \$8.2 billion spent on child protection, only \$1.3 billion was directed to family support measures, compared to \$6.9 billion of expenditure on the tertiary end of the child protection spectrum.

During the 2021-22 financial year there were increases in overall child protection spending across all jurisdictions. Over the same 1-year period there was a reduction in overall spending on family support and intensive family support in two jurisdictions (WA, QLD). Nationally, the amount of investment in these family services increased overall, largely carried by a significant increase in Victoria, however, there were higher increases in investment in intervention and OOHC services. As a result, the composition of spending nationally trended away from prevention and early intervention. The proportion of expenditure allocated to family support services remains concerningly low in most jurisdictions.

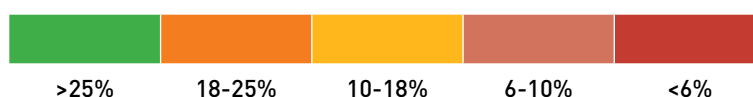
**TABLE 2:** Total percentage of child protection expenditure directed to, and change in total expenditure on, family support and intensive family support services, by state and territory, 2017-18 to 2021-22

Jurisdiction	2017-18	2018-19	2019-20	2020-21	2021-22	Expenditure change between 2017-18 to 2021-22 (% and \$'000)
NEW SOUTH WALES	13.7%	13.2%	12.9%	12.4%	12.1%	▲ 7.7% (\$24,110)
VICTORIA	27.1%	25.2%	25.9%	27.3%	28.1%	▲ 41.0 (\$154,730)
QUEENSLAND	16.4%	16.3%	15.9%	14.2%	12.3%	▲ 12.5% (\$23,583)
WESTERN AUSTRALIA	4.8%	5.3%	5.7%	5.6%	5.0%	▲ 29.2% (\$7,447)
SOUTH AUSTRALIA	8.1%	8.9%	8.8%	9.8%	9.8%	▲ 45.7 (\$21,535)
TASMANIA	13.1%	12.8%	18.5%	25.2%	27.8%	▲ 164.5% (\$26,060)
AUSTRALIAN CAPITAL TERRITORY	12.6%	12.0%	12.3%	11.1%	12.0%	▲ 23.8% (\$2,078)
NORTHERN TERRITORY <sup>(a)</sup>	23.8%	24.8%	23.8%	26.5%	29.4%	▲ 19.1% (\$10,450)
NATIONAL	16.2%	15.9%	15.8%	16.1%	15.8%	▲ 26.2% (\$269,992)

Data source: SCRGSP (2023), Table 16A.8.

(a) The Commonwealth government provides funding to the Northern Territory for IFSS. In 2021-22, this was 5% of all child protection expenditure in the Northern Territory.

#### KEY



Investment proportions into family support and IFSS increased most significantly in the Northern Territory (from 26.5% in 2020-21 to 29.4% in 2021-22). The Northern Territory now has the highest proportion of investment in family support and IFSS nationally, overtaking Victoria (which increased by 0.7% from 27.3% in 2020-21 to 28.1% in 2021-22). Tasmania also increased its proportional investment into family support and IFSSs (from 25.2% in 2020-21 to 27.8% in 2021-22). However, this is mainly because Family Violence counselling services have been included in family support services expenditure, which is an anomalous and unusual classification of family violence services. Proportionate expenditure on family support and IFSSs also increased slightly in the Australian Capital Territory (from 11.1% in 2020-21 to 12.0% in 2021-22).

Concerningly, proportionate expenditure on family support and IFSSs decreased in Queensland (from 14.2% in 2020-21 to 12.3% in 2021-22), New South Wales (from 12.4% in 2020-21 to 12.1% in 2021-22) and Western Australia where it is critically low falling from 5.6% in 2020-21 to 5.0% in 2021-22. As shown in Table 2, Western Australia has consistently directed only around 5% of child protection funding to family support over the last five years and reduced not only its proportion but also its amount of expenditure on these services in the last year. Similarly, South Australia's proportional spending on family support and IFSS in 2021-22 stayed extremely low, remaining the same as 2020-21 levels at 9.8%.

While they can offer a useful proxy, data regarding the proportion of expenditure on family support must be interpreted with caution when considering to what extent states and territories are prioritising family support for Aboriginal and Torres Strait Islander children. Factors to consider include the amount of funding provided relative to the number of families requiring support, the quality of services funded, whether services are genuinely focused on prevention rather than child protection intervention, the cultural safety of services and whether they are used by – and effective for – Aboriginal and Torres Strait Islander families.

For example, although Victoria had one of the highest proportional levels of expenditure on family support and intensive family support, only 11.6% of children who commenced an IFSS in 2021-22 were Aboriginal or Torres Strait Islander (the lowest proportion of any jurisdiction for which data are available). When compared to the 23.8 % of children in OOHC in Victoria in 2021-22 who were Aboriginal or Torres Strait Islander, this suggests that the level of culturally safe and accessible services is not aligned with the level of support needed for Aboriginal and Torres Strait Islander families.

The flow-on impact of this critically low investment is that only 36,179 children nationwide commenced IFSSs in 2021-22. This is despite 119,027 children being the

subject of an investigation for abuse or neglect and 45,548 children being subject to substantiation.

As identified in SNAICC's consultations for Safe and Supported, these numbers point to significant systemic failures in providing access to support services for vulnerable families. High case numbers, combined with risk-averse practices, create an environment where family preservation and reunification work are de-prioritised (Newton et. al. 2023). While many systemic and individual barriers to accessing family support services for Aboriginal and Torres Strait Islander families are known, there are no national Aboriginal and Torres Strait Islander-specific data on access to broader family support services.

## Investing in ACCOs

Family supports delivered by ACCOs are considered most likely to respond effectively to the needs of Aboriginal and Torres Strait Islander children and families. The shameful legacy of colonisation and the Stolen Generations, alongside continuing high rates of removal of Aboriginal and Torres Strait Islander children from their families, has led to a fundamental lack of trust in non-Indigenous service providers (SNAICC 2010; Nolan-Isles et al. 2021; Gilroy et al. 2016). However Aboriginal and Torres Strait Islander communities and SNAICC have long been concerned by the discriminatory under-investment in the wellbeing of Aboriginal and Torres Strait Islander families, through under-resourcing of ACCOs relative to known community needs. The lack of available, accessible and culturally grounded services leads to referrals not being progressed in a timely manner. As a result, challenges faced by families are often not resolved before escalation to the removal of children (SNAICC 2016). There is an urgent need to invest in ACCOs to deliver holistic and culturally safe services to Aboriginal and Torres Strait Islander families, addressing structural inequalities.

To support ACCOs effectively, a meaningful proportion of funding is required to enable ACCOs to deliver relevant initiatives intended to service the broader population across the socioeconomic outcome areas of the National Agreement. This is consistent with the Family Matters Building Blocks as well as Priority Reform 2 of the National Agreement, and particularly Clause 55, under which government parties have agreed to implement measures to increase the proportion of services delivered by Aboriginal and Torres Strait Islander organisations, particularly ACCOs. A meaningful proportion should take into account the service demands of Aboriginal and Torres Strait Islander people. Despite all jurisdictions committing to reporting on the proportion of their expenditure on ACCOs through the previous (2009–2020) *National Framework for Protecting Australia's Children*, current publicly available data products do not capture this measure. However, most states and territories provide these data to inform the Family Matters reports.







State and territory governments provided some data on their 2021–22 expenditure on ACCOs, broken down into family support, intensive family support and OOHC services (very few jurisdictions currently contract out protective intervention services to ACCOs or other NGOs). These data are presented in **Table 3**, measured against the total expenditure for child protection services as published annually in the ROGS. The percentage of children who were the subject of a substantiation and who were in OOHC who were Aboriginal and Torres Strait Islander is also included in **Table 3** as a proxy indicator of the proportion of Aboriginal and Torres Strait Islander children the service system is seeking to respond to through ACCO service provision.

Western Australia invests a relatively high proportion of its family support and IFSSs expenditure in ACCOs (21.11%), but, as noted in Table 2 above, Western Australia invests the lowest proportion of funds in *overall* family support services (and by far the lowest per child on intensive family support) of any state or territory at 5% of total Western Australia child protection expenditure. Queensland has the second-highest proportion of expenditure on ACCOs for the delivery of family support and IFSSs (20.3%). However, Queensland has one of the lowest (non-zero) levels of investment in ACCOs to deliver OOHC services such as case management or carer supports. The Australian Capital Territory closely follows Queensland with 17.5% of expenditure on family support and IFSSs directly to ACCOs. So, while the percentage of funding to ACCOs is high in those categories, the amount of funding is comparatively low.

The proportions that other state governments invested in ACCOs to deliver family support and IFSSs was still disappointingly low, however, there are signs of improvement. For example, New South Wales invested 7.67%, an increase on the 2020–21 level of 5.39%; and South Australia invested 6.89%, an increase on the 2020–21 level of 5.29%. New South Wales continued to be the leader in the proportion of expenditure on ACCOs in the delivery of care services at 7.41%.

Overall, these data represent major concerns requiring urgent action from governments. A strength-based approach aimed towards keeping families together is the best practice solution for supporting children at risk of abuse or neglect while ensuring the maintenance of connection to family, community, culture and Country as integral components of lifelong wellbeing. To reduce unnecessary state intervention in Aboriginal and Torres Strait Islander family life, expenditure must be re-balanced from statutory child protection intervention (that is, tertiary level and court-ordered) towards early intervention family support services (voluntary and secondary level), and from non-community controlled service providers and models to those determined by, and accountable to, Aboriginal and Torres Strait Islander communities themselves, in order to ensure greater availability and access to culturally relevant

services and supports. This does not mean simply shifting funding away from OOHC systems that are also under-resourced – it means investing more to support families in the short- to medium-term, which evidence shows will lead to enormous tertiary systems savings in the long-term. Increased funding towards ACCO-led, strengths-based and culturally responsive family support services is immediately necessary to provide better protection for Aboriginal and Torres Strait Islander children and turn the tide of their over-representation in OOHC.

## 1.2 Children in out-of-home care by 2031: an alarming projection of growing over-representation

Over the next 10 years (2023–2033) the population of Aboriginal and Torres Strait Islander children in OOHC (including on Third Party Parental Responsibility Orders) is projected to increase by 39% (**Figure 15**). Based on current trends, the population of Aboriginal and Torres Strait Islander children in OOHC is projected to grow at 5.5 times the rate of growth projected for non-Indigenous children (which is only projected to grow by 7%).

The projection shown in Figure 15 was calculated based on a simple model of population growth. Methods and caveats for the projection scenarios are described in Appendix 1. The dark blue curve represents the mean projected growth of the Aboriginal and Torres Strait Islander OOHC population over the next 10 years, while the light blue line represents the mean projected growth of non-Indigenous children in OOHC.

The 2033 projected OOHC populations for both groups of children are lower than those estimated in *The Family Matters Report 2022*, which projected that the number of Aboriginal and Torres Strait Islander children in OOHC by 2031 would increase by 50%. This difference is due to the increasing sophistication of the projection model and may also reflect some success in measures that aim to number of Aboriginal and Torres Strait Islander children in care. That is, the gap is expected to grow over the next decade, contrary to commitments from all governments to address the over-representation of Aboriginal and Torres Strait Islander children in OOHC.

It is troubling to see that both the numbers and proportions of Aboriginal and Torres Strait Islander children in care are projected to continue increasing in *all* scenarios shown above, while the minimum growth scenario for non-Indigenous children is one of a *reduction* in the OOHC population.

Child protection systems collectively continue to fail Aboriginal and Torres Strait Islander children, families and communities.

**TABLE 3:** Real recurrent child protection expenditure on Aboriginal and Torres Strait Islander community-controlled services, 2021-22, by state and territory

Jurisdiction	Type of service	% of all children who are Aboriginal and Torres Strait Islander children	Total expenditure (\$'000)	Direct funding to ACCOs (\$'000)	% of total expenditure on ACCOs
New South Wales	Family support and intensive family support services	Substantiated: 33.4%	337,511	25,867(a)	7.67%(b)
	Care services	Out-of-home care: 42.3%	1,713,317	126,894	7.41%
Victoria	Family support and intensive family support services	Substantiated: 13.3%	532,023	61,693	11.59%
	Care services	Out-of-home care: 23.8%	958,362	51,221	5.34%
Queensland	Family support and intensive family support services	Substantiated: 36.4%	212,293	50,088	20.3%
	Care services	Out-of-home care: 45.3%	1,211,558	7,175	0.6%
Western Australia	Family support and intensive family support services	Substantiated: 44.1%	34,689(c)	7,323	21.11%
	Care services	Out-of-home care: 57.3%	386,122	7,530	1.95%
South Australia	Family support and intensive family support services	Substantiated: 36.9%	69,723(d)	4,807	6.89%
	Care services	Out-of-home care: 37.2%	564,400	29,607	5.1%
Tasmania	Family support and intensive family support services	Substantiated: 34.0%	41,902	Not available	Not available
	Care services	Out-of-home care: 36.4%	78,090	Not available	Not available
Australian Capital Territory	Family support and intensive family support services	Substantiated: 28.3%	10,826	1,893	17.5%
	Care services	Out-of-home care: 31%	58,895	0	0
Northern Territory	Family support and intensive family support services	Substantiated: 84.6%	65,136	Not provided	14%(h)
	Care services	Out-of-home care: 91.1%	132,526(e)	Not provided	4%(f)

(a) Grants expenditure Aboriginal and Torres Strait Islander Community Controlled Services

(b) Total expenditure includes services directly provided by DCJ and grants provided to non-government organisations

(c) Total provided by WA Government. Does not match ROGS total. No explanation given by WA Government for this difference.

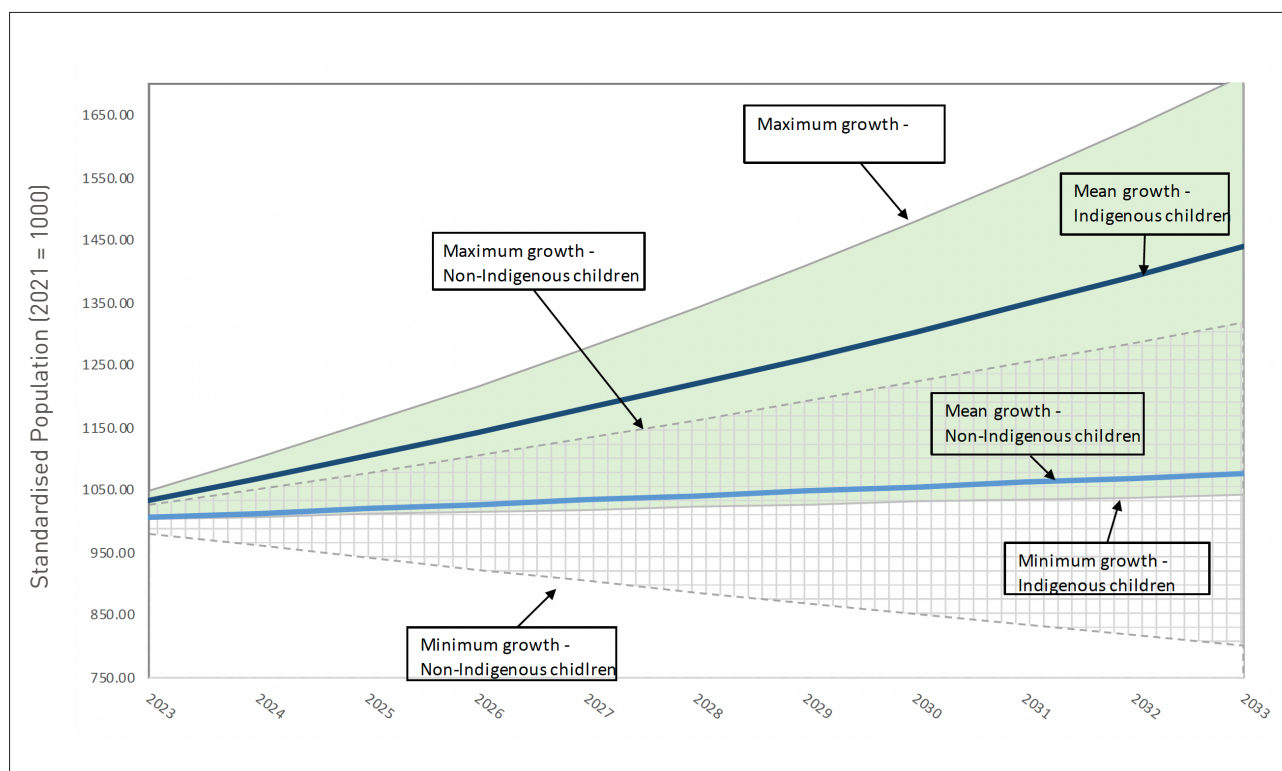
(d) Provided by SA Government. Does not match ROGS total. No explanation given by SA Government for this difference.

(e) Provided by NT Government. Does not match ROGS data. No explanation given by NT Government for this difference.

(f) Percentages provided by NT Government, although dollar amounts of expenditure were not provided.

Data source: SCRGPSP (2023b), Table 16A.8; data provided by governments for the Family Matters Report.

**FIGURE 15:** Population Growth Scenarios for Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care in Australia (2023-2033)



Data sources: Table P3 (AIHW 2021); Table T3 (AIHW 2023).

Model developed by Wei Wu Tan and Arno Parolini, University of Melbourne

Despite this deeply concerning projection, there remains hope that with the transfer of decision-making and system stewardship to Aboriginal and Torres Strait Islander communities, increased efforts and investment to support families and address the drivers of child protection intervention, and greater independent, empowered oversight and accountability of child and family systems, this trajectory can be altered. As outlined earlier in this report, rates of entry into OOHC may be showing early signs of declining, albeit slowly. Significant investment into prevention and early support can further reduce the rate of entry into OOHC. Supporting increasing numbers of Aboriginal and Torres Strait Islander children in OOHC to reunify with their parents and family members is necessary to achieve the target.

With such a sobering projection of increasing numbers of Aboriginal and Torres Strait Islander children in OOHC before us, SNAICC remains steadfast in its resolve to address this challenge and create better futures for our children. We call on governments at all levels to work with us, supported by adequate resources, to make sure that this projected tragedy – of Aboriginal and Torres Strait Islander children being separated from their families, communities, culture, Country and languages – does not continue to be the reality.

To be successful, these efforts must build on the National Agreement and the Family Matters Building Blocks. This includes resourcing ACCOs to provide family preservation, reunification and other prevention and early supports for our families; strengthening Aboriginal and Torres Strait Islander organisations and communities to be involved in the design of legislation, policy and practice at all decision-making levels; and transforming government agencies and non-Indigenous service providers to operate in ways that are genuinely culturally safe, responsive and accountable to Aboriginal and Torres Strait Islander communities.

## 1.3 Structural factors and service gaps that affect child and family wellbeing

### Overview

For thousands of generations, Aboriginal and Torres Strait Islander families and communities have cared for and nurtured their children strong and safe in their culture. But ongoing colonisation, intergenerational trauma and systemic racism continue to cause

enduring physical and mental harm and perpetuate inequities relating to the social determinants of health (Thurber et al. 2021). One of the most significant and traumatic areas of government intervention in the lives of Aboriginal and Torres Strait Islander people has been the widespread removal of children from their families, carried out for more than a century under policies described as *protection* but which were found to constitute genocide by the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (AHRC 1997). The hundreds of thousands of people who were removed from their families under these policies – known collectively as the Stolen Generations – experienced the tragic loss of their family connections and cultural identity and frequently suffered abuse, forced labour and deprivation of educational opportunities.

In a series of reports on the Aboriginal and Torres Strait Islander Stolen Generations and their descendants, the AIHW and The Healing Foundation have established clear links between this mass child removal and long-term challenges for individuals and families. The reports estimated that, in 2018-19, there were 36,400 Stolen Generations survivors and 142,200 *adult* Stolen Generations descendants in Australia. This represents 36% (well over one-third) of the adult national Aboriginal and Torres Strait Islander population (AIHW 2021a). These reports highlight that, compared to Aboriginal and Torres Strait Islander people who were not removed from their families, Stolen Generation descendants are significantly more likely to have experienced discrimination, violence, criminalisation or poor health and to have low levels of trust in the general community. If left unresolved, such intergenerational trauma can have debilitating, pervasive and long-lasting impacts on our future generations, leading to sustained over-representation of Aboriginal and Torres Strait Islander children in child protection systems.

Compounding the effects of trauma, the pervasive nature of systemic racism also renders non-Indigenous services culturally unsafe and ineffective for Aboriginal and Torres Strait Islander people, obstructs their exercise of agency, and contributes to unjust outcomes (Liddle et al. 2021). To safeguard the rights of Aboriginal and Torres Strait Islander people to safety, family, housing, health, education, culture and participation, it is critical for governments to empower local communities in system design and administration and invest in Aboriginal community-controlled services that are accountable, high quality and culturally safe. Moreover, these services must be holistic – multidimensional oppression and disadvantaged cannot be successfully tackled through services that are limited in scope and siloed in the way that they address social determinants of safety and wellbeing for children and families.

## A. Summary of headline indicators in key policy areas

### Socioeconomic disadvantage and poverty

Socioeconomic disadvantage impacts every aspect of a child's life, compromising their physical and mental health, educational outcomes, and access to healthcare (AIHW 2020). Children living in areas of socioeconomic disadvantage are more likely to experience insecure housing, social exclusion, and increased contact with the justice system (AIHW 2020). Aboriginal and Torres Strait Islander people face disproportionate socioeconomic disadvantage resulting from (among other causes) displacement, systemic racism, disenfranchisement and stolen wages. They experience higher unemployment rates than non-Indigenous Australians and are more likely to live in areas with fewer employment opportunities, lower levels of education and training, and lower household incomes (AIHW 2021c). This has contributed to ongoing intergenerational poverty that contributes to child protection involvement in a range of ways.

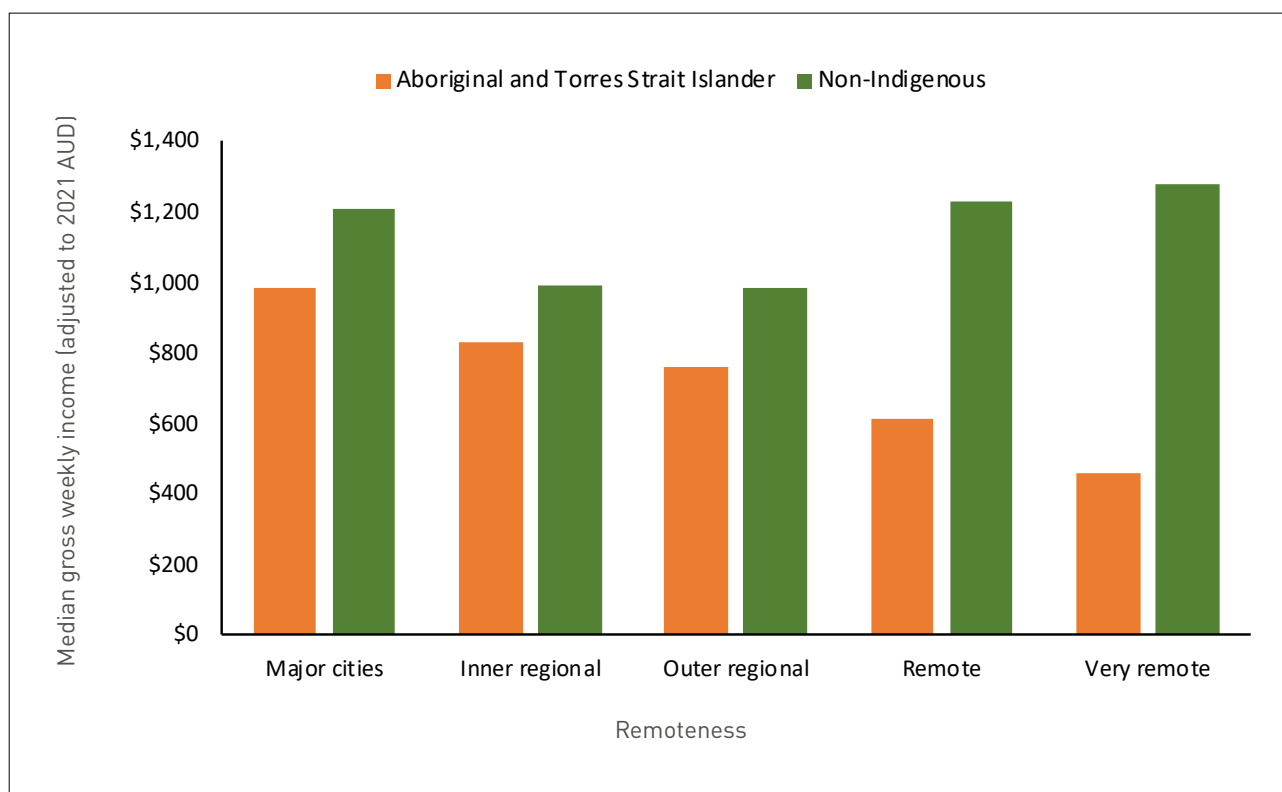
The links between poverty and child welfare involvement are extensively documented. In 2021-22, one third (33.1%) of children who were the subject of a substantiated child protection notification resided in the bottom quintile (that is, the most disadvantaged 20%) of socioeconomic areas. The over-representation was even more significant for Aboriginal and Torres Strait Islander children, at 40.5% of substantiations relating to children living in the lowest quintile of socioeconomic areas (AIHW 2023c).

**Figure 16** demonstrates that not only do Aboriginal and Torres Strait Islander people earn less than non-Indigenous people, but that the disparity between income levels increases with remoteness.

Economic disadvantage is clearly a significant driver of child protection substantiations for Aboriginal and Torres Strait Islander children, with 29.9% of substantiations in 2021-22 being primarily due to neglect (compared to 16.3% of substantiations for non-Indigenous children) (AIHW 2023c). This reflects the significant barriers our families face in accessing the resources and supports they need to provide safe and appropriate care for their children. The 1997 *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Bringing Them Home) report recommended a social justice package be developed and implemented to overcome the social and economic determinants contributing to child protection involvement and over-representation (Recommendation 42). This recommendation has not been actioned by any government in the 26 years since the report was handed down.



**FIGURE 16:** Median gross weekly income for Aboriginal and Torres Strait Islander and non-Indigenous people by remoteness (2021)



Data source: Table D2.08.12 mean and median equivalised gross weekly household income of people aged 18 and over, by Indigenous stats and remoteness, 2021 (ABS, Aboriginal and Torres Strait Islander Health Performance Framework 2.08 Income, 2023).

## Institutional racism and discrimination

*Bringing Them Home* reported the racially discriminatory basis of child welfare systems and child removal policies. These policies and racially discriminatory practices continued after the repeal of legislation specifically targeting Aboriginal and Torres Strait Islander people, as many of the policies continued in breach of international human rights obligations. These policy frameworks have continued to shape child protection systems:

*Indirect racial discrimination continues into the present both in child welfare and juvenile justice systems [...]. Indigenous children and their families continue to be judged from an Anglo-Australian perspective which demonstrates little respect for Indigenous values, culture and child-rearing practices. It provides little or no encouragement of or support for Indigenous parenting. Indigenous children continue to be transferred, permanently or temporarily, from their families and communities to the custody and control of non-Indigenous Australians (AHRC 1997:234)*

Racism continues to have a disproportionately high impact on Aboriginal and Torres Strait Islander people (Markwick et al. 2019; Kairuz et al. 2021). Recent data indicate that experiences of racial discrimination

against Aboriginal and Torres Strait Islander people has been increasing over the past 10 years (Nelson 2022).

Despite many government inquiries and Royal Commissions into systems that disproportionately impact Aboriginal and Torres Strait Islander peoples, institutional racism continues to impede children and families in practical ways. It results in unfair and unjust outcomes, as evidenced by the gross over-representation of Aboriginal and Torres Strait Islander children in the child protection system, and imprisonment rates (Krakouer 2023).

In 2019 the *Family is Culture* review identified racism as a key issue reported by stakeholders. The review provided an example of a caseworker, in providing evidence about the need to remove the child, stating that an Aboriginal mother was “highly under the influence of the Aboriginal community”. The same report provided an example of a caseworker denouncing a child’s Aboriginality because they were “too young to identify as Aboriginal”, despite clear evidence of their father being Aboriginal (Davis 2019).

The national consultations SNAICC undertook in 2021 to inform Safe and Supported demonstrated the ongoing racism experienced by Aboriginal and Torres Strait Islander people in child protection systems (SNAICC, 2021).

In 2022–2023, SNAICC undertook community consultations throughout Western Australia to inform the development of a 10-Year Roadmap and Action Plan to reduce over-representation of Aboriginal children in OOHC in Western Australia. Community members reported several experiences of poor treatment and institutional racism by child protection and other public services, contributing to over-representation of Aboriginal children in OOHC (SNAICC, 2023).

In 2017 the *Royal Commission into the Protection and Detention of Children in the Northern Territory* report confirmed that the commission found multiple examples of Aboriginal parents for whom English was not a first language and, therefore, did not understand what they must do in order for their children to be returned to them (White & Gooda 2017). ABS Census data in that same year reported that in the Northern Territory, approximately 60% of the Aboriginal population spoke an Aboriginal language at home. Despite these barriers, many children and families continue to encounter an alienating service system that they cannot effectively engage with or understand.

In response to these findings, government have failed to act to address racism in child protection systems.

## Poor access to safe and affordable housing

Access to safe and appropriate housing significantly impacts the capacity of families to provide the care and protection required for their children to thrive (Andersen et al. 2018; Lowell et al. 2018; Miller et al. 2020). For example, evidence also supports a direct association between poor-quality housing and poor physical and mental health (Baker et al. 2016). The ongoing history of colonisation and the relationship of Aboriginal and Torres Strait Islander peoples to Country, add to the importance of housing conditions as a determinant of health for Aboriginal and Torres Strait Islander people (Bailie and Wayte 2006).

Across a range of housing measures, Aboriginal and Torres Strait Islander people consistently and disproportionately face barriers in accessing stable, affordable and quality housing. According to the 2021 Australian Bureau of Statistics Census of Population and Housing, one in five people experiencing homelessness in Australia were Aboriginal and Torres Strait Islander and homelessness among Aboriginal and Torres Strait Islander people had increased 6.4% from the 2016 census. Of the Aboriginal and Torres Strait Islander people experiencing homelessness at the time of the 2021 census nearly one quarter (23.6%) were under 12 years and more than one-third (36.9%) were under the age of 18 years (ABS 2021). In 2021–22, nationally, Aboriginal and Torres Strait Islander people were 11 times more likely to access specialist homelessness services than non-Indigenous people (AIHW and NIAA 2023b). The total number of Aboriginal and Torres Strait Islander clients accessing specialist homelessness services had increased by an average annual rate of 5.3% between 2010–11 and 2021–22

(three times faster than for non-Indigenous clients over the same period) (AIHW 2022g).

In 2021, Aboriginal and Torres Strait Islander people were much less likely than non-Indigenous people to own their own home (42% compared with 68% in 2021) (AIHW 2023d) and almost three times as likely to live in homes that are overcrowded (AIHW 2022g). This is particularly detrimental in remote and very remote areas, in which residents face extremely high costs of living and challenges in accessing appropriate support due to a lack of service infrastructure (Liddle et al. 2021).

## Maternal and child health inequities

Maternal health is an important factor in child mortality rates, and pregnancy, birth and early childhood present crucial transition points for a child's healthy growth and development. Although some improvements have been made, Aboriginal and Torres Strait Islander mothers and babies have substantially worse health outcomes than non-Indigenous mothers and babies (AIHW 2023b). For example, between 2017–2020, Aboriginal and Torres Strait Islander mothers had a higher rate of certain risk factors than non-Indigenous mothers such as smoking during pregnancy, obesity, pre-existing diabetes and a postnatal hospital stay of 7 days or more (AIHW 2023a). There is consistent evidence that Aboriginal women experience significantly higher rates of anxiety and depression in the perinatal period (Carlin et al. 2021). In 2021, perinatal mortality rates for babies of Aboriginal and Torres Strait Islander mothers were almost double the rate for non-Indigenous babies (17.3 per 1,000 births compared to 9.0 per 1,000 births) (AIHW 2021b).

In 2021, Aboriginal and Torres Strait Islander mothers were more than twice as likely to give birth to low-birthweight babies (10%) than were non-Indigenous mothers (4.7%) (AIHW 2021b).

Many of these worse outcomes are in part driven by Aboriginal and Torres Strait Islander mothers' higher exposure to risk factors such as poor nutrition, chronic illness and high levels of psychological distress, all of which increase the likelihood of pregnancy complications (Department of Health 2020). Economic disadvantage and social exclusion also have a detrimental impact on the development of healthy babies and children, compounded by the fact that women from economically disadvantaged areas are the least likely to access important antenatal care, particularly during the first trimester when risk of foetal harm is heightened and when service links and referrals are best established (Moore et al. 2017). Quality antenatal care services not only have a positive effect on health outcomes for both mothers and infants (Arabena et al. 2015) but also provide opportunities to establish trusted relationships between families and healthcare professionals, address any risk factors for engagement with child protection services and provide referrals to a range of other beneficial health and wellbeing services.



Aboriginal and Torres Strait Islander women are less likely to access antenatal care in their first trimester than non-Indigenous women – in 2021 (the latest data available), the difference was almost 8%, with 70.3% of Aboriginal and Torres Strait Islander women and 78.1% of non-Indigenous women attending their first antenatal visit before 14 weeks gestation (AIHW 2021b). Aboriginal and Torres Strait Islander women also access fewer antenatal care visits overall; in 2021, 87.5% of Aboriginal and Torres Strait Islander mothers had attended 5 or more antenatal care visits during the full term of their pregnancy, compared to 94.7% of non-Indigenous mothers. With Aboriginal and Torres Strait Islander infants being removed at very high rates (see above on unborn reports and the removal of infants), the fear of having their pregnancy reported to child protection services (along with a broader distrust of non-Indigenous, potentially culturally unsafe services) may lead some Aboriginal and Torres Strait Islander women to avoid accessing antenatal healthcare completely. As the Yoorrook Justice Commission heard, the concern that Aboriginal and Torres Strait Islander women will ‘flee’ after the baby is born has led to a practice of women not being told when an unborn report is made about their baby. When this occurs, the opportunity to provide support and assistance to pregnant women is lost, increasing the chance of their baby being removed (Yoorrook Justice Commission 2023b). That is, rather than providing adequate support to Aboriginal and Torres Strait Islander expectant mothers who may benefit from it when their needs are recognised, health and child protection systems may choose to withhold services and instead intervene to remove the newborn infant following birth.

This reflects an urgent need to expand the provision of antenatal care by ACCOs, who can offer culturally safe and holistic wraparound care, including family support services where needed (Liddle et al. 2021). An evaluation of such a service in Central Australia found that the program may have reduced child protection system involvement, especially among younger or first-time mothers (AIHW and NIAA 2022). Similarly, the evaluation of a trial in Victoria of the provision of culturally appropriate services to pregnant Aboriginal and Torres Strait Islander women successfully diverted from investigation five out of eight cases that had been the subject of an unborn report (Wise and Brewster 2022).<sup>2</sup>

## **Inadequate support for children and parents with disability**

Children and young people with disability are disproportionately represented in OOHC and Aboriginal and Torres Strait Islander children with complex health and developmental needs are more likely to become known to and escalate through child protection systems (CCYP 2017; White and Gooda 2017; Davis 2019; Sackville et al. 2023). However, it is unknown precisely how many Aboriginal and Torres Strait Islander children

in the child protection system have a disability, as this data is not recorded accurately or consistently across states and territories and is not readily available. Child protection authorities do not apply a uniform definition of disability and do not routinely capture information about a child’s experience of disability within data collection frameworks (Snow, Mendes and O’Donohue 2014; Sackville et. al. 2023).

Nonetheless, efforts have been made to obtain estimates of the proportion of children involved in child protection systems who have disabilities. In 2016, the Victorian Commission for Children and Young People reviewed the cases of approximately 1,000 Aboriginal children in OOHC and noted that 14% had a known disability (with intellectual disability accounting for 65% of the disabilities noted) (CCYP 2017). In 2017, the Royal Commission and Board of Inquiry into the Detention and Protection of Children in the Northern Territory heard that the proportion of children on a care or protection order who had a disability may be as high as 40% (White and Gooda 2017). In 2019, the *Family is Culture* review found significant gaps in the identification of children with disability who encounter the New South Wales child protection system. The (then) Department of Family and Community Services could not provide this data to the inquiry as its databases did not identify these characteristics; however, analysis of administrative data suggested that 18.4% of all children (Aboriginal and non-Indigenous) in OOHC in 2016 had a disability (Davis 2019).

As the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability found, there are significant consequences to the poor recognition of, and responses to, disability affecting Aboriginal and Torres Strait Islander children. Statutory intervention often occurs due to systemic failures to enable families to understand and support their children’s needs. Child protection systems respond to parents with disability as if their disability inherently presents a risk to children, while doing little to provide or facilitate parents with disability to access appropriate disability supports (Libesman et al. 2023). Lack of access to support services, and the resulting unmet needs of children, place enormous strain on families and can lead to children being removed. This is exacerbated by child protection assessments that focus on identifying risks to children with disability rather than assessing and providing the supports needed to keep children safely with their families. Many child protection workers lack the skills and training to identify culturally appropriate responses to Aboriginal and Torres Strait Islander children and parents with disability. (Sackville et. al. 2023)

Further, failure to identify and diagnose the disability of an Aboriginal or Torres Strait Islander child in OOHC can create difficulties in reuniting the child with their family. This is because of the potential escalation of unaddressed and poorly managed cognitive and behavioural issues, along with a lack



of tailored supports that could assist the family in meeting the child's needs so they can be reunified. Insufficient access to disability support services in OOH is likely to increase the probability of placement breakdown, transfers of children to residential care and criminalisation of children by care systems that are not equipped to deal with the complex and sometimes confronting behaviours manifested by some disabilities and traumas (Sackville et. al. 2023).

Finally, the lack of accurate and available data – as described above – makes it impossible for ACCOs and community members to advocate for governments and service providers to provide adequate, properly resourced, evidence-based supports and services to the families of children with disability, both individually and on a systemic level. Without governments investing in the culturally safe codesign of services with Aboriginal and Torres Strait Islander communities and organisations – and in robust data collections that adhere to the principles of Indigenous Data Sovereignty – the systemic neglect that currently exists in addressing the disability needs of our children and families will continue.

## Exposure to family violence

Family violence is considered to be significantly under-reported for all population groups across Australia, but it is estimated that Aboriginal and Torres Strait Islander women experience family violence much more frequently than non-Indigenous women (AIHW 2018, 2019; AHRC 2020: 211). Aboriginal and Torres Strait Islander women who experienced violence were more likely than Aboriginal and Torres Strait Islander men to identify an intimate partner or family member as the perpetrator (ABS 2019).

The limited evidence available suggests that many Aboriginal and Torres Strait Islander women do not disclose their experiences with family violence due to a range of factors, including fear of having their children removed, lack of confidence in police and community support, language and cultural barriers, and lack of culturally safe support services (Willis 2011; AHRC 2020: 189-190).

Family violence is a leading cause of homelessness for Aboriginal and Torres Strait Islander women and children and, consequently, contributes significantly to the over-representation of Aboriginal and Torres Strait Islander children in child protection systems (Cripps and Habibis 2019). In 2021-22, 24% of Aboriginal and Torres Strait Islander people seeking assistance for homelessness reported domestic and family violence as the primary reason for seeking assistance (AIHW 2022f). There are limited pathways to stable accommodation for Aboriginal and Torres Strait Islander women and children if they choose to leave family violence, as there are acute shortages in crisis accommodation and long-term housing, particularly in regional and remote areas.

These shortages can often lead to the forced separation of children from victim-survivors of family violence (SNAICC, NFVPLS and NATSILS 2017).

Witnessing family violence is typically categorised by child protection reporting rules as experiencing emotional abuse – which is the most common primary type of substantiated abuse or neglect for Aboriginal and Torres Strait Islander children, making up 50.2% of all substantiations in 2021-22 (AIHS 2023c). Family violence can repeat throughout generations, as people who have experienced family violence as children are more likely to perpetrate or be victims of violence in adulthood (AIHW 2018).

Policy responses to domestic and family violence frequently increase reports to child protection, but this does not always contribute to increased safety (Campo 2015). Child protection systems often hold women experiencing violence responsible and maintain an individualised focus on the immediate safety of children, rather than working holistically with the family, including working to hold perpetrators accountable.

Women who participated in a recent ACCO-led study by the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) reported that:

*they felt that their trauma was triggered by child protection practitioners often using tactics, designed to motivate them to address safety concerns for children, that they felt replicated manipulative practices of their violent relationships. This resulted in them feeling disempowered and fearful of their interactions with child protection workers (Morgan et al. 2023)*

That is, from the perspective of some Aboriginal and Torres Strait Islander women, child protection systems perpetrate violence against them in similar ways as their violent partners, perpetuating those harms in the guise of responding to them. Such approaches cannot possibly create safety for Aboriginal and Torres Strait Islander women seeking to leave violence.

A study by Morgan et al. found that “despite the overwhelming impact of DFV in Aboriginal and Torres Strait Islander children's and young people's lives, to date their voices have been largely silent in the literature” (Morgan et al. 2023, p.7; Morgan et al. 2022). Domestic and family violence services focusing on adults, and limited availability of Aboriginal and Torres Strait Islander community-controlled services limits the responsiveness to Aboriginal and Torres Strait Islander children's experience of domestic and family violence (Ibid.).

## Youth justice and incarceration – criminalisation of young people in out-of-home care

It is well-established that a high proportion of young people involved with the justice system have faced abuse and neglect (Cashmore 2011; Malvaso 2017). A significant number of Aboriginal and Torres Strait Islander children and young people involved with the youth justice system have had contact with the child protection system. At 30 June 2021 there were 2,600 children and young people in the youth justice system who had contact with child protection in the previous 5 years and 1,390 Aboriginal and Torres Strait Islander children in detention who had previous contact with child protection.

Over 50% of young people in detention in Australia are Aboriginal and Torres Strait Islander children and young people (AIHW 2023e). At 30 June 2021, 64.1% of Aboriginal and Torres Strait Islander children and young people involved with the justice system had contact with child protection in the previous 5 years, compared to 46.1% of non-Indigenous young people in contact with the justice system (AIHW 2022d). Young Aboriginal and Torres Strait Islander people in detention had an even higher chance of having had contact with child protection – 72.2% of the Aboriginal and Torres Strait Islander children and young people in detention had some contact with child protection in the previous 5 years (AIHW 2022d).

21.6% of Aboriginal and Torres Strait Islander young people in prison in 2020–21 had been in residential care, while 14.2% of non-Indigenous young people in prison had been in residential care. This is in contrast to 4.8% of Aboriginal and Torres Strait Islander young people in prison who had only been in foster care or kinship care (AIHW 2022d).

Length of time in care and number of placements are also associated with a higher risk of incarceration for Aboriginal and Torres Strait Islander children and young people in OOHC. Young people who had been in 5 or more placements were more likely to be incarcerated than young people who had been through fewer placements (AIHW 2022d).

This pattern demonstrates what has been termed ‘care criminalisation’ – criminalisation of children and young people in OOHC at disproportionate rates compared with other children (McFarlane 2018). Davis (2019) noted that this is particularly due to the way OOHC pushes young people into contact with police:

*placement in OOHC exacerbates the existing risk that maltreated children will become involved in criminal offending. This occurs by way of a ‘care-criminalisation’ process, by which children and young people in OOHC are arrested for behaviour that would usually result in a disciplinary response from parents and not a criminal justice related response from police officers (p. 236)*

The use of police to discipline young people in residential care, in particular, has been demonstrated to increase contact with the justice system into adulthood through processes such as arrests and incarceration for breaches of bail (Davis, 2019).

Research for the Royal Commission into Violence, Abuse, Neglect and Exploitation Against People with Disability has demonstrated a higher likelihood of Aboriginal and Torres Strait Islander children and young people with disability in OOHC coming into contact with the justice system (Baidawi et al. 2022). Lack of connection to culture, punitive approaches to disability within systems such as education and police, and racial profiling were some of the factors found to contribute to increased criminal justice involvement of young people with disability in OOHC.

## Substance use

Parental substance use has been identified as a significant risk factor for child abuse and neglect – it can adversely impact a person’s ability to parent consistently, provide a safe and stable environment, maintain household routines, and respond to their children’s needs (AIHW 2022c). The use of substances during pregnancy can also increase risks of premature birth, miscarriage and a child being born with foetal alcohol spectrum disorder (FASD). It is not uncommon for FASD to drive repeated contact with child protection systems, as parents are often ill-equipped with – and have very few ways of accessing – the knowledge and support required to manage children’s resulting complex needs (Williams 2017).

In 2021–22, Aboriginal and Torres Strait Islander people (age-standardised) were more than seven times more likely than non-Indigenous people to access services to treat addiction to alcohol and other drugs (AIHW 2023f). This pattern has remained consistent since 2014–15. However, it is important to note that there is a significant level of unmet need for alcohol and other drug treatment services in Australia, with up to an estimated 500,000 people per year not receiving the treatment they need (AADC 2023). This unmet need is especially true for Aboriginal and Torres Strait Islander people as there are several barriers to access and provision of services including lack of services and investment in some regions, cultural competency of services, affordability and availability of Aboriginal and Torres Strait Islander workers (AIHW and NIAA 2023a).

The use of alcohol and other drugs is closely related to issues such as socioeconomic disadvantage, trauma and mental ill-health, particularly in the absence of appropriate supports. However, the relative lack of culturally safe, trauma-informed and holistic services available to Aboriginal and Torres Strait Islander people means that the intersectional factors that contribute to harm from substance use are often not addressed (Liddle et al. 2021). Rather, the ‘symptom’ – substance use – is the focus of systems, including police and child

## RELEVANT SOCIOECONOMIC OUTCOME AREAS OF THE NATIONAL AGREEMENT ON CLOSING THE GAP

**OUTCOME 3:** *that children are engaged in high quality, culturally appropriate early childhood education in their early years; corresponding target –to increase the proportion of Aboriginal children enrolled in year-before-full-time schooling early childhood education to 95% by 2025.* This outcome area acknowledges the role that quality ECEC plays in meeting the developmental needs of children.

Nationally, in 2022, 99.2% of Aboriginal and Torres Strait Islander children were enrolled in year-before-full-time schooling, which is an increase from the Closing the Gap baseline in 2016 of 76.7 per cent. While this progress is encouraging, it is noted that proportion of enrolments the Northern Territory decreased by 1.12% (Productivity Commission 2022a).

In 2022, 57% of Aboriginal and Torres Strait Islander children aged 3-5 years were enrolled in a preschool program. Preschool enrolments in both major cities and regional areas have increased while enrolments in remote and very remote areas have decreased (SCRGSP 2023a). It is important to note that enrolment data do not necessarily reflect levels of actual attendance and engagement of Aboriginal and Torres Strait Islander children in preschool programs. Aboriginal and Torres Strait Islander children who are not engaged in early years education are at a higher risk of developmental delays that will impact on their long-term health, education outcomes, and social wellbeing.

**OUTCOME 4:** *children thrive in their early years; corresponding target –the proportion of Aboriginal children assessed as developmentally on track in all five domains of the Australian Early Development Census is increased to 55% by 2031.*

Between 2018 and 2021 the proportion of Aboriginal and Torres Strait Islander children on track in all five domains of the AEDC dropped from 35.2% to 34.3%, indicating that progress is going backwards against the target. The gap is also widening, with Aboriginal and Torres Strait Islander children now less than half as likely to be on track on all domains than their non-Indigenous peers. The language and cognitive skills domain was the main driver of the decline among Aboriginal and Torres Strait Islander children, with the proportion of children on track dropping from 62.6 % (in 2018) to 59.4% (in 2021).

### The impacts of the COVID-19 pandemic

The 2021 AEDC report provided insight into early impacts on children from COVID-19. It found that the impacts have not been evenly felt – Aboriginal and Torres Strait Islander children, and children living in the most disadvantaged areas of Australia, showed a larger increase in developmental vulnerability.

protection, while underlying factors that may contribute to substance use remain largely unacknowledged and unaddressed.

## B. Focus area: early childhood education and care

The most critical time in a child's development are the early years. Evidence suggests that what happens during this period sets the foundations for future outcomes (Center on the Developing Child 2010; Fox et al. 2015; Zeanah and Zeanah 2018). Experiences in early childhood shape the communication, language and literacy skills; numeracy and other non-verbal cognitive skills; self-regulation; and social and emotional wellbeing of children (OECD 2015). These domains have the greatest impact on children's school readiness and engagement and longer-term health, social and wellbeing outcomes (VAEI 2020).

There is overwhelming evidence that access to early childhood education and care (ECEC) for Aboriginal and Torres Strait Islander children in their early years can give them a greater start in life, lead to a smoother transition to school and provide more positive experiences (Sims 2011; Biddle and Bath 2013). Yet many Aboriginal and Torres Strait Islander children miss out on accessing quality early years education. The ability to participate in culturally responsive ECEC services is crucial for strengthening Aboriginal and Torres Strait Islander children's cultural pride, identity and sense of self (Saffigna et al. 2011; SNAICC 2012). Enjoyment of culture and the community connection that comes with that is recognised as a protective factor across development (Center on the Developing Child 2023).

## Current landscape for Aboriginal and Torres Strait Islander children and progress against Closing the Gap targets

The Australian Early Development Census (AEDC) measures children's development at the time they commence full-time schooling across five domains: physical health and wellbeing; social competence; emotional maturity; language and cognitive skills; and communication skills and general knowledge. The results of the 2021 AEDC show increased developmental vulnerability for Aboriginal and Torres Strait Islander children since 2018. As shown in **Figure 17**, the 2021 results highlight an increase in inequality (AEDC 2022). That is, the gap that exists across developmental domains between Aboriginal and Torres Strait Islander children and non-Indigenous children by the time they start school has widened from 2018 to 2021 (noting, however, that most developmental assessment tools are designed from a Western paradigm and, as such, may not accurately demonstrate Aboriginal and Torres Strait Islander children's full strengths).

Whilst these statistics show a backward step in terms of developmental outcomes for Aboriginal and Torres Strait Islander children (likely made worse by COVID-19 lockdowns interfering with children's ability to attend ECEC services), ACCO services are driving change through high-quality, culturally safe early years services.

For the proportion of children who are vulnerable in two or more domains, there has been no significant improvement. In 2021, Aboriginal and Torres Strait Islander children were 2.6 times more likely than non-Indigenous children to be developmentally vulnerable in two or more AEDC domains, while in 2009 it was 2.7 times. Similarly, Aboriginal and Torres Strait Islander children were 2.1 times more likely to be developmentally vulnerable in one or more domains, the same rate as in 2009 (**Figure 18**).

## Attendance at early childhood education and care (ECEC) services

Despite a higher proportion of Aboriginal and Torres Strait Islander children enrolling in and attending preschool in the year before school, these gains are not reflected in access to education and care services earlier in childhood. Aboriginal and Torres Strait Islander children continue to be under-represented in ECEC services, such as long day care, family day care and out-of-school-hours care.

As shown in **Figure 19**, Aboriginal and Torres Strait Islander children aged 0–5 years across Australia were attending Australian Government Child Care Subsidy-approved childcare services at 65% the rate of non-Indigenous children during 2021–22, a slight decrease from 67% in 2020–21 (SCRGSP 2023b). The attendance rate for Aboriginal and Torres Strait Islander children compared to non-Indigenous children was lowest by

far in the Northern Territory (28%), and highest in Victoria (80%).

**Figure 20** shows the rate of Aboriginal and Torres Strait Islander children aged 3 to 5 years old who were enrolled in a preschool program compared to non-Indigenous children in 2022. Aboriginal and Torres Strait Islander children in Queensland, Western Australia, Tasmania and the Northern Territory are less likely than non-Indigenous children to be enrolled in a government approved preschool program. In contrast, Aboriginal and Torres Strait Islander children in Victoria, South Australia and the ACT are more likely to be enrolled in these programs than non-Indigenous children. There is no difference in the rate of enrolment between Aboriginal and Torres Strait Islander and non-Indigenous children in New South Wales.

## Barriers to Aboriginal and Torres Strait Islander children's participation in ECEC services

The majority of Aboriginal and Torres Strait Islander families rate education as a primary aspiration for their children (Skelton et al. 2014). Yet, there are wide-ranging, complex and interrelated factors that prevent Aboriginal and Torres Strait Islander families from accessing and participating in ECEC services – services that are crucial in setting a strong foundation for the entire education journey (NIAA and SNAICC 2021). These barriers cross over four domains: individual, service, system and cultural (SNAICC and ECA 2019). Research has identified key barriers as including:

- family stress and challenges such as housing instability, lack of access to transport, unemployment, financial hardship and discrimination
- preventable health conditions that stem from histories of colonisation, child removal and the long-term impacts of intergenerational trauma
- the complexity of the enrolment process, including the requirement for documents such as birth certificates and immunisation reports
- a lack of supports for families with low levels of literacy and/or low levels of awareness and confidence, who consequently may struggle to enrol their children (SNAICC 2022).

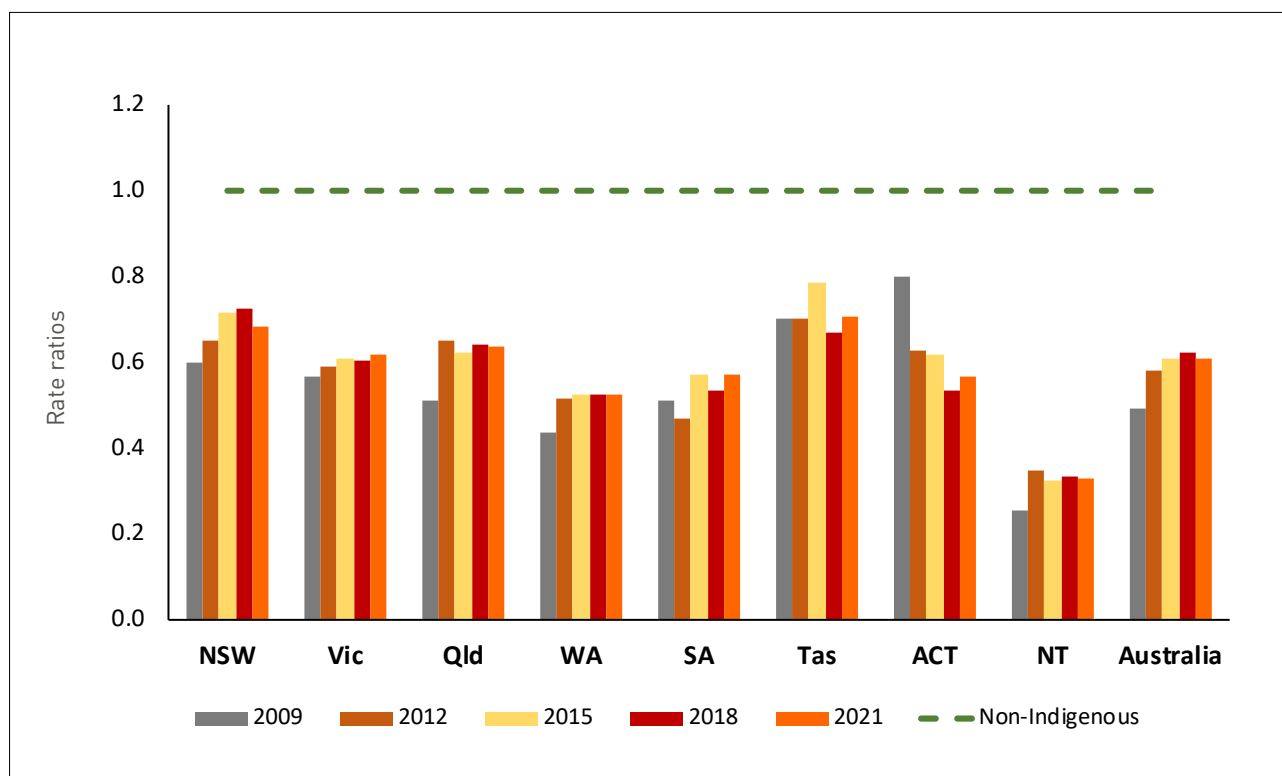
To address these barriers and support Aboriginal and Torres Strait Islander children's participation in culturally safe ECEC services, policymakers must take both family-level *and* systemic approaches.

## Cultural barriers and the role of ACCOs

The ability to participate in culturally responsive integrated ECEC services is crucial for strengthening Aboriginal and Torres Strait Islander children's cultural pride, identity and sense of self (SNAICC 2022). ACCO-



**FIGURE 17:** Rate ratio comparing the proportion of Aboriginal and Torres Strait Islander and non-Indigenous children assessed on track in all five domains of the AEDC (2009-2021)

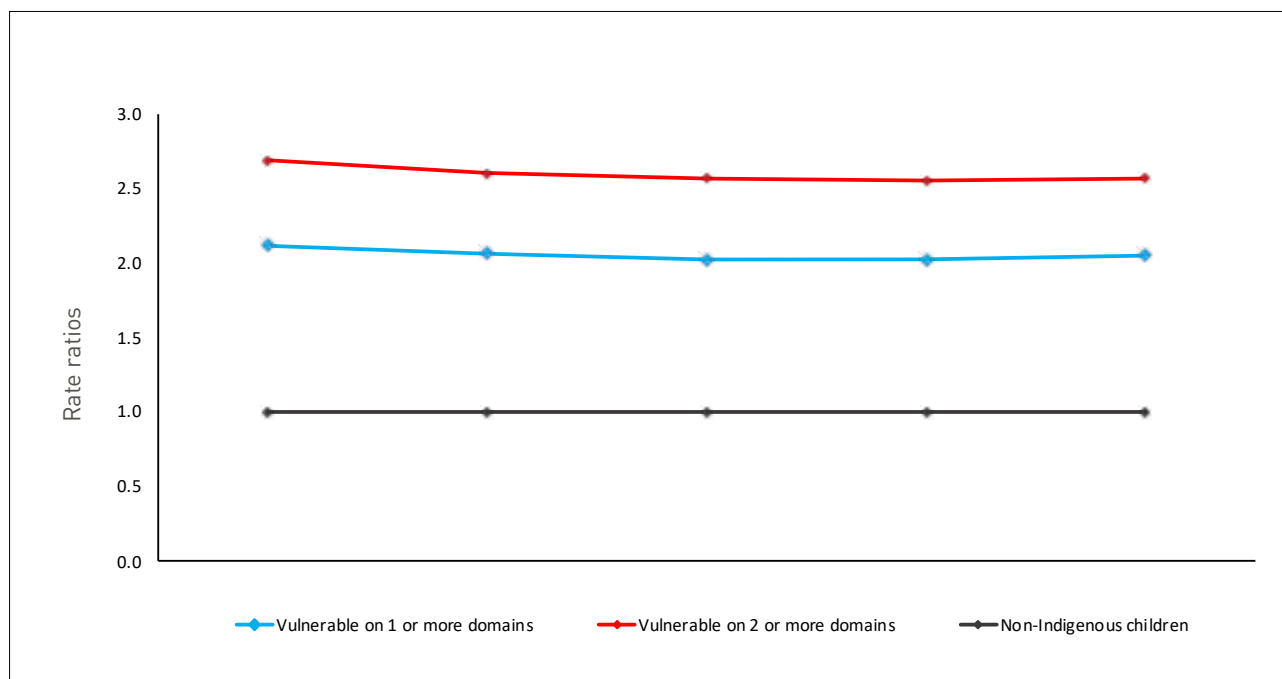


Notes: Data for 2009 to 2018 have been updated based on the Closing the Gap publication released in June 2022.

AEDC is the Australian Early Childhood Development measure.

Source: Closing the Gap Annual Data Compilation Report July 2022, Table CtG4A.1 (<https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report/snapshot#downloads>)

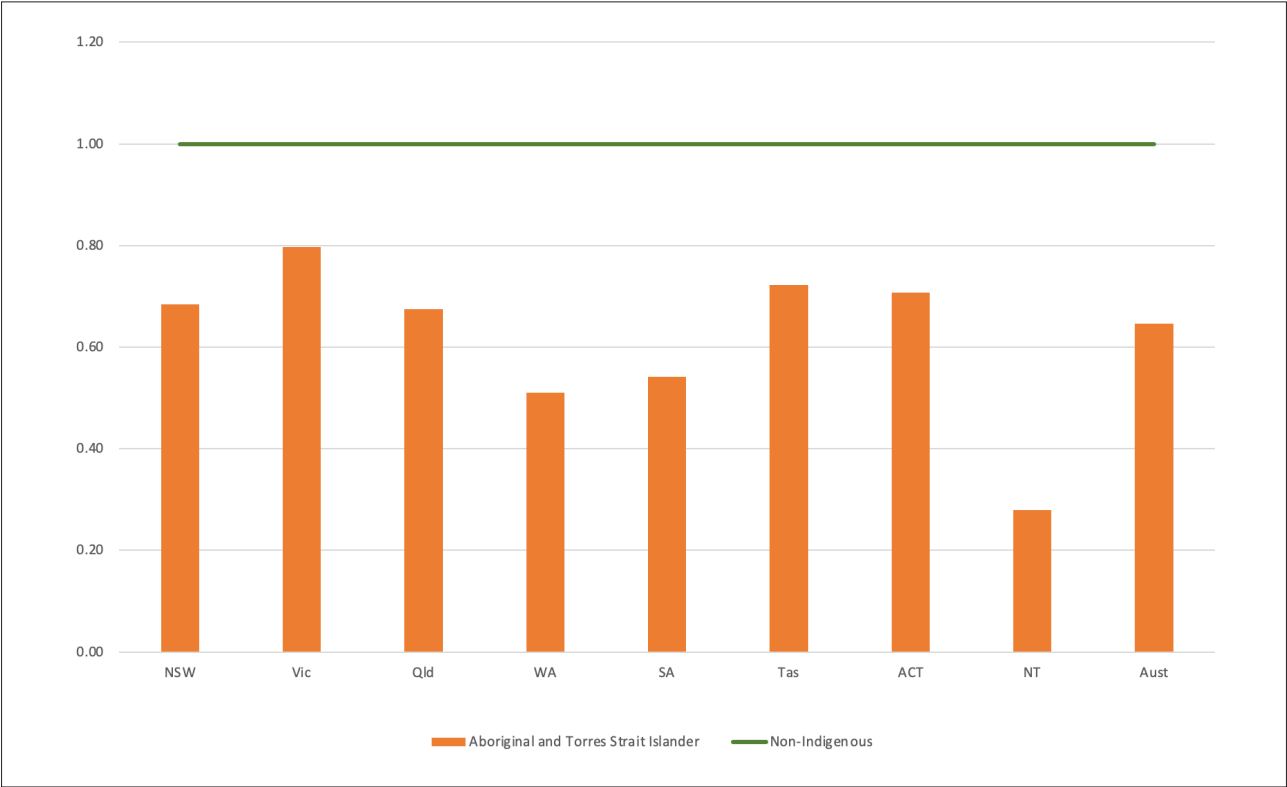
**FIGURE 18:** Rate ratios comparing developmental vulnerability Aboriginal and Torres Strait Islander and non-Indigenous children (2009-2021)



Source: AEDC National Report, Appendix 6 (AEDC, 2021), Tables 27 and 31

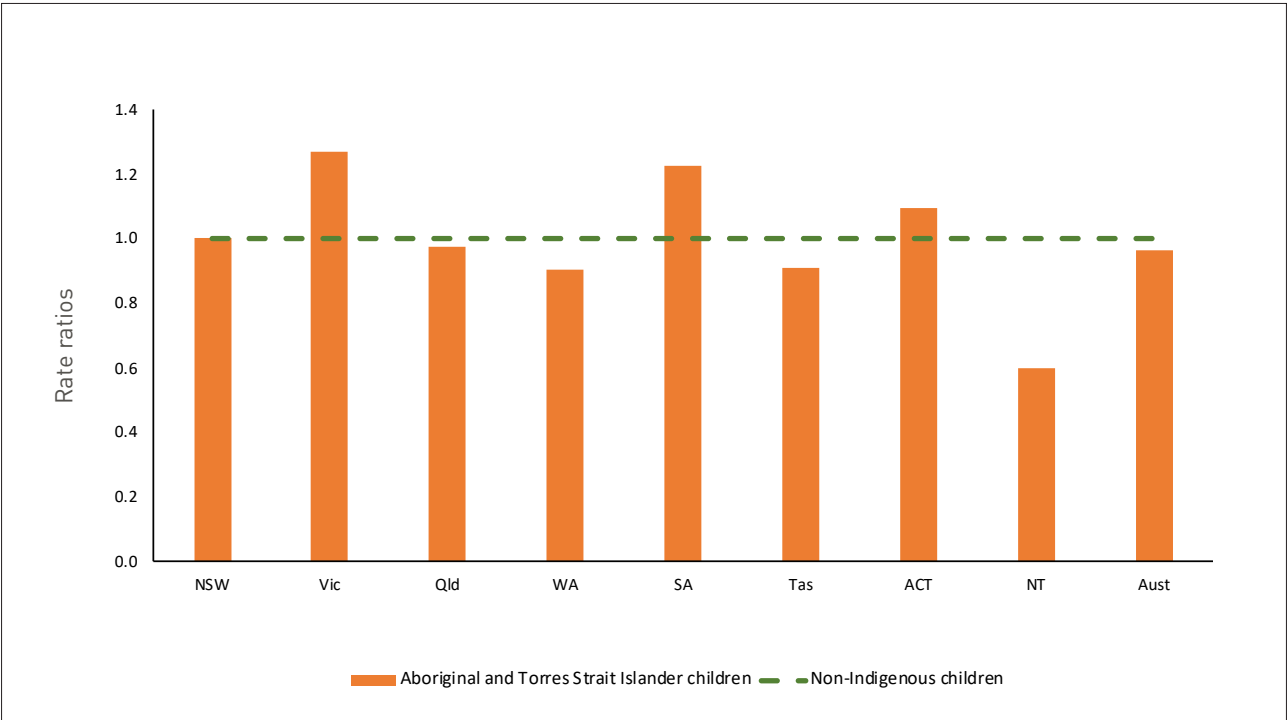
Note: In the 2021 Family Matters Report, rate ratios for Aboriginal and Torres Strait Islander children developmentally vulnerable were calculated for each state and territory for 2009-2018, but the latest 2021 data could only be analysed at the national level.

**FIGURE 19:** Rate ratio comparing Aboriginal and Torres Strait Islander and non-Indigenous children (0-5 years old) attending CCS approved child care services (2022)



Data source: Table 3A.11,SCRGSP (2023)

**FIGURE 20:** Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children aged 3 to 5 enrolled in a preschool program



Notes: These data are not comparable to previous years' data as the age range presented in the ROGS data has changed from children aged 0-5 to children aged 3-5 who are enrolled in a preschool program.  
 Data source: Table 3A.12, ROGS (2023) Section 3A Early Childhood Education and Care.

led early years services are grounded within and managed by local communities and have the unique ability to support children and families who have been marginalised by the continuing impacts of colonisation. They work with communities to make sure services provide a trusted, nurturing and culturally safe place for families and are best placed to transition children to school as ready and confident learners, proud of who they are. It is the relationships surrounding these centres that provide learning, knowledge, culture and connection every day.

Integrated services, such as Multifunctional Aboriginal Children's Services and Aboriginal Child and Family Centres, operate as hubs for Aboriginal and Torres Strait Islander families. These centres often provide a range of wraparound supports in addition to ECEC services, including allied health services (such as regular health screenings, maternal and child health checks, speech pathology and occupational therapy), family supports and referral pathways to specialist services. These services are vital for Aboriginal and Torres Strait Islander children and families and set these types of providers apart from non-Indigenous ECEC providers, as they act as an anchor point for relationship-building and to facilitate later referrals, as required.

Nationally in 2022, there were 175 Aboriginal and Torres Strait Islander-focused integrated early years services. Around 3 in 5 were Aboriginal and/or Torres Strait Islander community-controlled services (108 services) with the remainder government and/or non-Indigenous controlled services (67 services) (figure SE3b.1). Across

jurisdictions, those with the majority of services that were Aboriginal and Torres Strait Islander community-controlled were New South Wales (45 out of 47), Victoria (11 out of 11), Queensland (26 out of 40) and Western Australia (7 out of 10). The 108 community-controlled services represent an increase from the baseline year of 2016 when there were 86 services (Productivity Commission 2022b).

However, for many of these ACCOs, there is currently a significant gap between how they want to respond to the needs of children and the reality of what funding and educational programs are set up to provide. Barriers to the most effective delivery of services include:

- funding models that are insufficient and poorly targeted towards Aboriginal and Torres Strait Islander methodologies
- burdensome and complex compliance and reporting requirements
- insufficient pay scales and limited recognition of cultural skillsets
- limited ability to demonstrate impact, particularly where most indicators are Western-centric
- trauma among the cohort of children and their families, contributing to absenteeism and low retention rates
- geographic and cultural isolation
- lack of recognition for local cultural challenges impacting on service delivery
- ACCOs having a limited role in decision-making at policy and commissioning levels (SNAICC – THRYVE NSW 2022).



## Systemic barriers to affordability

System-level barriers, such as the Child Care Package and accompanying Activity Test (introduced in 2018), continue to impact negatively on Aboriginal and Torres Strait Islander children and families. With these models of funding reflecting an ECEC system that is largely set up to support working families, many Aboriginal and Torres Strait Islander children are missing out. For parents and carers who do not meet the minimum employment or study thresholds for the activity test, their children may be left without any access at all, despite evidence suggesting that children experiencing vulnerability may require up to 30 hours per week of high quality early education (Sims 2011).

Recent analysis by Impact Economics and Policy (2022) has found that Aboriginal and Torres Strait Islander families are over five times more likely than non-Indigenous children to be limited to one day of subsidised ECEC per week as a result of the Activity Test. The same report found that low-income families earning between \$50,000 and \$100,000 are over six times more likely than other families to be limited to one day of subsidised ECEC per week. Not only are children from lower socioeconomic status families receiving less care, but a higher percentage are also receiving no care at all – with many parents that do not meet the minimum threshold for the Activity Test ultimately not engaging with the ECEC system at all (Impact Economics and Policy 2022). The temporary suspension of the Activity Test during the COVID-19 pandemic demonstrated how removing the barriers created by the Activity Test can lead to higher levels of

engagement for Aboriginal and Torres Strait Islander children in early education. In alignment with the period of suspension of the Activity Test, Aboriginal and Torres Strait Islander children's ECEC participation increased by 12% in the 9 months to June 2021. An early childhood education system should be based on a commitment to give all children strong early developmental opportunities, regardless of their parents' or carers' work and study participation.

In September 2022, the newly-elected Commonwealth Government extended the hours of subsidised ECEC available to Aboriginal and Torres Strait Islander families. Under these reforms, Aboriginal and Torres Strait Islander children are able to access 36 hours of subsidised childcare per fortnight from July 2023, an increase of 12 hours per fortnight. This is a positive step; however, at least 30 hours per week of subsidised care should be provided to improve educational and life outcomes for Aboriginal and Torres Strait Islander children (in line with the evidence base). Further, removing the activity test entirely would ensure that every Australian child can benefit from a quality early childhood education, shifting ECEC from a policy directed towards parental workforce participation to one focused on the development needs of children as an investment in our nation's future.







# PART 2

## THE YEAR IN REVIEW

### 2.1 The policy context

#### National policy frameworks

##### Safe and Supported: National Framework for Protecting Australia's Children

Following agreement by the Commonwealth, state and territory governments and the Coalition of Aboriginal Peak Organisations of the first co-designed *National Agreement on Closing the Gap* (the National Agreement) in 2020, the development of the second *National Framework for Protecting Australia's Children 2021-2031* (Safe and Supported) was carried out in accordance with Closing the Gap Priority Reform One – formal partnerships and shared decision-making. Developed through a co-design process with SNAICC and a national Leadership Group of Aboriginal and Torres Strait Islander leaders, experts and statutory officers, Safe and Supported presents an opportunity for a fundamental shift in national child protection policy. It recognises Aboriginal and Torres Strait Islander peoples' right to self-determination and supports Closing the Gap Target 12 – to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031.

Shared decision-making is a cornerstone of the governance of Safe and Supported. Through a shared decision-making approach, the Framework and Action Plans have included strong commitments for Aboriginal and Torres Strait Islander children and families, an outcome that could not have otherwise been achieved.

All Safe and Supported governance bodies operate under a Partnership Agreement (to be finalised in late 2023), which is guided by the Strong Partnership and Shared Decision-Making elements in the National Agreement. Convened and chaired by SNAICC, the Leadership Group is the main Aboriginal and Torres Strait Islander oversight and shared decision-making body for Safe and Supported. The Leadership Group has equal authority to governments in decision-making for Safe and Supported.

Safe and Supported has four key focus areas:

1. A national approach to rarely intervention and targeted support for children and families experiencing vulnerability or disadvantage
2. Addressing the over-representation of Aboriginal and Torres Strait Islander children in child protection systems
3. Improving information sharing, data development and analysis
4. Strengthening the child and family sector and workforce capability

Safe and Supported establishes how all governments, Aboriginal and Torres Strait Islander leaders and the non-government sector will work together to ensure children and young people grow up safe and supported, free from harm and neglect, strengthened by culture. Aboriginal and Torres Strait Islander children and families are a priority group for Safe and Supported.

##### Aboriginal and Torres Strait Islander First Action Plan

In January 2023, the first two Action Plans for Safe and Supported were released, which provide detail as to how commitments in the Safe and Supported framework will be delivered throughout 2023 to 2026. The First Action Plan addresses the needs of all Australian children, including Aboriginal and Torres Strait Islander children. Alongside it is the Aboriginal and Torres Strait Islander First Action Plan, which focuses specifically on the needs of Aboriginal and Torres Strait Islander children, including broad structural transformation and transfer of authority to Aboriginal and Torres Strait Islander communities. This is the first time in national child protection policy that a specific Action Plan has been developed with Aboriginal and Torres Strait Islander people.

The Aboriginal and Torres Strait Islander First Action Plan includes commitments to transfer authority of child protection to Aboriginal and Torres Strait Islander communities and organisations, investment in the community-controlled sector, workforce development, data sovereignty, full implementation of the Aboriginal and Torres Strait Islander Child

Placement Principle (Child Placement Principle) and strengthened independent oversight. Progress is being made in strengthening the advocacy of Aboriginal and Torres Strait Islander Children's Commissioners, including work towards the establishment of a National Commissioner for Aboriginal and Torres Strait Islander children and young people.

## Early Childhood Care and Development Policy Partnership

The National Agreement on Closing the Gap makes provision for the establishment of policy partnerships under Priority Reform One in five areas, including early childhood care and development. In 2022 the Early Childhood Care and Development Policy Partnership (ECCDPP) was established. Co-chaired by SNAICC and the Commonwealth Government, the ECCDPP brings together multiple government agencies from each jurisdiction with Aboriginal and Torres Strait Islander peak bodies and community representatives. It targets a joined-up approach to policy areas that affect the early years of Aboriginal and Torres Strait Islander children's lives, including by driving implementation of the Early Childhood Care and Development Sector Strengthening Plan. Its Year 1 workplan for 2023 focuses on planning, including identifying priorities, efforts required to break down siloes, research on funding model options for ACCOs that deliver Early Childhood Education and Care and putting in place structures for oversight and accountability.

The ECCDPP aims to lead a nationally joined-up approach to policy reform in child safety, wellbeing, and early years development for Aboriginal and Torres Strait Islander children and their families. To deliver on this aim, the Partnership has agreed to the following six priorities for progression in its first year:

1. Commission research to develop funding model options for Aboriginal Community Controlled Organisations (ACCOs) that deliver early childhood education and care (ECEC), including integrated early years services.
2. Increasing the base entitlement to 30 hours per week of subsidised ECEC for Aboriginal and Torres Strait Islander children aged 0-5.
3. Commission research and evidence development on Aboriginal and Torres Strait Islander-led models of family support to prevent entry into out-of-home care.
4. Progress a cross-sector project to identify the collaborative efforts required to break down siloes and address social determinants of tertiary systems intervention for children and families.
5. Establish a fully empowered and legislated National Aboriginal and Torres Strait Islander Children's Commissioner.
6. Oversee and require regular reports on progress to implement the outcomes and recommendations of the Stronger ACCOs, Stronger Families review.

Over the next year, SNAICC will continue to lead and support the Partnership in delivering these priorities and developing recommendations to Joint Council that aim to improve the policy landscape and positively impact the lives of Aboriginal and Torres Strait Islander children and families.

During the establishment phase, the ECCDPP has also undertaken tangible actions to build the evidence base relating to best practice for Aboriginal and Torres Strait Islander children's participation in early childhood education and care (ECEC).

The ECCDPP has commissioned a systematic evidence review of the optimal number of hours and other considerations like quality and service availability for ECEC that create the best outcomes for Aboriginal and Torres Strait Islander children.

Another key example of where the ECCDPP has already been able to move action in policy areas that have previously been difficult to create change is in funding for ACCO ECEC services, summarised below.

### ACCO ECEC funding model project

Throughout its work as a Peak Body, SNAICC heard repeatedly from the ACCO ECEC sector that current funding approaches for ACCO ECEC services do not enable them to provide the high-quality services their communities want and need. The sector raised these concerns through consultations on the Early Childhood Care and Development Sector Strengthening Plan and the National Aboriginal and Torres Strait Islander Early Childhood Strategy, as well as through SNAICC Early Years Support network.

Funding for ECEC services is complex and crosses both Commonwealth, and state and territory responsibility. The result is a fragmented funding environment that does not support holistic and integrated early years services for children and families.

The need for a new funding model for ACCOs delivering ECEC and integrated early years services was adopted by the ECCDPP as one of its six Year 1 priorities and is being progressed through a dedicated research project. The research project will include the design of new funding model options for ACCO delivered integrated early years services.

The project was commissioned by the Department of Education on behalf of the ECCDPP, and the work is being led by SNAICC with support from Deloitte Access Economics. Being able to bring jurisdictions together in shared decision-making and agree research and policy priorities is a clear demonstration of the value of shared decision-making mechanisms such as the ECCDPP.







## 2.2 The Aboriginal and Torres Strait Islander Child Placement Principle

The Child Placement Principle was first developed in the late 1970s in response to the continued discrimination faced by Aboriginal and Torres Strait Islander children and families in child welfare systems across Australia. The Child Placement Principle contains five interrelated elements – prevention, partnership, placement, participation and connection – and is a central guiding framework for legislation, policy and practice that is oriented towards safeguarding the rights, interests and wellbeing of Aboriginal and Torres Strait Islander children and young people and their families and communities within child protection systems.

**Figure 21** describes each of the five elements.

Implementation of the Child Placement Principle remains poor across the country. Full implementation of the Child Placement Principle aligns with all four Closing the Gap Priority Reforms: committing parties to partnerships with Aboriginal and Torres Strait Islander people, building the community-controlled sector, transforming government organisations and sharing data at a regional level. Furthermore, under *Safe and Supported*, all governments have committed to “undertake reform in each jurisdiction’s next review of relevant legislation and policy, with a view to fully embedding the 5 elements of the Aboriginal and Torres Strait Islander Child Placement Principle” (DSS 2021). Governments have also committed to “promoting and enabling full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle, including identifying, implementing and reporting on active efforts across each of its 5 elements, and through legislation, policy, programs, processes and practice” (DSS 2021).

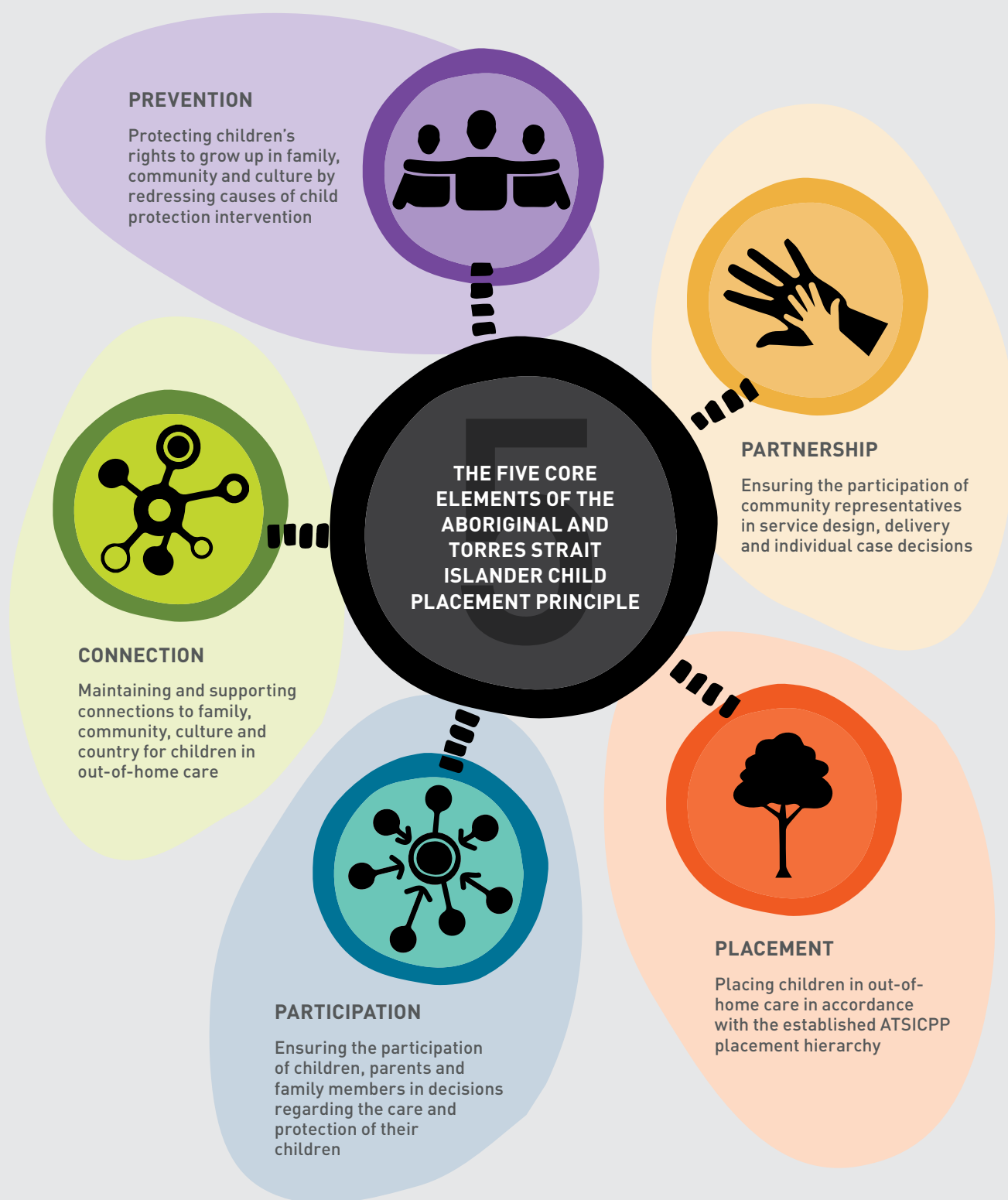
## 2.3 States and territories

State and territory governments were requested to provide information about their current strategies, actions and investments to reduce over-representation and to provide data in key gap areas relating to support and outcomes for Aboriginal and Torres Strait Islander children and their families. Data provided has been used for the quantitative analysis in Part 1 of this report, and the responses from governments on their efforts to address over-representation are provided below.

Aboriginal and Torres Strait Islander community-controlled peak bodies and organisations play a key role in calling for change and accountability in their states and territories. Accordingly, each year they are invited to comment on progress to address over-representation, including by responding to the government input described above. Commentary on progress to address over-representation was also sought from Aboriginal and Torres Strait Islander commissioners for children and young people (or similar roles) in various jurisdictions where they exist.



FIGURE 21: The five elements of the Aboriginal and Torres Strait Islander Child Placement Principle





## Australian Capital Territory

### Community Voices – Provided by Our Booris, Our Way Implementation Oversight Committee.

#### **Building Block 1. All families enjoy access to quality, culturally safe, universal and targeted services needed for Aboriginal and Torres Strait Islander children to thrive.**

The Our Booris, Our Way Implementation Oversight Committee continues to play an integral oversight role, with the Aboriginal-led committee meeting monthly. As in previous years, despite many individuals' best efforts, the ACT is still failing too many children and young people.

There are very few targeted services in the ACT for our children and families that could be described according to this building block. Mainstream services are not accessible, nor culturally safe, and families are reluctant to engage with the services they need, due to racism and mistrust.

Changes are happening too slowly and, for many community members, the changes are not visible at all. However, there has been an increase in investment in the ACCO space. This includes new services offerings in early education, family and women's services, and mental health as well as an ACCO for our children. Nevertheless, much more investment is required if our children and families are to truly meet this building block.

Within the directorate, we have seen the establishment of the First Nations Family Support Team (FNFST) at the Community Services Directorate (CSD), which has been set up to ensure new Aboriginal and Torres Strait Islander children or families notifications that come through CYPS are looked after by Aboriginal and Torres Strait Islander people in a culturally safe service. The team is led by a practice framework informed by the Child Placement Principle and use assessment tools designed by Aboriginal professionals for Aboriginal families.

Kinship carers must be recognised, valued and supported. CSD has also employed a First Nations Kinship Liaison Officer, however, there is still a huge gap in the supports needed. Again, the response to improvements in this area has been too little, too slow.

The Our Booris, Our Way Implementation Oversight Committee has been alerting the government for almost five years about Aboriginal workforce shortages. There has been little response and this is now more critical than ever to meeting all building blocks.

While there are some steps forward, it is important to highlight that many Aboriginal and Torres Strait Islander children and families who are already in

CYPS are not receiving high-quality, culturally safe care. A key reason behind this is a lack of inclusion of ACCOs in commissioning processes, as well as the commissioning of mainstream organisations that have not yet adequately transformed to be culturally safe and responsive.

#### **Building Block 2. Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children.**

Relationships between the government and our valued and longstanding ACCOs have shown little improvement. Under such conditions, Aboriginal-led decision-making about our children is not in our hands. Leaders from these organisations continue to speak strongly of a longstanding environment of systemic racism and mistrust, where they struggle to see any improved changes. In such a climate it is hard to agree that this building block is being met.

#### **Building Block 3. Law, policy and practice in child and family welfare are culturally safe and responsive.**

The ACT Government is currently progressing reforms to the Children and Young People Act 2008. At the time of writing, a second round of consultation is underway that should include comprehensive and necessary changes to the ACT to make it culturally safe and responsive. This is due to conclude in November 2023, with a commitment to legislative amendments to occur in 2024. We look forward to seeing this contribute to achieving the recommendations made by the Our Booris, Our Way review, which includes legislating the Child Placement Principle. However, there is much doubt about the ability of law, policy and practice in the ACT to meet this building block.

The Our Booris, Our Way Implementation Oversight Committee has succeeded in securing funding for legal services that are specific to care and protection matters for Aboriginal families. Currently delivered by the Aboriginal Legal Service ACT/NSW, there have been several successful cases for our families using this service. However, there is still a long way to go, as the vast majority of families are still facing a system that is nowhere near culturally safe, nor responsive.

#### **Building Block 4. Governments and services are accountable to Aboriginal and Torres Strait Islander people.**

The ACT community welcomes the recent appointment of the new Commissioner for Aboriginal and Torres Strait Islander children, with the role starting in February 2024. The Commissioner will bring legislative powers to advocate for and protect our Aboriginal and Torres Strait Islander children and young people. While we wait for the Commissioner to start, we have had an advocate working to support our children and families, who is seeing first-hand the issues our children and

families are facing up against systems that espouse change yet are not delivering on the ground.

There has been some development in data provided to the Our Booris, Our Way Implementation Oversight Committee which is assisting to drive accountability within the CSD. However, this is not apparent elsewhere. Data concerning our children and young people from other directorates is difficult to access and shows in other reporting mechanisms that the ACT is failing our children in areas such as education. There is little accountability in this area, where we no longer have an independent Aboriginal education community representative body.

There are many areas where the ACT Government can strengthen its ways of working and accountability to our people. In areas, such as education and justice, reform is needed to ensure that government is culturally safe and responsive to our needs. To achieve transformational change, we need a whole-of-government commitment to meaningful partnerships and engagement with Aboriginal and Torres Strait Islander people. At this stage, we don't have this.



## New South Wales

### Community Voices – Provided by AbSec (NSW Child, Family and Community Peak Aboriginal organisation) and Aboriginal Legal Service (ALS) (NSW/ACT) Ltd.

AbSec and ALS have continued to advocate for Aboriginal-led solutions as well as for early intervention and preventative approaches that have worked for communities. The focus is on keeping Aboriginal children connected to kin, community and culture instead of being permanently separated. Recognising the right to self-determination is a commitment made by the government. However, the efforts to implement it in principle and practice demand systemic change. There is an urgent need to shift power to Aboriginal and Torres Strait Islander communities so they can have control of the decisions that impact the lives of Aboriginal and Torres Strait Islander children and families.

#### Family is Culture

The 2019 *Family Is Culture* (FIC) Review report provides a clear roadmap for reform and identified several clear structural and practice changes required to address the 'ritualism' of child protection casework and policy that has resulted in poor outcomes for Aboriginal children and families having contact with the child protection system.

Despite being invited to sit on the Aboriginal Outcomes Taskforce in September 2022, for the purposes of monitoring the implementation of the FIC recommendations, we are yet to see a formal implementation plan or even review a single recommendation.

The focus of our advocacy work has been on legislative reforms proposed in the FIC report. We were successful in having some recommended amendments moved forward from the government's timeline of 2024 to late 2022. Still, the process was inadequate and inconsistent with the government's commitment through the National Agreement.

Following the briefest of consultation periods and a drafting process that engaged with Aboriginal stakeholders last and belatedly in late 2022, the *Children and Young Persons (Care and Protection) Amendment (Family is Culture Review) Bill 2022* passed parliament on 10 November 2022 and was assented to on 25 November 2022. This saw the introduction into New South Wales (NSW) law of the Child Placement Principle and the five elements of the principle – prevention, partnership, placement, participation and connection. It took nearly 12 months for the provisions in relation to 'Active Efforts' – a critical pillar of the legislative reforms – to be proclaimed. It appears the delay was related to efforts to develop policy and practice guidelines for implementation, however, this has not to date been undertaken in genuine partnership with Aboriginal peak bodies. DCJ has advised that interim Active Efforts policy and practice guidelines are expected soon, with updated versions to be developed in partnership with AbSec and ALS in early 2024.

We noted in the last *Family Matters Report 2022* that the legislative reform was both overdue and delayed. We have since endured piecemeal consultation as part of the second tranche of legislative reform identified by NSW Government as being the balance of the legislative reforms recommended by the FIC report.

No public progress report on FIC has been provided by the NSW Government since their report dated August 2021.

AbSec and ALS have jointly released three Community Report Cards – in November 2021, November 2022 and most recently on 20 September 2023. This reporting assesses the NSW Government's approach and highlights the need for shared decision-making. We have continued to raise awareness of the FIC report and the importance of implementing all 126 recommendations as the roadmap to reforming the child protection system in NSW.

At the same time, the Department of Communities and Justice (DCJ) has moved forward with their own reform agenda, including through the *Better Decisions for Children project*. These initiatives continue the pattern of DCJ-led reforms that do not partner with Aboriginal communities, and while they may 'consult'



with Aboriginal stakeholders, may not be responsive to their voices. For example, DCJ has publicised efforts to 'redesign' the Structured Decision-Making (SDM) tools and listed AbSec as a 'close consultant'. This is misleading. In line with FIC recommendation 56, DCJ had earlier commissioned AbSec to complete a comprehensive review of the SDM. Based on our engagement with Aboriginal communities and concerns about the role of such tools in further entrenching disparities, we reported that the use of the SDM tools should be discontinued and replaced with a new set of culturally valid assessment procedures designed through an Aboriginal-led process and, subsequently, formally withdrew from the remaining components of the review. However, DCJ has continued forward with the apparent aim of reviewing and revising the SDM tools, contrary to the views expressed by Aboriginal communities. Similarly, DCJ announced the development of Aboriginal Safeguarding Decision-Making Panels, replicating features of the Aboriginal Case Management Policy framework that has not been adequately implemented, but repositioning them within DCJ-led processes.

### **Independent Voices for Aboriginal & Torres Strait Islander Children**

In NSW, we continue to advocate for the appointment of an independent Aboriginal Child and Family Commissioner, established in legislation with statutory powers to review individual cases and systemic issues, and the ability to affect real change in the lives of Aboriginal children and families.

The Deputy Aboriginal Children's Guardian – a role held within the Office of the Children's Guardian (OCG) by Richard Weston – has remained vacant since his departure in 2022.

Prior to his leaving, the OCG released their *Special Report* under section 139(2) of the *Children's Guardian Act 2019: Family is Culture Review*. This document reported – at the request of the Minister for Families, Communities and Disability Services in 2020 – on seven priorities.

Mirroring the concerns of AbSec and ALS, the review found that DCJ's Aboriginal Case Management Policy cannot be implemented on existing resources and the plan to rollout the policy over a seven-year period has frustrated community and key stakeholders within the sector. The OCG identified four additional Strategic Priorities required to facilitate delivery of key reforms, which AbSec and ALS support:

1. Strengthen Aboriginal-led services – giving their accountability mechanisms back to community.
2. Strengthen governance and oversight.
3. Leverage Aboriginal family and community strengths – including a call for 'place-based Aboriginal cultural models' that 'could be developed through government support including growing the ACCO sector with sustainable investment'.

4. A stronger Aboriginal focus for regulation of the sector.

The recent appointment of an NSW Aboriginal Advocate by the Advocate for Children and Young People (ACYP) came as a surprise to the sector and to AbSec and ALS who were not consulted about the position. The selection process for that appointment was not transparent or public and the role and responsibilities of the NSW Aboriginal Advocate remain unclear.

There has been no movement on creating an independent Child Protection Commission as recommended in FIC or appointing an Aboriginal Commissioner for Children and Young People to build empowered, independent accountability of the child protection system. These structures can play distinct and complementary roles to the Deputy Guardian and NSW Aboriginal Advocate roles by providing system oversight and taking on functions that are key to, but remain missing from, a child protection system that is accountable to Aboriginal children, families and communities. Importantly, all these roles should be invested with their own authority to adequately focus efforts on safeguarding the rights of Aboriginal children and young people and elevating their voices.

### **Closing the Gap**

#### *Target 12 and the Families Officer Level Working Group*

The Families Officer Level Working Group (Families OLWG), which comprised members from across NSW Government and NSW Coalition of Aboriginal Peak Organisations (CAPO) was established to support the reforms in NSW under the National Agreement. The broad purpose of the group was to bring together relevant people to drive progress and develop policies and programs for the focus areas under socio-economic Target 12 which would then be endorsed by the higher levels of NSW Closing the Gap Governance (NSW Partnership Working Group and NSW Joint Council).

The Families OLWG met monthly starting June 2021, however the large number of members, predominantly from DCJ, made the environment overly formal and compromised meaningful discussions. The meetings largely focused on DCJ-centred planning and processes rather than outcomes and progress. There was a lack of specific data sharing processes and reporting systems and no accountability mechanisms for delays or failures to implement actions.

Moreover, since February 2023, in anticipation of work around the NSW state election in March, many Families OLWGs were no longer meeting and have failed to meet in the 6 months following the election. Structural reform of the Families OLWGs is needed as a priority for shared decision-making that drives action. AbSec and ALS continue to advocate with DCJ to reconfigure and reinstate the Families OLWG to progress work on initiatives around Target 12.

## The Evaluation of the Permanency Support Program

The independent and comprehensive evaluation of the major Permanency Support Program (PSP) reform project in NSW was scathing in terms of the failure of government-led initiatives – that were not designed, delivered or monitored in true partnership with ACCOs, families and community – to make a positive impact for children. The implementation processes were delayed, poorly communicated and ACCOs delivering PSP packages struggled to access information on client case management and payments through DCJ's ChildStory system.

The evaluators expressly called for the design of PSP to be 'substantially overhauled, and specific components of the reform discontinued'. Aboriginal peaks must be at the table to advise on priorities and processes for de-implementation and to ensure the recommended shift in focus from 'administrative compliance' to the 'needs, well-being and outcomes' for children.

The evaluation also highlighted that there continue to be practices across the state that do not align with the Child Placement Principle. This is an indictment on the state of affairs in the OOHC system in NSW.

Perhaps the most damning comment AbSec and ALS can make on the failure of the PSP experiment is that it comes as no surprise to us or to the ACCOs, families and communities we represent. The PSP effectively doubled down on weighting system resources to 'acute, intensive and expensive services. The evaluators acknowledge that limited resourcing to effectively intervene early has significant and unintended consequences which 'loom large for Aboriginal children and families in the context of the structural inequalities they experience, their over-representation in the system and Australian state and federal governments' role in the stolen generations'. Yet again, DCJ-led initiatives have failed to deliver the systemic and sustainable change required across a continuum of care that produces poor outcomes for children and young people.

## Out-of-Home Care (OOHC) Transition Project

The purpose of the Aboriginal OOHC Transition Project is to ensure the successful case management transfer of Aboriginal children in OOHC to ACCOs. The commitment by NSW Government for transition was made in 2012, however there have been significant delays in implementing the transition project.

Under the National Agreement initiatives, the project was re-commenced in 2022 in partnership with AbSec and the Association of Community Welfare Agencies (ACWA) with a commitment to transfer at least 300 Aboriginal children in the care of non-Aboriginal providers (from a total of 1,561 children at 31 Dec 2022) to ACCOs per year, for 3 years. However, since its inception last year, only 19 case management transfers have been undertaken due to the lack of proper scoping and resourcing to underpin success. There has been

an inadequate allocation of funds to enable ACCOs to build their capacity and meet the cost of recruiting additional caseworkers and onboarding caseworkers who transfer from other NGOs. AbSec has continued to emphasise the importance of government including, where appropriate, contracts with NGOs that contain Key Performance Indicators on transferring service delivery to an ACCO within an agreed timeframe and accountability mechanisms if agreed milestones are not met. Again, there remains a significant gap between government's rhetoric and commitments and their action and achievements.

## Working in Partnership

ALS and AbSec have formed a robust relationship in advocating for Aboriginal and Torres Strait Islander children, young people and their families for the purpose of reducing the over-representation of Aboriginal children in OOHC. The same cannot be said about the NSW Government's commitment to partnering with the peaks for the same purpose.

The NSW Government has appeared to abandon their commitments under the National Agreement and has failed to properly partner with NSW CAPO for Target 12.

Despite the invitation to sit on the Executive Working Group (EWG) with Deputy and Executive Director level representatives of DCJ, AbSec and ALS are yet to see the commitment to genuinely partner or share decision-making that NSW agreed to at a national level. EWG Meetings have often been rescheduled without notice or consultation and very few recommendations or decisions have been formally discussed or decided.

Moving into the next reporting period, we require the NSW Government to recommit to genuine shared decision-making, with complete transparency.

As peak organisations, we have cautiously welcomed the Minister's commitment to establish a Ministerial Aboriginal Partnership Group (MAP Group) to have oversight of reforming the way our child protection and care systems work with Aboriginal children and families. The commitment was made during a two-day forum focused on designing a roadmap to reform Aboriginal child safety and wellbeing. Following the forum, we have been able to negotiate some changes that we hope enable the MAP Group to drive necessary system change that recognises that improving the current system is unlikely to address the ongoing inequities and disparities it creates – system transformation is necessary. AbSec and SNAICC are now leading the process of selecting MAP Group members and AbSec will chair the MAP Group and provide its Secretariat. It is important that the work of the MAP Group aligns with and complements commitments under the National Agreement and is able to determine reform priorities and oversee their implementation, in a way that is transparent and accountable to the Aboriginal children and young

people, families and communities we serve. It is important that the MAP Group showcases how policy development processes that are informed by, and anchored in, communities are true to Priority Reforms 1, 2 and 3 and are more responsive to community needs and aspirations than DCJ-led processes can ever be.

In considering this forward-facing roadmap to transform child and family systems in the interest of Aboriginal children, we again reiterate the central role of self-determination, described in the FIC report by Professor Megan Davis (2019) as follows:

*The right to self-determination is not about the state working with our people, in partnership. It is about finding agreed ways that Aboriginal people and their communities can have control over their own lives and have a collective say in the future well-being of their children and young people.*

While the central point of this observation remains a lynchpin of our advocacy, efforts must build government understanding of the significant transformations of systems, policies and practice, including through the Priority Reforms, that are necessary for Aboriginal children, families and communities in NSW are able to secure control over their own futures and to thrive.

### **Aboriginal Advocate, Office of the Advocate for Children and Young People – Shannon Thorne**

As a proud Aboriginal man deeply invested in the wellbeing of our communities, I reflect upon the progress and challenges outlined in the Family Matters Report 2023 – a critical roadmap for creating a brighter future for Aboriginal and Torres Strait Islander children. The four foundational building

blocks outlined in the report offer a lens and an important accountability mechanism through which we can assess the strides made and the barriers still to be overcome, like the ongoing over-representation of Aboriginal children in the NSW child protection system due to systemic challenges and structural harms. We need to move to promising initiatives that guide our people forward.

One heartening success is the gradual but significant improvement in ensuring that all families gain access to high-quality, culturally safe, universal and targeted services essential for our children's growth. This progress speaks to the dedication of organisations working tirelessly to bridge gaps in healthcare, education and social support. Yet, we cannot ignore the challenge of geographical differences hindering equitable access for families in remote areas. Continued efforts to reach these communities are vital to ensure no child is left behind.

Participation and decision-making power are central to our collective journey and the growing involvement

of Aboriginal and Torres Strait Islander people and organisations in shaping policies affecting our children is a victory worth celebrating. The rise of community-led initiatives empowers us to define our destiny, shifting away from the top-down approach of the past. However, the challenge lies in navigating a complex landscape where our voices are often diluted or sidelined. The path forward involves strengthening mechanisms that amplify our input and enable genuine partnerships with decision-makers.

Cultural safety and responsiveness, the third building block, are cornerstones for a system that truly honours our identities. The strides in embedding cultural awareness within child and family welfare policies mark a significant advancement. Yet, the challenge persists in transforming rhetoric into systemic change. Achieving cultural safety requires ongoing training, self-awareness and challenging ingrained biases. Promising initiatives include collaborative efforts between institutions, Elders, community and children and young people to ensure that cultural protocols are woven into practice, ensuring that every interaction reflects the richness of our heritage.

Accountability, the fourth building block, is the compass guiding our collective efforts. The growing recognition that government and services aligned with Aboriginal and Torres Strait Islander people is a success. However, the challenge lies in creating mechanisms that foster true accountability, holding decision-makers responsible for their commitments. Promising initiatives include community-led monitoring frameworks that track progress, ensuring that promises translate into tangible improvements on the ground.

In summary, this report is not just a document but a testimony to the resilience and strength of our communities. As a proud Aboriginal man, I see the successes as rays of hope, the challenges as opportunities for growth and the promising initiatives as beacons lighting our path ahead. We are more than statistics; we are families with stories, cultures and aspirations that deserve recognition and respect. The journey towards a brighter future for our children requires collective effort, unwavering determination and a commitment to the principles enshrined in these building blocks. By recognising and addressing the challenges, celebrating the successes and harnessing the power of promising initiatives, we can truly create a world where every Aboriginal and Torres Strait Islander child thrives.

### **Government input – provided by the Department of Communities and Justice (DCJ)**

In the Family Matters reporting period (2021-2022) the rate of Aboriginal children in OOHC per 1,000 population aged 0-17 years improved since the previous year, over the year to June 2022. This reduction is due to the number of Aboriginal children in OOHC at 30 June 2022

(6,661) being 1.4% below 30 June 2019 (6,754) while the estimated population of Aboriginal children increased from around 112,200 to 114,800. Despite the reduction, this number is still higher than the trajectory to Target 12 of Closing the Gap of 6,077 children. As of December 2022, the proportion of Aboriginal children in OOHHC has remained relatively stable at 43.9 per cent.

Recent changes to the *Care Act* through the Family Is Culture legislative reforms that have strengthened the legal requirement to apply the five elements of the Child Placement Principle are being used to drive practice improvement and accountability when making decisions involving Aboriginal children.

The Children and Young Persons (Care and Protection) Amendment (Family Is Culture) Act 2022 inserts a new section 12A into the *Children and Young Persons (Care and Protection) Act 1998*, embedding the five elements of the Child Placement Principle, published by SNAICC. Section 12A refers to the Child Placement Principle as the 'Aboriginal and Torres Strait Islander Children and Young Persons Principle' to avoid confusion with other principles already included within the *Care Act*.

The following summarises DCJ's effort across its programs and policy and operations areas to embed the elements of prevention, partnership, placement, participation and connection:

**Prevention:** The NSW Government provided DCJ and NSW Health additional \$38.6 million over 4 years through *Brighter Beginnings* funding to expand Pregnancy Family Conferencing (PFC) across the state as an investment in prevention and participation initiatives.

An additional \$98.7 million to establish six new Aboriginal Child and Family Centres (ACFCs) and expand the services of the existing nine centres has been allocated in the 2022 Budget. The ACFCs provide vital early intervention services to Aboriginal children and families to help keep families together.

DCJ is funding several pilots in the Targeted Early Intervention space that focus on prevention for Aboriginal and Torres Strait families through programs like Family Connect and Support (FCS). The FCS program is voluntary and assists families to connect to the right supports including parenting, financial, housing and homelessness, health and mental health and domestic and family violence before their concerns escalate.

**Partnership:** DCJ and AbSec developed the Aboriginal Case Management Policy in partnership to ensure that casework practice enables families and communities to participate in child protection processes through Aboriginal family-led decision-making. Fully implementing the policy is a key initiative of the *NSW Closing the Gap Implementation Plan* to fulfil the National Agreement.

AbSec has also been funded to deliver the following programs:

- through the DCJ Closing the Gap Initiatives, to deliver *Strong Families, Our Way* to partner with community, government and non-government stakeholders to identify opportunities to expand self-determination in the child and family system, for example through capacity building activities and service model design
- *Aboriginal-led Commissioning initiative*
- through the *DCJ State Peaks Program* and will undertake a range of activities across three core service streams: strategic leadership and research; systemic policy, engagement, advice and advocacy; and capability building.

DCJ has partnered with *Legal Assistance for Families Partnership Agreement* (LAFPA) which is a collaborative partnership between Legal Aid, the Aboriginal Legal Service (ALS) and DCJ. LAFPA is based on an understanding that keeping children safe at home can be assisted through timely and early legal support for families and supports FIC legislative reforms.

**Placement:** The placement element is embedded by the FGC program and family-led meetings in Cultural Hubs across the District.

Aboriginal consultation is mandated at key points in casework to support the placement element in practice. Cultural caseworkers connect families with targeted service provision and referrals to agencies to develop a plan for provision of intensive intervention supports. This includes designated referral pathway for FGC, intensive services and consultations. DCJ ensures the work is family-led and alternative interventions to long-term placement such as Parental Responsibility Contracts, Parenting Capacity Orders and Temporary Care Agreements are considered prior to more intrusive options where appropriate.

Aboriginal Practice Panels are convened across most district teams. The panels are designed to ensure higher-order Child Placement Principle options are being considered. These children are then reviewed at the next meeting with feedback from the caseworkers about how the recommendations have been implemented.

Entry into care meetings is held periodically in some locations as an accountability mechanism. These panels are held prior to a child or young person entering care to look at best practice, active efforts and the Child Placement Principle. These meetings are attended with the director, casework team, Aboriginal consultants from the Cultural hub and Aboriginal permanency coordinator.

**Participation:** DCJ funded the ALS (NSW/ACT) to establish the Aboriginal Child and Family Advocacy Support (ACFAS) Service as a Closing the Gap initiative. ALS commenced establishing the statewide phone service in November 2022 and face-to-face services in two high-needs locations to provide legal and non-legal advocacy to families at risk of having their children



removed through holistic early assistance. The primary aim of this service is to keep Aboriginal families safe and together and prevent removals of children into OOHC and escalation into the Children's Court where possible.

Safeguarding Decision-Making Panels for Aboriginal children discussion panel are being established by DCJ to provide an opportunity for internal Aboriginal and specialist consultation to ensure that decisions about Aboriginal children are culturally informed and meet statutory requirements.

Strong Families, Our Way supports the establishment of sustainable, community-led structures of self-determination that participate in Aboriginal-led decision-making and the oversight of child and family system processes, design and practices in NSW.

**Connection:** Aboriginal Cultural Support Teams (Cultural Hubs) have been established to build DCJ's capacity to provide expert Aboriginal practice consultation. The teams are focused on cultural support during critical points of casework or to support casework where there is increased complexity.

Cultural Hubs also assist carers, Aboriginal children and young people connect with culture and their familial connections. Cultural Hubs cover a range of topics such as cultural planning, cultural activities, community events and parenting challenges.

DCJ is reviewing the cases of Aboriginal children and young people currently in DCJ care who have a case plan goal of restoration to fast track permanency outcomes in line with the Child Placement Principle. The review was completed with a culturally considered template designed for the review.



**Northern Territory**

**Community Voices – Coordinated by  
Aboriginal Peak Organisations  
Northern Territory (APO NT)**

**Building Block 1 - Quality and culturally safe  
universal and targeted services.**

*"Black money with Black people – It's time to give back and reinvest after many years and no accountability."*<sup>1</sup>

Governments and mainstream NGOs have had the lead on service delivery for a long time and the monetisation of Aboriginal people as an industry needs to stop.

In 2021-22, over \$223 million was invested into child and family services and, despite the continued over-representation of Aboriginal children in OOHC and youth prisons, only 7% went to ACCOs.

ACCOs provide the best support for Aboriginal families, and ACCO-led family support services have seen an increase in self-referrals from families when challenges first arise. The same services report referrals from Department of Territory Families, Housing and Communities (the Department) remain low and families often sit with open child protection cases, receiving limited support.

The sector calls for needs based funding for ACCOs to provide early intervention and prevention services and transparency from the Northern Territory Government on *10-Year Generational Strategy*, Safe and Supported and National Agreement on Closing the Gap: Priority Reform 2, to build the ACCO sector and transfer services to community-control.

**Building Block 2 – Participation, control and Self-Determination.**

*"There should be no discussion about family, without family."*<sup>2</sup>

The NT Government's unmet commitment to establish independent models of AFLDM must be urgently addressed.

The sector strongly rejects the Department's view that the Signs of Safety (SOS) framework is AFLDM; SOS reinforces unequal power dynamics between the Department and families, does not create a culturally safe space for families to lead decision-making and does not provide for an independent facilitator to support families through the process.

We heard success for families occurs when the Department forms strong local partnerships with ACCOs and empowers them to lead work with families. Unfortunately, these partnerships are based largely on individuals within the Department showing initiative rather than signs of broader systemic reform.

The Department must listen to Aboriginal people and ACCOs – the system is not working, and Aboriginal people must be empowered to lead the change. With the upcoming release of the *1st Action Plan for the 10-Year Generational Strategy*, the sector welcomes details on how the transfer of authority in child protection to ACCOs will be resourced and undertaken.

1. Darwin participant  
2. Darwin participant  
3. Katherine participant

### Building Block 3 – Culturally safe and responsive systems.

*“They can call it welfare, child protection, Territory Families... but if they don’t follow the child placement principles it is just stealing children.”<sup>3</sup>*

In the Northern Territory (NT), 64% of Aboriginal children in care are not placed in accordance with the Child Placement Principle – this statistic is getting worse and there is no accountability for the Department’s non-compliance with their own legislation.

The best way to improve adherence to the Child Placement Principle is through strong partnerships between the Department and ACCOs and resourcing ACCOs to do the work. Genuine partnerships matter because they create an environment in which Aboriginal people and communities achieve self-determination.

Services highlighted that reunification policies and procedures are setting families up to fail as the supports put in place for children in care often don’t follow when they are reunited with family. The Department’s responsibilities to the children they remove should not end once reunification occurs and supports must continue until families find stability and locally available alternatives are in place. This is particularly important for children removed from remote communities and homelands and placed in urban centres, as the supports available in town are often prohibitively expensive or not available in remote communities.

Access to suitable and safe housing continues to be the area of most critical need for vulnerable families. Family support services have limited reach if housing needs are not met – vulnerable families need access to a spectrum of housing and accommodation options including supported accommodation, hostels and emergency accommodation. Services noted that lack of housing is often the direct causal factor for risk of contact with the child protection system.

Additional concerns relate to the limited support for parents to navigate the legal system and the low number of referrals from the Department to Aboriginal legal services. The sector strongly advocates for the establishment of a notification system for children entering care so a suitable Aboriginal legal service can connect and ensure the family is offered culturally appropriate legal support.

### Building block 4 – Accountability

It is positive that the overall number of Aboriginal children in care has decreased, however, further analysis of this data is needed to understand how current practices support improved outcomes. The number of substantiated child protection reports is

rising, and consultations suggest increased use of Temporary Protection Orders (TPO) and informal family way placements. The Department must acknowledge that children on TPOs are still removed from their families and communities and the number of TPOs should be counted in the overall OOHC statistics.

While in many cases, preventing children from entering OOHC care is the preferred outcome, noting the level of risk present in some regions, services expressed concern regarding the rigour of assessments, lack of transparency and the types of supports informal carers receive, given the Department argues a formal order is needed to provide financial support.

APC NT has continued to work in good faith with the NT Government and Australian Government on the 1st Action Plan for the 10-Year Generational Strategy and believe that if fully implemented it will lay strong foundations to reform the system. However, we remain concerned about the significant delays and the absence of resourcing for implementation and question the government partners commitment.

To increase accountability and drive reform, ACCOs advocate for:

- adequate funding to implement the 1st Action Plan for the 10-Year Generational Strategy
- immediate funding to establish an independent Aboriginal Children and Families Peak Body
- the establishment of an NT Aboriginal Children’s Commissioner.

### Acting Children’s Commissioner – Nicole Hucks

It is positive that a number of ACCOs have been engaged to deliver support to Aboriginal children and families and that child and family centres continue to be opened across the NT in partnership with ACCOs.

There are also positive community level examples of shared responsibility approaches, however there continues to be no strategy to transfer child protection decision-making to a delegated Aboriginal authority, which is fundamental to transforming service delivery and addressing over-representation of Aboriginal children in child protection.

A continued commitment to transition services out of the statutory child protection agency to ACCOs is imperative and should be supported by the Australian Government to ensure that funding streams such as the Remote Aboriginal Investment National Partnership extend beyond 2023-24.

While several ACCOs have been resourced to identify, contribute to assessments and support Aboriginal carers, the NT Government retains decision-making authority.

In 2021-22 over \$223 million was invested into NT children and family services. Only 7% of this was allocated to ACCOs. Given the significant majority of children involved in these systems are Aboriginal children - the Office of the Children's Commissioner (OCC) seeks a clear commitment and formal strategy to achieve equitable investment in ACCOs.

There has been a small positive decline in the overall number of children in OOHC, however at 30 June 2022 91% of children in OOHC in the Territory were Aboriginal. 61% of these children were not placed in accordance with the Child Placement Principle, and only 34% of Aboriginal children were placed with Aboriginal carers. The placement principles are embedded in the *Care and Protection of Children Act (2007)*, it is unclear how recent legislative reform will have a practical difference for Aboriginal children and families.

The OCC continues to call for the implementation of AFLDM to enable families to not only lead but to have authority in making significant decisions regarding their children's lives.

The NT Government's roadmap for OOHC reform *Transforming Out-of-home Care in the Northern Territory* focused on 'delivering a system that prioritises and increases Aboriginal family and kin and foster carers' and phasing out purchased home based care by December 2021. In 2021-22 purchased home based care increased for a fourth consecutive year while foster care and kinship care placements decreased. The 2023-24 NT Government Budget allocation for purchased home based care is \$34.9 million compared to \$4.1 million for kinship care services and \$8.3 million for foster care services.

The *UN Convention on the Rights of the Child* stipulates all children have the right to be connected to their family, language and culture as they grow up.

However, at 30 June 2022, 56% of Aboriginal children in OOHC in the NT did not have a current cultural support plan. The NT has the poorest performance in the country for this indicator, with no improvement since the data was first recorded in 2017.

To increase Child Placement Principle compliance, reduce Aboriginal over-representation and improve outcomes for Aboriginal children in the NT OOHC system, the existing power imbalances must be addressed.

### **Government input – provided by the Department of Territory Families, Housing and Communities (the Department)**

In the NT, the Department remains committed to transforming the way we work with Aboriginal families and communities to support better outcomes across all life domains and to reach the Family Matters' goal to address the over-representation of Aboriginal children in OOHC by 2040.

In 2021, the Department invested \$5.7 million in Family Support services in partnership with Aboriginal organisations across the NT. Families can access these services without an open case with the Department, thereby providing an important prevention service to stop children coming into contact with child protection. In 2021-22, 10 Aboriginal organisations were engaged to provide family support services either independently or in partnership with another non-government organisation. In 2022-23, a further two Aboriginal organisations have been engaged in the program.

The Department has made significant advancements in supporting culturally competent service delivery and has increased its service delivery partnerships with Aboriginal organisations from less than \$1 million in 2016 to more than \$15 million in 2021.

Partnerships and connections have been strengthened at all levels with the Department, from national partnership steering groups to regional coordination. In 2021, Multi Agency Community Child Safety Framework was reviewed in partnership with Aboriginal peak organisations. This resulted in the establishment of the Child Wellbeing and Safety Partnership Framework, which was embedded in legislation in March 2023. The framework brings together community members with cultural authority, locally based representatives of government agencies, NGOs and Aboriginal organisations to identify issues, create action plans to address the safety needs of the child, family and community, and carry out actions together.

For the fourth consecutive year, the number of Aboriginal and Torres Strait Islander children in OOHC in the NT has reduced. In 2021-22, the total number of children in OOHC was 790. The NT has one of the lowest rates of representation of Aboriginal and Torres Strait Islander children in OOHC at 31.1 per 1,000 children compared to the national average of 56.8. The number of children admitted to OOHC each year has also reduced year from 241 in 2018-19 to 196 in 2021-22.

When children do enter care, the Department is committed to placing Aboriginal children according to the Child Placement Principle and prioritising reunification. In 2021-22, 123 children were reunified with family. We work closely with our Aboriginal Carer Services Providers who have the community connections and knowledge to provide culturally respectful, place-based services.

Through the *Signs of Safety* practice framework, we work transparently with families to clearly name our concerns and co-design plans to increase safety for children, maintain connection to culture and family. Signs of Safety is underpinned by the Department's Aboriginal practice leadership framework, providing a strong focus on cultural security and AFLDM.

The Aboriginal Cultural Security Advisory Committee was established in 2019 to bring an Aboriginal perspective to the strategic direction and objectives of the Department and to guide and monitor the

implementation of key reforms. This has been further enhanced through the appointed and Elder in Residence position in 2021, to oversee the implementation of cultural security across the Department.



## Queensland

### Community Voices – Provided by the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP)

There is much to be positive about in Queensland in the reform being led by the Department of Child Safety, Seniors and Disability Services (Child Safety) in partnership with QATSICPP, Family Matters and the Queensland First Children and Families Board. The *Our Way Strategy (2017-2037)*, the generation plan to eliminate the disproportionate representation of Aboriginal and Torres Strait Islander children in the child protection system by 2037, is commencing its next phase entitled *Breaking Cycles*.

To prepare the *first Breaking Cycles Action Plan*, QATSICPP, Family Matters Leaders and Child Safety worked to ensure that there was increased local ownership. To achieve this, QATSICPP and Family Matters Queensland (FMQ) partnered with Aboriginal and Torres Strait Islander community-controlled organisations (ATSICCO) across the state to identify local community needs, aspirations and priorities.

This collaboration ensured that over 950 community voices were heard. This has ensured the strength of our Aboriginal and Torres Strait Islander leadership has shaped this important next phase in eliminating the over-representation of Aboriginal and Torres Strait Islander children in the child protection system. Embedded in the eight action areas of the first *Breaking Cycles Action Plan* are increased shared accountability through clear deliverables, timeframes and success indicators for each action.

While first *Breaking Cycles Action Plan* includes key actions from other government departments including Health, Education and Housing, we continue to seek increased engagement of these departments to work collaboratively with us on the transformative change required to ensure that the drivers of Aboriginal and Torres Strait Islander children into the child protection system are addressed fully.

This year, we also welcomed Child Safety's decision to end use of its Structured Decision-Making Tool that we have long had concerns over how it increased our families' contact with the child protection system. Alongside this, we also welcomed the new legislation that requires Child Safety staff to implement the Child Placement Principle to the level of active efforts.

However, we continue to hold concern about the quality of measures put in place to guide statutory Child Safety practitioners to support their ability to ensure that the voice of Aboriginal and Torres Strait Islander families and community organisations are consulted and included in decision-making about their children as means to ensure culturally strong practice.

We welcomed and acknowledged the work of the Child Safety in achieving the substantial investment of over \$100 million. The Queensland Government has announced to roll out Delegated Authority across Queensland, including the important role that this will play in ensuring the voice of Aboriginal and Torres Strait Islander people and families in decisions about their children.

Currently, there are a range of reforms underway which seek to broadly achieve the following commitments from government:

- reduce the number of children in residential care
- increase the number of children with kin
- transition of funds from mainstream organisations to ATSICCOs.

While the investment in ATSICCO-led early intervention services is improving, the needs of Aboriginal and Torres Strait Islander children and families are outpacing the investment year-on-year. Intensive Family Services program funding in 2022 is 24.7% (down from 24.9% in 2021). Family Support program funding is only 16.2% of overall funding in early intervention by Child Safety. Family wellbeing services have proven effective with the recent evaluation, demonstrating 90% of families who meet their goals don't have contact with Child Safety again in the next six months. We know that if Aboriginal and Torres Strait Islander people are given the resources to support our children and families, we can reduce statutory intervention in our families' lives and drive better life outcomes for our children and families. We look forward to continuing to work with Child Safety in growing the early intervention funds to enable us to do this effectively.

Of great concern to us this year has been the number of Aboriginal and Torres Strait Islander children who are now residing in residential care, with 47% of all children in residential care placement being Aboriginal and Torres Strait Islander (772). Of further concern is that Aboriginal and Torres Strait Islander kinship placement numbers are dwarfed by residential care placements and non-Indigenous or non-relative care placement options, at 37.7% of all placements in the 2021-22 year.

We are concerned that large numbers of Aboriginal and Torres Strait Islander children are being placed in temporary accommodation with unlicensed providers, which is not acceptable to us. We acknowledge the announcement of the recent review into residential care in Queensland and look forward to working with the Minister for Child Safety and Child Safety leadership on



reimagining the residential care system to reverse these trends of reliance on commercial care services and see greater investment in our models, including *Family Caring for Family*.

## Commissioner, Queensland Family and Child Commission – Natalie Lewis

The Queensland Family and Child Commission (QFCC) is committed to providing oversight of the systemic and structural issues disproportionately affecting First Nations children in Queensland. The Commissioner has a responsibility to keeping children's rights and best interests at the forefront of government policy to ensure children are safe and connected to culture and kin.

Last year, the *Queensland Family and Child Commission Strategic Plan 2022–2026* was launched which explicitly made commitment to First Nations children and their families and to advancing the rights of children. To bring this commitment to life, the First Nations and Child Rights Advocacy Team was established, providing dedicated leadership to promote and protect the rights, wellbeing and best interests of Aboriginal and Torres Strait Islander children, young people and families. Their work has been comprehensive, proactive and spans from community-led activities to playing a significant leadership role in reform agendas. This included influencing the *Safe and Supported Aboriginal and Torres Strait Islander First Action Plan 2023–2026* and input into and alignment of this work to the actions required of governments to achieve Closing the Gap Priority Reforms.

The Queensland Government is transforming the way in which it works with First Nations peoples and communities, through the *Path to Treaty Act 2023* and amendments to the *Public Sector Act 2022*. It is critical that investment is prioritised towards addressing the inequity experienced by First Nations children, young people and their families through stronger genuine partnerships built on the right to self-determination.

The QFCC continues to monitor and report on the over-representation of Aboriginal and Torres Strait Islander children in the child protection system by publishing state and regional snapshots. As part of our commitment to truth-telling, the Commissioner released the *First Nations Children's Report*. The online report showcases the stories of First Nations children and families who are thriving despite the challenges of structural racism and the impacts of colonialism. It provides a platform to showcase the stories of strong and resilient First Nations people in their own words and presents a perspective that is not often shown.

In August 2023, the Commissioner released the first Queensland Child Rights Report, exploring child rights issues observed in the QFCC's statutory role. It establishes a way for measuring the broad spectrum of children's rights, with an emphasis on the issues most relevant for children and young people in

Queensland. The report calls for the implementation of a comprehensive Children's Plan in Queensland, which would coordinate strategies and actions across government to better protect, promote and uphold children's rights.

There is increasing recognition across state and territory governments for the importance of dedicated commissioners to provide proactive promotion of and accountability for the protection of the rights of Aboriginal and Torres Strait Islander children across Australia and across portfolios. Establishing and empowering a Queensland Commissioner for First Nations children and young people will increase the impact of our work overseeing systems to promote and protect the rights, development, wellbeing and best interests of Aboriginal and Torres Strait Islander children, young people and families. In response to the review of the *Family and Child Commission Act 2014*, the QFCC suggested amendments to establish a dedicated, independent and appropriately empowered and resourced Commissioner for Aboriginal and Torres Strait Islander children and young people.

## Government input – provided by the Department of Child Safety, Seniors and Disability Services

The Queensland Government, in partnership with FMQ and the Queensland First Children and Families Board, continue to implement *Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017–2037* (Our Way) and its supporting action plans to eliminate the disproportionate representation of Aboriginal and Torres Strait Islander children in child protection in Queensland by 2037.

Our Way is the primary platform through which the Queensland Government meets its commitments and targets under the National Agreement and Safe and Supported and its Aboriginal and Torres Strait Islander First Action Plan 2023–2026.

Our Way represents a fundamental shift in how child protection, family support and other services work with and for Aboriginal and Torres Strait Islander children and families. This new way of working acknowledges the importance of connection to family and culture and the safety and wellbeing of Aboriginal and Torres Strait Islander children is better supported by the organisations which understand their needs and aspirations best.

Total investment in addressing over-representation across 11 years from 2016–17 to 2026–27 is estimated to be \$775.22 million. The 2023–24 Budget includes \$167.2 million over four years and \$20 million in ongoing funding from 2027–28 for activities and reforms to reduce over-representation.

Child Safety's current priorities planned or underway through Our Way include:

- continued focus on prevention and early intervention to mitigate the risk of Aboriginal and Torres Strait Islander children and families entering the child protection system
- enhancements to Aboriginal and Torres Strait Islander Family Wellbeing Services and the Family Participation Program to meet current and future demand for these services by Aboriginal and Torres Strait Islander children and families
- growing investment in ATSICCOs to deliver culturally safe and responsive child and family support services
- the transition of all child and family support services to Aboriginal and Torres Strait Islander children and young people to ATSICCOs by 2032
- development and trial in partnership with QATSICPP of a new family and relative care model, Family Caring for Family, to maximise the number of Aboriginal and Torres Strait Islander children and young people living with family and kin, connected to community and culture
- the statewide implementation of Delegated Authority through the implementation of *Reclaiming our storyline: Transforming systems and practice by making-decision in our way*.

Through Our Way, the Queensland Government is committed to working in partnership with QATSICPP and ATSICCOs to:

- increase the proportion of children and young people cared for by kin (Target 1)
- reduce the proportion of children and young people in residential care (Target 2)
- transition all child and family support services for Aboriginal and Torres Strait Islander children and young people to ATSICCOs within 10 years (Target 3).



## South Australia

### Community Voices – Contributions from Aboriginal Family Support Services (AFSS) and Kura Yerlo Incorporated, compiled by SNAICC

The Government of South Australia's increase in FGC and Intensive Family Support (IFS) is welcomed. However, funding for these services remains critically low and often goes to non-Indigenous service providers rather than ACCOs. While the government has introduced measures to improve the implementation of the Child Placement Principle, there is still a general failure to take active efforts toward compliance across all five elements in a manner that is consistent with the National Agreement and Safe and Supported.

There has been improvement in the way that the SA Government listens to the needs of ACCOs at a high level. Despite this, Aboriginal people are still not being included in the planning processes to determine the details of service design and delivery. Programs continue to be governed by westernised frameworks and then imposed on ACCOs after design has been finalised. The lack of genuine involvement of ACCOs in service design means that programs are unsuitable for the needs of Aboriginal children and families. As a result, our families face escalation of risk factors that could be addressed through timely access to culturally appropriate services. We are seeing the impact of this at all stages of the child protection system.

Further, the SA Government continues to fail to genuinely enable Aboriginal people to lead the development of funding guidelines. As a result, ACCOs face disproportionate under-resourcing across the state. For example, Department of Child Protection's (DCP) funding criteria for delivering FGC required a successful organisation to have capacity to roll out services across the state. This criterion restricted even the largest ACCOs in SA from applying, demonstrating the systemic barriers our ACCOs face in delivering locally led services for their communities.

We welcome the approach taken by the Department of Health Services (DHS) to quarantine funding for ACCOs to deliver services for Aboriginal families. Yet, this initiative is limited to the DHS and the total funding remains disproportionate to the number of Aboriginal children in state care. Across government, ACCOs continue to be required to engage in competitive tender processes to provide services and, in cases, have needed to reduce their service footprint as a response to a lack of guaranteed long-term funding. ACCOs require certainty and sustainability through funding models that move away from fee-for-service and instead enable long-term investment in organisational development, recruitment, training and infrastructure.

Increased Aboriginal leadership within government agencies is critical to improving the cultural responsiveness of government. However, it is not a substitute for community self-determination in service and funding design and it raises questions as to the cultural load being taken on by Aboriginal staff in DCP.

We require independent mechanisms of accountability that are external to government and able to ensure that government agencies are truly listening to the needs of our children and families. Our community organisations must be empowered to lead decision-making and entrusted to access timely, relevant data to do so in accordance with the principles of data sovereignty. As stated by one of our ACCO stakeholders here in South Australia (SA) "...change will only happen at the speed of trust."

The SA community look forward to working with the government in the development of the new SA Peak Body for Aboriginal Children and Families and the final

stages of the review of the *Children and Young People (Safety) Act*, which will be in place to improve outcomes for Aboriginal children and families and reduce the over-representation of our children in OOHc.

## Commissioner for Aboriginal Children and Young People – April Lawrie

South Australia commenced this reporting period well-positioned to create transformative reform in the child protection system.

On 30 June 2022, I commenced my Inquiry into the application of the Child Placement Principle in the removal and placement of Aboriginal children in SA. At the time of writing, I am nearing the completion of the Inquiry with the view to make strong recommendations on what needs to change to reduce to the shameful over-representation of Aboriginal children in the child protection system.

Since the *Nyland Royal Commission* in 2016, the SA Government has completed several reviews, inquiries and reports examining the system repeatedly, including:

- *Trust in Culture*, the external review of all coronial and other recommendations relating to child protection in SA, led by Ms Kate Alexander
- the review into the multiple government agencies involved with the families following the tragic deaths of six-year-old Charlie and seven-year-old Makai, led by former SA Police Commissioner Mr Malcolm Hyde AO
- the Independent Inquiry into Foster and Kinship Care, led by Dr Fiona Arney.

The central mechanism for transformative reform has been presented by the SA Government's mandatory statutory review of the *Children and Young People (Safety) Act 2017* (CYPS Act) and its stated intention to make consequential amendments to the CYPS Act. This provides a landmark opportunity to transform the system by prioritising self-determination and strengthening the Child Placement Principle in full to the standards of active efforts.

In February 2023, the SA Government released its *CYPS Act Review* report, and I stand by my previous comments regarding the Government's failure to provide adequate opportunities for the Aboriginal community's input into the legislative review. The consultation process was rushed and lacked promotion and partnerships to capture the voices of Aboriginal communities and stakeholders regarding Aboriginal children. As a result, I believe the report and findings do not go far enough and I hold concerns for the proposed amendments to the CYPS Act that may follow.

In my submission to the review, I emphasised that for the CYPS Act to have any meaningful impact of reducing the rates of removal, it must put Aboriginal children and their families and communities at the centre of

decision-making. Self-determination is critical and this can only be achieved by inserting a structured AFLDM process into the CYPS Act. More specifically, mandatory, structured and culturally safe Aboriginal FGC that reaches into the child's family and community and puts them at the helm of decision-making. Although the CYPS Act Review report highlights the need for AFLDM and FGC, it does not make a commitment to embedding this as mandatory, which is likely to further perpetuate the status quo of families being kept out of the decision-making process.

The CYPS Act Review report does not demonstrate any commitment to embedding a structured, appropriately resourced and culturally safe early intervention mechanism in the CYPS Act which, when considered alongside the SA Government's continued low levels of investment in early intervention, will continue to channel vulnerable families into the child protection system. I remain concerned that intergenerational issues of poverty and systemic disadvantage continue to be misrepresented as child protection issues, which are at risk of being further perpetuated following the Hyde Review's recommendations regarding squalor in the context of child protection.

The CYPS Act Review report states that I will be closely consulted on any further amendments to the CYPS Act, however, to date, this has not yet been the case.

Although the SA Government remains committed to the National Agreement, I have still not been involved with respect to the implementation of Target 12, which seems vital as the Commissioner for Aboriginal Children and Young People. The numbers continue to increase, with Aboriginal children accounting for 37% (1,756) of all children in OOHc as of 30 June 2022 (4,740). According to the DCP Annual Report, of the 94 additional children to enter OOHc between June 2021 to June 2022, 81 (86%) were Aboriginal.

DCP continues to report a high proportion of Aboriginal children with a completed and implemented cultural support plan (92% at 30 June 2022), however it still remains impossible to assess the quality and implementation of those plans due to the ongoing noncompliance with the obligation to report data under s156(1)(a)(ii) and s156(1)(a)(iii) of the CYPS Act. In the absence of this reporting data, I remain concerned as to how cultural support is truly incorporated into the lives of Aboriginal children in care.

I also remain concerned that national reporting on compliance with the Child Placement Principle continues to record compliance as including the placement of an Aboriginal child or young person in a family or kin placement regardless of whether the kinship carer is Aboriginal. The number of Aboriginal children who are placed with non-Aboriginal family or kin continues to rise and I, and many others, have called the disaggregation of this data to ensure accuracy and appropriate monitoring of the application of the Child Placement Principle. This is consistent with the SA

Government's commitment to implementing the Closing the Gap Priority Reform 4, honouring data sovereignty for Aboriginal people.

The SA Government's funding commitments to reduce the over-representation of Aboriginal children in care — \$13.4 million to expand and deepen the successful FGC program and \$3.2 million to establish an independent Aboriginal community-controlled Peak Body for Aboriginal children and young people — are promising.

I've publicly stated that this peak body is well overdue and is absolutely necessary to bring in the community voice and leadership, which, for a long time, has been marginalised. I firmly believe that the voice and advocacy of the peak body can transform the way in which policy and service development will look for Aboriginal children and young people. Such as, supporting the establishment of an *Aboriginal Outcomes Improvement Plan* for Aboriginal children in SA, which to date remains a shameful omission by the DCP. I look forward to the full implementation of the peak body by mid-2024.

The FGC expansion must be informed by what I know works and what I have heard from community and sector stakeholders because a strengthened and mandatory FGC process enables family-led decision-making and incorporates local level community partnerships through the Aboriginal Family Care Model. These remain critical mechanisms for Aboriginal self-determination.

I also want to acknowledge the inaugural meeting and joint statement from the Australian First Nations Children's Commissioners, Guardians and Advocates in January 2023 and the 11 priorities for collective advocacy to improve the lives of Aboriginal and Torres Strait Islander children, young people and families across the country.

I still believe that SA remains well-positioned to create strong reform in the child protection system. However, if the government does not pay heed to the recommendations and finding of my Inquiry, then it has not truly heard to voice of Aboriginal people in this state.

## Guardian for Children and Young People – Shona Reid

In August 2022, Eastern Arrernte woman Shona Reid commenced as the Guardian for Children and Young People. The Guardian advocates for and promotes the rights and best interests of children and young people in care – as well as visiting and advocating for those in residential care and youth detention through her other roles as Child and Young Person's Visitor and Training Centre Visitor.

These positions are not specific to First Nations children and young people, however, as the only First Nations person to have been appointed since the position was established in 2005, the Guardian

has a unique opportunity to work closely with the Commissioner for Aboriginal Children and Young People on leading systems reform and change for First Nations children in the OOHC and youth detention systems.

In the first year of her tenure, the Guardian has welcomed the SA Government's commitment to improve systemic engagement with the Child Placement Principle, including through embedding all five pillars of the Child Placement Principle in legislation to the standard of active efforts and expanding self-determination opportunities for Aboriginal children and young people, families and communities. However, despite existing policy documents and strong expressions of governmental commitment to the Child Placement Principle, the Guardian has observed that progress to improve the circumstances of Aboriginal children in care in recent years has been frustratingly slow and, in some areas, progress has been backwards.

In 2021-22, the number of non-Indigenous children and young people in care in SA went down, while the number of Aboriginal children went up. Furthermore, the number of Aboriginal children in residential care increased by 18%, at nearly five times the rate for non-Indigenous children (4%). This growth is occurring alongside rising numbers of Aboriginal children and young people being admitted to youth detention – with a 20.3% increase in the individuals admitted in 2022-23. Concerningly, there has also been an increase in admissions of Aboriginal young people under child protection orders to youth detention in past years. While Aboriginal children accounted for 42% of the care population in detention in 2021, this has now risen to 53% in 2022-23.

Key areas the Guardian has identified for improvement, to help address growing numbers in both OOHC and youth detention include:

- 1. Increased focus on reunification:** In 2020-21, only 64 (3%) of the 1,851 Aboriginal children and young people in an OOHC placement during the year were reunified with their families. This low reunification rate is rooted in underfunding for reunification services and a permanency focus in SA's child protection legislation.
- 2. Investing in success for children and young people in care:** With one-in-eleven Aboriginal children and young people in SA living in OOHC, wellbeing for Aboriginal children is deeply connected to care experiences. Investing in the lives of Aboriginal children and young people in care is essential to diverting the socio-economic drivers of the intergenerational removal cycle for First Nations communities. However, despite significant growth in expenditure on care services in SA in recent years, children and young people in OOHC in 2021-22 were receiving, on average, lower expenditure on their day-to-day care than three years earlier, in 2018-19. This disadvantage is concentrated towards children and young people living in residential care.



- 3. Treating residential care as a last resort:** Through individual advocacy matters, the Guardian often identifies residential care placements which are resource-based rather than child-centric, with inadequate efforts to find and contact family prior to placement decisions.
- 4. Addressing the connection between residential care and youth detention:** In 2021-22, the Guardian's office published its Final Report of the South Australian Dual Involved Project, which explored the over-representation of children in residential care in youth detention. Recommendations – which were led by the voices and experiences of children and young people – were aimed at matters such as improving safety in residential care placements, early assessments, therapeutic supports and renewed focus and resources on connecting children and young people with cultural supports, family and community. It is highly disappointing that, more than 12 months after the report was published, the Guardian's office has not received a formal response from the SA Government indicating whether these recommendations are accepted. Addressing the link between residential care and youth detention is a key step to improving the lives and experiences of Aboriginal children in care and reducing the incarceration of Aboriginal children.

From 2022-23, the Guardian is commencing annual reporting on compliance and associated matters relating to implementation of the Child Placement Principle. Key areas of accountability the Guardian intends to monitor include:

- family scoping efforts and supports for placements with Aboriginal family members and other carers
- reunification efforts
- qualitative information about cultural support plans, including the extent to which they plan for and achieve meaningful connection to family, culture and community
- involvement of Aboriginal children and young people in key decision-making about their own lives.

### Government input – provided by the Department of Child Protection (DCP)

South Australia is determined to pursue the efforts required to reduce over-representation and recognises genuine partnership with Aboriginal stakeholders and Aboriginal-led governance is critical to ensure the necessary structural and sustainable change occurs to deliver significant progress. SA continues to build and foster participatory partnerships with Aboriginal leadership through the First Action Plan and through the National Agreement at the state level to provide the collaborative foundations for transformational change.

To support its efforts, SA has:

- Completed its review of the state's child protection legislation and committed to pursue amendments that support the transition to Aboriginal-led decision-making and service delivery across the system, requiring active efforts to implement the Child Placement Principle and ensuring access to AFLDM and FGC for Aboriginal families.
- Funded an Aboriginal-led process for the design of the first SA Peak Body for Aboriginal Children and Young People. Upon receipt of the final report, DCP secured \$3.2 million in funding to support the establishment and implementation of the peak body which will provide oversight and accountability to the government's work.
- Significantly increased investment with a focus on Aboriginal families, including \$13.4 million into additional FGC services and a further \$35.7 million over five years into IFS in 2022-23, as well as \$6.1 million over four years in additional services working with Aboriginal families of first-time parents at the earliest opportunity from 2023-24.
- Continued to increase investment in the ACCO sector. The government dedicates at least 29% of all non-government services funding from DHS IFS to ACCOs while DCP reports approximately 8.2% of its total procurement spend is invested in ACCOs.
- Recently appointed the first Aboriginal DCP Deputy Chief Executive, which significantly enhances Aboriginal leadership, self-determining practice and accountability across the department in the focus on over-representation.

Alongside this effort, a range of programs and support tools have been implemented across DCP and DHS to consolidate our goal to fully implement the Child Placement Principle to the standard of active efforts. This includes:

- Establishment of the Aboriginal Connections Team within the Child and Family Support System Pathway Service to pilot an Aboriginal-led approach towards AFLDM processes; for Taikurtirna Warri-apinghi to identify appropriate kinship placement options for Aboriginal children; and Taikurtirna Tirra-apinghi to support families where children are at risk of entering OOHC.
- Development of training, practice guidance and tools including the DHS 2023 and *Yaitya Mingkamingka Purrutiaipinhi – Tree of Hope*.

While much needs to be done and over-representation remains unacceptably high, SA is starting to see small but promising signs of progress. Most notably this includes a significant reduction in the growth rate for Aboriginal children in care (under 18) – from 12.1% at 30 June 2019 to 2.3% at 31 January 2023 and a decrease in the number of new entries of Aboriginal children from 300 in 2019-20 to 226 in 2022-23.

Fundamentally, we acknowledge that to reduce the significant and unacceptable over-representation of Aboriginal children, transformational change is required and that this change will only be achieved if we continue to focus on efforts that will ensure Aboriginal people lead all aspects of child protection and family support sector decision-making and service delivery.



**Tasmania**

### **Community Voices – Provided by peak organisation of Lutruwita/Tasmania – the Tasmanian Aboriginal Centre (TAC)**

There has been no improvement in the number of Aboriginal children in OOHC and Child Safety Services (CSS) in Lutruwita/Tasmania. The Tasmanian Government continues to ignore the continuing request from the Aboriginal community to implement an integrated funding model for all children and youth government programs. The burden of reporting and administration of multiple funding sources is exhaustive and takes valuable time away from service delivery.

The implementation of the Child Placement Principle in Tasmania has not progressed. Aboriginal children are still being removed from their parents/guardians without any reference to the Child Placement Principle. TAC continues to advocate statewide for the recognition and application of the Child Placement Principle and for a consistent approach and application by the Department of Education, Children and Youth People (DECYP). Frustratingly, there are still no Aboriginal Family Group Conference facilitators, contrary to the Government's ongoing commitment to prioritise their recruitment.

#### **Data**

The collection and reporting of data by DECYP regarding the Child Placement Principle indicators is not an accurate reflection of the situation and is misleading. The report provided by DECYP includes several caveats on its reliability and its limitations. For example, the report claims that all Aboriginal children in OOHC have a cultural support plan. However, there is a note stating that a qualitative analysis of each individual case would be needed to confirm the accuracy of this data as there is no recording indicator within their system to record this data. It is being assumed by DECYP that everyone would have a cultural support plan, as it is one of the domains of case and care planning in Tasmania and every individual in OOHC should have a case and care plan.

As the peak organisation in Tasmania, TAC is leading the way to hear the voices of our children and youth and

their families on ways to make positive and sustainable changes to reduce the over-representation of Aboriginal and Torres Strait Islander children and youth in OOHC. The following is a snapshot of some of TAC's successes and challenges.

### **Grow our Own – Strong, Together and Connected Project**

This project commenced in 2023 by the TAC. The goal of the grant is to reduce the rate of over-representation of Aboriginal and Torres Strait Islander Children in the child protection system by providing an evidenced-based strategy that outlines a culturally safe approach to service and an action plan to make that happen. The strategy and action plan will align with the *Safe and Supported* Aboriginal and Torres Strait Islander First Action Plan and the First Action Plan (Target 12 of Closing the Gap Targets). The project was funded as part of the Closing the Gap Capacity Building Fund.

### **Safeguarding Children**

The Commission of Inquiry into Child Sexual Abuse in Government Institutions final report is due out in September 2023. TAC is hopeful that the final report will include recommendations that self-determination is the key to making significant and sustainable change.

### **Youth Justice**

The Aboriginal community continues to advocate for the closure of the Ashley Youth Detention Centre and the reinstatement of the unique Aboriginal youth justice diversion program – especially considering all the evidence of child sexual abuse heard at the Commission of Inquiry. Youth are locked up for 23 hours a day, in a culturally unsafe place with no therapeutic supports. Aboriginal children with youth justice issues are inextricably linked to child safety issues relating to the Government's failure to protect and care for children and they must be addressed together.

### **Government input – provided by Department for Education, Children and Young People**

The Tasmanian Government acknowledges the over-representation of Aboriginal children and young people in Child Safety Services (CSS) and Youth Justice systems. Tasmania recognises the importance of embedding the Child Placement Principle in the CSS, understanding that culture is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children, young people, their families and communities. The Child Placement Principle recognises the importance of five elements; prevention, partnership, placement, participation and connection to family, community, culture and country.

It remains a priority for the Tasmanian Government to further embed the five elements of the Child Placement Principle through improving Aboriginal-led participation in CSS design and delivery, early intervention and in care decisions.

Tasmania is committed to working in partnership with Tasmanian Aboriginal people to build capacity, enable better outcomes and explore new ways to bring Tasmanian Aboriginal voices into decision-making and co-design of programs and services.

The days of Government managing all services for Aboriginal people have passed. Real change can only come from building the capacity of ACCOs and changing the way Government works to enable equal participation and shared decision-making to fully embed the Child Placement Principle.

In line with commitments under the National Agreement, the *Tasmanian Implementation Plan for Closing the Gap 2021-2023 (the Implementation Plan)* was finalised in late 2021 and was developed in full collaboration with Tasmanian Aboriginal people.

Under the *Implementation Plan*, Tasmania has been progressively building partnerships with ACCOs and increasing capacity to take on roles and responsibilities in the care and protection of Aboriginal children (including funding reform).

The Tasmanian Government has committed to delivering improved outcomes for Aboriginal children in OOHC under *Safe and Supported*. Specifically, Action 5 and Action 8 of the Aboriginal and Torres Strait Islander First Action Plan (First Action Plan) commits Tasmania to implement all five elements of the Child Placement Principle to the standard of active efforts.

Tasmania has recently supported in-principle the Partnership Agreement and endorsed the operational approach to shared decision-making under the First Action Plan. This work is Aboriginal-led, supported by government, in line with the priority reforms of the National Agreement and in recognition that Tasmanian Aboriginal people are best placed to determine and deliver services to meet their needs and cultural requirements.

The release of the *Strong Families Safe Kids: Next Steps Action Plan 2021 – 2023 (the Next Steps Action Plan)* represented the Tasmanian Government's long-term commitment to prioritising the safety and wellbeing of children and young people in Tasmania. As the *Next Steps Action Plan* comes to a close this year, reflecting on achievements and progress includes:

- Continued progress and further embedding the Aboriginal and Torres Strait Islander Child Placement Principle across the CSS system.
- Working in partnership with the Tasmanian Aboriginal Legal Service and Tasmanian Legal Aid to develop a pilot Early Intervention Unit to deliver pre-litigation, non-legal advocacy support for families. The pilot is based on the principles of

family preservation, restoration and inclusive decision-making.

- Trialling of individualised service packages within the CSS for Aboriginal children in the south of Tasmania, as a precursor to a case management model, delivered by ACCOs. This has involved working in partnership in planning and decision-making and developing services to support Aboriginal and Torres Strait Islander children and young people in the CSS.
- A Palawa Child Safe and Supported Policy Partnership Working Group led by Coalition of Peaks member, the Tasmanian Aboriginal Centre has been formed, with government and Community working in genuine partnership to reduce the over-representation of Aboriginal children and young people in the CSS and OOHC.



Victoria

### Community Voices – Comments provided by the Victorian Aboriginal Child Care Agency (VACCA) and Victorian Aboriginal Children and Young People's Alliance (VACYPA)

Despite progress in law and policy in 2022-23, VACCA and VACYPA still have significant concerns about the extent and implementation of policy and legislation, including through targeted investment. These concerns were highlighted through evidence to the Yoorrook Justice Commission's (Yoorrook) inquiry into the child protection and criminal justice systems in 2022-23. Armed with the powers of a Royal Commission, *Yoorrook's truth-telling Commission* heard from witnesses across First Peoples' communities, ACCOs, community service organisations (CSOs), academia and governments. The findings of the commission, delivered in its second interim *Yoorrook for Justice report* in September 2023, paint a damning picture of failure by successive governments to support Aboriginal children, young people and families, resulting in the worst over-representation of Aboriginal children and young people in state care in Australia. Yoorrook found systemic racism across multiple service systems and programs. VACYPA, drawing on publicly available data, concluded that amongst systems pressures and failures, racism lies at the heart of the injustice affecting Aboriginal families engaged with the Victorian child protection system. The Yoorrook for Justice report made 46 recommendations, 28 of which relate to child protection.

#### Building Block 1 – Access to universal and targeted services

As supported by the Yoorrook for Justice Report, for well over ten years the ACCO sector has been calling

for urgent investment in early support and prevention approaches to support Aboriginal families to avert statutory intervention. That call reflects the demands for significant funding increases with a focus on prevention, early intervention, diversion and family strengthening. Funding reform is long overdue, as is a focus on results-based funding – investing where it is needed most. Victorian Government spending on early support and prevention, delivered through ACCOs who know the families that need the support and know how best to support them, must be increased.

VACCA notes that funding attributed by the Department of Families, Fairness and Housing (DFFH) to prevention or family support services, in many instances, is not actually focused on prevention, but are diversion or early intervention funding streams. The child protection notification and intake service work against Aboriginal families, as action to support families must meet thresholds to result in a referral to supports or a diversion program. ACCOs must be able to act sooner and without a notification or report being made. Each report accumulates and, without investment in adequate referral pathways and supports, the over-representation of Aboriginal families in statistics across the system will remain unnecessarily high. True prevention should be focused on family strengthening and parenting supports where it is acknowledged in Government publications, such as the Roadmap for Reform: Strong Families, Safe Children, to reform that the ACCO sector is chronically underfunded, as majority of the funding goes to mainstream providers.

While as a state we have commitments to transfer Aboriginal children to Aboriginal care, Victorian Government still chooses to invest in mainstream services to support Aboriginal children instead of building ACCO capacity. Without this investment, some ACCOs have limited aspirations to deliver the needed Aboriginal-led services and supports families need in local areas. ACCO capacity building is required to reduce over-representation.

Targeted funding and services for Aboriginal children and families do not exist in Victoria, as DFFH does not fund this way. Any tender or funding release is always mainstream funding, to which ACCOs can apply. Only after the application do they add an 'Aboriginal' to the title; for example, the Family Preservation and Reunification Response (AFPR). Mainstream CSOs are also funded to deliver this program, including to Aboriginal children. However, the disparity occurs when ACCOs are expected to embed cultural elements into programs without additional funding.

The sector supports the notion that the amount invested in diversion support services must be significantly and immediately scaled up if it is to have an impact on the number of Aboriginal children being removed from their families. For example, the funding announced in the 2023 State Budget to expand the Aboriginal Rapid Engagement Division service statewide to 330 families over four years is currently in its first year of funding and limited to four existing sites, two of which

have limited functionality, plus one new site in 2024. Investment is not proportionate to the high numbers of Aboriginal children entering the system each year and high proportions of those removed nor where families live. For VACCA, this funding limitation means choosing between delivering our Aboriginal Led Case Conferencing model (ALCC) or other programs focused on diverting unborn children from the system. Doubling the capacity of VACCA's ALCC model (which can support 25-50 families at a time) and expanding it across all of VACCA's regions would have a demonstrated impact. Similarly, the Bendigo and District Aboriginal Corporation (BDAC) approach to support families subject to unborn reports would also achieve significant change, if scaled across more regional areas. Both programs have been evaluated. This is a real cost saving and creates long-term savings by preventing trauma and cumulative harm.

VACCA and VACYPA are also concerned about the nature of the funding for Aboriginal-led prevention and early support initiatives. Much of this funding, such as for the AFPR, is short-term. This creates workforce challenges, as well as continuity of care concerns. An analysis of funding to ACCOs found that, on average, 70% of their funding from government was short-term, compared to mainstream CSOs at 50%. This chronic underfunding and uncertainty regarding funding significantly impacts sustainability and workforce retention.

## **Building Block 2: Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children**

In December 2022, then Premier of Victoria, at the start of public hearings on child protection to be held by the Yoorrook Commission, committed to working with the ACCO sector to put Aboriginal decision-making in Aboriginal hands. To achieve this, the Premier and Minister Blandthorn then met with ACCOs to progress a reform agenda, which is still under development.

The Yoorrook Commission's first recommendation, supported by the sector, is that the Victorian Government must transfer decision-making power, authority, control and resources to Aboriginal peoples, giving full effect to self-determination in the Victorian child protection system. Yoorrook called for an Aboriginal-designed, led and delivered child protection, backed by stand-alone legislation. VACCA and VACYPA called for stand-alone legislation in January 2023 and welcomed this recommendation. VACYPA hopes the Victorian Government will support all Yoorrook recommendations, allowing that commitment to be embedded in Victorian Treaty negotiations, due to commence later in 2023. Where VACCA also supports all Yoorrook recommendations, with some modifications, VACCA also seeks urgent reform at all levels including policy, practice, legislation and commissioning decision-making. This will see all future governments bound to systemic Aboriginal-led reform and improved outcomes for Aboriginal families and children.



VACCA notes that the Victorian Government's admission through the Yoorrook Commission process, that the Wungurilwil Gagpagduir: Aboriginal Children and Families Agreement (WWGGD) has not been effective in meeting its commitment to addressing over-representation and does not reflect a true partnership approach. For example, despite the WWGGD target of 100% of Aboriginal children in care to be case managed by an ACCO, this has only occurred for 48% of children. Similarly, the expansion of the *Aboriginal Children in Aboriginal Care program* (ACAC) to the earlier investigation stage is funded for two sites only for 87 children, each year for the first two years before expansion is possible. This means that less than 12% of Aboriginal children in the child protection system will receive an Aboriginal-led response and only when arbitrary thresholds are met. VACCA sees the need to act much earlier, before a family has entered the child protection system. The systemic and entrenched racism within the system, especially in unborn reports, demands more and better. While the expansion of ACAC is welcomed and will return more children home, it requires a child to be removed first and does not address the drivers of child removal. This demands a whole-of-government partnership.

As demonstrated through the data provided by the Victorian Government to the Yoorrook Commission, there is also a large-scale failure to ensure Aboriginal participation in individual cases through AFLDM meetings, especially the inclusion of carers and parents. VACCA noted that AFLDM meetings are only conducted when harm is substantiated and, even in these instances, in only 24% of cases. In other states, like Queensland, this can occur much earlier, which has achieved better outcomes and access to supports for families. The VACCA ALCC model is evidence of this, where the evaluation showed that not only did acting earlier save government money and resources, but families also benefited. The Victorian Government's under-investment and prioritisation of AFLDM and matched facilitators in ACCOs shows the lack of value placed in demonstrated prevention activities or parental participation.

### **Building Block 3 – Law, policy and practice are culturally safe and responsive**

The Victorian Government introduced the *Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Act 2023* (the Act), which contained a Statement of Recognition of the impact of government policies on Aboriginal children and families. The Act also legislated all five elements of the Child Placement Principle and extended Section 18 of the *Children, Youth and Families Act 2005* to provide for Victoria's ACAC program in ACCOs to undertake a trial of ACCO investigations of child abuse and neglect. This was a direct result of sustained and effective lobbying and leadership by VACCA and VACYPA to ensure binding change.

Implementation in 2024 of the Recognition Principles in the Act, as well as all five elements of the Child Placement Principle, will bring welcome improvements to the way child protection responds to Aboriginal families, children and young people, provided implementation is Aboriginal-led and leads to complete reform.

While VACCA, VACYPA and the Yoorrook Commission have recommended stand-alone Aboriginal child safety legislation and work within ACCOs has commenced, the Victorian Government is yet to commit to this. The anticipated passing of a new *Youth Justice Bill* in 2024 will trigger the need for the redevelopment of the *Children, Youth and Families Act*, as the Act currently includes matters relating to bail and other justice issues that the new Youth Justice Bill will cover. As a sector, we are conscious that new legislation requires considerable drafting, and this should commence immediately in partnership with VACCA and VACYPA.

At a program level, VACCA notes that failures in Cultural Support Plans (CSPs), including an absence of sufficient genograms to support these, are due to the lack of funding provided by the government that has remained largely stagnant since 2015. While government has invested in Cultural Support Advisors in each area, funding to adequately implement and update CSPs is insufficient. Each child should be able to engage in cultural activities, such as events, camps and return to Country, but this is not funded sustainably, with short-term, ad hoc funding for implementation of CSPs for children.

### **Building Block 4 – Accountability to Aboriginal children and families**

The Voice of Aboriginal children is largely overlooked in favour for that of parents, yet parental involvement within the child protection system requires significant attention. VACCA believes that children have the right to have their voices heard and acted upon in order to meet their best interests. This is supported by the Yoorrook Commission, which found an alarming lack of accountability by the Victorian Government for its substantial commitments to improve outcomes for Aboriginal children in OOHC over the last decade and more. As the Commission put it, "...in simple terms, if everyone is responsible but no one is held to account, then it is likely that no agency or department will be accountable" (Yoorrook Justice Commission 2023).

VACCA and VACYPA call for stronger accountability measures to members, including reforms to the Aboriginal Children's Forum, Victoria's governance mechanism for the WWGGD state plan, to help hold all parties to account. A strong, capable and resourced ACCO sector across the state will achieve better outcomes.

Both highlight that the monitoring and evaluation plan for WWGGD is dormant with no visibility. VACCA also

calls on the Victorian Government to develop a whole-of-government independent accountability mechanism to Aboriginal children and families as agreed to through the National Agreement. Regardless of where a child lives, they should be able to access adequate supports to stay strong in culture and thriving.

### Commissioner for Aboriginal Children and Young People – Meena Singh

Victoria has the highest rates of Aboriginal children in OOHC, and this continues to be of significant concern to the Victorian Commission for Children and Young People. Over the past year, the Victorian Government has made several commitments to reform the child protection system, including continuing the work to transition all Aboriginal children to Aboriginal care and review the permanency amendments. The passing of the Bill recognised Aboriginal people as First Nations of Australia and enshrined the five core elements of the Child Placement Principle. While these developments are promising, we are yet to see investment and commitment in family strengthening and early help to match investment in the tertiary end of child protection.

This report has continuously highlighted poor social determinants of health (the conditions under which Aboriginal children are born and grow) as major driving factors of over-representation in the child protection and OOHC systems. Many Aboriginal families live in poverty, without access to quality housing and the resources and opportunities to support their children to thrive. Despite this, engagement with the child protection system is often the first-time families are being referred to services and, even then, there is a shortage of culturally appropriate services for Aboriginal families, particularly in regional areas. For example, the intensive *Family Preservation and Reunification Program* has yielded positive outcomes for Aboriginal families but is only available upon notification through child protection.

In early 2023, I gave evidence on key existing systemic issues of concern relating to Aboriginal children in the child protection system. These included experiences of racism, lack of support for kinship carers, lack of cultural support, lack of access to culturally safe supports and a lack of investment in services designed to support families earlier. In my testimony, I presented evidence from several of our functions, including the *Reportable Conduct Scheme*, which revealed that Aboriginal children and young people continue to experience trauma and harm in receiving child protection services and in OOHC.

We continually advocate for a significant shift in approach from all governments and service systems that address the structural drivers to see a reduction in the number of Aboriginal children and young people in the child protection system. Improving a single system alone will not prevent an Aboriginal child from

experiencing racism or other barriers in another service system. Many Aboriginal children and families would benefit from more services that strengthen families and access to basic resources, such as quality housing, better income supports or culturally safe childcare, rather than intervention. Universal systems, such as health care and education, must be responsive to the needs of children and young people at risk of entering or in OOHC. Other families may need more targeted early help or other wellbeing programs. Nevertheless, the Victorian Government continues to invest most of their expenditure into tertiary systems, which can exacerbate vulnerability and do more harm than good.

It is essential that the Victorian Government fundamentally shifts its approach, with any new ways of working centred on self-determination. As always, we continue to centre and raise the voices of Aboriginal children and young people and promote their rights.

### Government input – provided by the Department of Families, Fairness and Housing

The WWGGD is a tripartite partnership between the Aboriginal community, the Victorian Government and CSOs that outlines a strategic direction to reduce the number of Aboriginal children in OOHC by building their connection to culture, Country and community. WWGGD supports the government's commitment to increase Aboriginal self-determination for Aboriginal people and to ensure that all Aboriginal children and young people are safe, resilient and can thrive in culturally rich and strong Aboriginal families and communities. Since 2018, the Victorian Government has invested \$191 million to implement WWGGD and its nation leading initiatives.

#### 2023-24 Victorian State Budget Investment

The 2023- 24 State Budget invested an additional \$140 million over four years to continue and expand the Aboriginal-led children and families service system. This included investment to reduce the over-representation of Aboriginal children in the child protection system by investing in Aboriginal-led family services and early intervention and the expansion of the ACAC program.

#### Legislation of the Child Placement Principle in Victoria

Section 18 of the *Children, Youth and Families Act 2005* (the Act) enables the Secretary of the formerly known Department of Health and Human Services, now the DFFH, to authorise the principal officer of an Aboriginal agency to undertake specified functions and powers in relation to a Children's Court protection order for an Aboriginal child or young person.

*The Children and Health Legislation Amendment (Statement of Recognition, Aboriginal Self-determination*

and Other Matters) Act 2023 was passed in the Victorian Parliament on 20 June 2023, expanding the role of Aboriginal agencies delivering children and family services to reduce the over-representation of Aboriginal children in care in Victoria.

The Act includes a Statement of Recognition of the impact of past policies on Aboriginal people and accompanying binding principles, with the aim to reduce the over-representation of Aboriginal children in care, strengthen the five Child Placement Principle and provide guidance to child protection practitioners to assess and make decisions in a culturally attuned manner.

The Act now has all five elements of the Child Placement Principle legislated and DFFH, and ACCOs will undertake work to refresh practice advice on how to implement all five elements of the Child Placement Principle as legislated. This will include guidance on decision-making relating to an Aboriginal child.

Under the ACAC program, authorised ACCOs will have the opportunity to actively work with the child's family, community and other professionals to develop and implement the child's case plan and achieve their permanency objective in a way that is culturally safe and in the best interests of the child.

### Child Protection and Family Services Initiatives

In 2021-22, the Victorian Government invested \$328 million to test and expand trials of new service models, such as Koorie Supported Playgroups, Early Help Family Services, Family Preservation and Reunification Response, Family Group Conferencing and Putting Families First. Additionally, as part of the 2022-23 Budget, a further \$40.7 million was invested to provide Family Services support for up to 1,000 more families each year and \$21.4 million to assist up to 1,600 families with disability.

Another Australian first initiative is the establishment of a new Aboriginal response to Child Protection reports, known as the *Community Protecting Boorais pilot*. This initiative will enable authorised ACCOs to conduct investigations of reports made to Child Protection. The pilot is anticipated to commence in mid-2023 with the passing of the *Children and Health Legislation (Statement of Recognition, Aboriginal Self-determination and Other Matters) Act 2023*.

All Victorian Government departments are committed to advocating for ACCO funding to provide the services that their community need.



## Western Australia

**Community Voices – Representatives from Noongar Family Safety and Wellbeing Council, Coolabaroo, Kaata-Koorliny Employment & Enterprise Development Aboriginal Corporation (KEEDAC), and Aboriginal Family Legal Service contributed to the Community Voices submission for WA**

### Building Block 1

Western Australia (WA) has the highest over-representation rate of Aboriginal and Torres Strait Islander children in OOHC of any state or territory in the country. Nearly 58% of children in care in WA are Aboriginal and the data for this year's Family Matters report shows that Aboriginal children in WA are 19.1 times more likely to be in care than non-Indigenous children. That's almost double the national over-representation rate of 10.5.

In 2022 and 2023, SNAICC worked with Aboriginal leaders and communities to develop the *10-Year Roadmap to reduce the over-representation of Aboriginal children in out-of-home care in WA 2023-2033* (the Roadmap) on behalf of the WA Government. The Roadmap is designed to drive change so the state meets its commitment under the *National Agreement* to reduce the over-representation of Aboriginal and Torres Strait Islander children in OOHC by 45% by 2031. Aboriginal community voices in WA came through loud and strong for what must happen to create meaningful change for Aboriginal children, families and communities. The Roadmap must be implemented in its entirety and governments must be held to account for doing so.

Preventing children from coming into contact with child protection and to preclude children's escalation through the system needs to be an urgent priority and commitment for the WA Government. Most investment goes into the statutory end of child protection when it is so widely known that, in order to make children safe and support their wellbeing, funding must be targeted at prevention and early support for families and children. Only approximately 5% of funding for child protection in WA is spent on family support and intensive family support services, which is the lowest proportion of any state or territory in Australia. A smaller proportion of this funding is directly allocated to ACCOs.

There needs to be a much stronger focus on the development of the ACCO sector, particularly for children and family services that focus on prevention and early intervention. It is clear that major reforms are needed to improve timely access to culturally safe services, particularly in regional and remote areas,

ensuring that families receive early support to prevent further engagement with the child protection system. To achieve this, WA must grow early support services and work across sectors to provide holistic support to children and families to prevent child protection involvement.

The Department of Communities' (Communities) *Aboriginal Family Safety Strategy* is one of the Western Australian Government's four *Closing the Gap Implementation Plan* actions to respond to Target 13 of the *National Agreement* ('Aboriginal and Torres Strait Islander families and households are safe'). In its commentary in the Community Voices section of the last Family Matters report, Communities wrote that "family violence is a significant factor in child removal, with up to 80% of Aboriginal children in care in WA having been exposed to family violence" (Liddle et al. 2022). Communities has a tendency to use children's exposure to family and domestic violence to justify removal from their families, particularly in Aboriginal families, which also means that Aboriginal women often do not want to report the violence being perpetrated against them and continue to jeopardise their own safety to ensure their children stay at home. Nevertheless, the draft Second Action Plan of the *Aboriginal Family Safety Strategy*, circulated in August 2023, failed to include any action relating to increasing capacity to respond to family violence in Aboriginal communities through Aboriginal-controlled Family Violence Prevention Legal Services.

The Housing Authority has policies that disproportionately adversely affect Aboriginal children and families. The policies include the use of fixed-term tenancies and without grounds evictions, the refusal of housing under the *Applicants with an Adverse History Policy* and the poor design of support services. The 2023 Murdoch University report on the eviction of children from public housing and available solutions reported that 3,070 children were evicted from public housing in the last six years and that Aboriginal households made up more than half of the evictions from public housing.

Communities must prioritise collaboration with the sector to enable early identification, diagnosis, treatment and support for disability, such as foetal alcohol spectrum disorder, which disproportionately affects Aboriginal children and families. Delays with diagnosis and inappropriate assessments stigmatise Aboriginal children and young people with disability.

## Building Block 2

ACCOs are the preferred agencies to support Aboriginal families and children involved with child protection and require significant investment in infrastructure and workforce development to be resourced to meet community needs. Only a few ACCOs deliver child and family support services, with plans for ACCO sector growth through the recommissioning of OOHC services. However, the implementation of this growth was delayed by several months. On 13 October, the WA Government

announced that five new ACCOs would receive funding to deliver OOHC services.

There is the need for a renewed focus on recognising Aboriginal leadership and self-determination at local, regional and state-wide levels. Community knowledge is often used by the government, but not to benefit the community. It is very hard to effectively deliver a program with funding that is structured without Aboriginal child and family leadership.

*"How do we shift the colonisation of our programs, and what does government have to do to ensure that?" – WA Aboriginal community leader*

Government funding for ACCOs in WA undermines community-control and self-determination in practice. Prescriptive program requirements often do not reflect what communities wanted when calling for a program to be established or they are established as a pilot without secure resources. Many of the programs that communities know work, which have the evidence and data to support their effectiveness, have been dismantled and defunded. Rather than governments constantly reacting to crises, programs need adequate and long-term resourcing for security and to create effective and meaningful change.

Aboriginal children and young people need access to culturally safe and responsive legal representation in child protection matters and to have independent legal representation across child protection, youth justice, family violence and related matters. This is an ongoing gap that prevents children from having their voices heard.

The AFLDM program, which Aboriginal communities called for, has only been implemented as a pilot program in two sites. Funding was announced in September 2022 to extend the pilots to June 2024, but there has been no further information about the expansion of the program. This creates a major gap, as this program requires state-wide coverage.

ACCOs must have a strong authorising environment to be involved in decision-making related to child protection matters and this should be reinforced in legislation. The Aboriginal Representative Organisations (ARO) program was established in 2022 after amendments to the *Children and Community Services Act* in 2021. The role of ACCOs in the ARO Pilot program remains very limited in practice, with insufficient authority and resources for ACCOs. While Aboriginal communities called for the ARO program to be established, the implementation of the program has not met community expectations and there is no accountability by Communities to either the ARO or to Aboriginal communities.

Programs should not be siloed but centred around increasing investment in ACCOs to deliver culturally safe, holistic, wraparound support to families and young people.



There is more interest and momentum now than ever before for establishing a state-wide peak body for children and families. There is a greater sense of understanding from a grassroots perspective about why a peak is needed.

### Building Block 3

Communities need to improve its child protection practices. There are major gaps in the availability of culturally responsive and trauma-informed service responses and there is a continuing issue of child protection workers lacking the cultural competency, experience and expertise to work with Aboriginal families and their children. In many cases, practitioners are not making the right decisions and are causing harm through their practice because of bias and practice from a western lens. Practitioners have gaps in their skill base, training, experience and cultural safety.

Some examples include:

- continued use of protection orders until age 18
- lack of reunification planning and support for parents and families to reunify with children in care
- unrealistic time-limited orders with unachievable meeting arrangements and reunification dates that further disempower Aboriginal children and their families
- insufficient cultural planning for Aboriginal children in care
- Communities refusing to negotiate on the length of time-limited orders, notwithstanding the inroads of families into making changes and their focus on their children and wellbeing
- Communities refusing to afford the families of children in their care appropriate support and dignity
- Communities refusing to acknowledge incidents of sexual abuse that occurred while children were in their care
- Communities failing to give families the opportunity to seek legal assistance prior to their children being removed from their care (particularly in instances where children are removed at birth)

Cultural security audits are needed on all levels of Communities and its services.

The lack of an implemented and effective internal framework for child protection is highly problematic and results in the government always defaulting to the *Children and Community Services Act*. The *Act* is overused and provides disproportionate powers to Communities to remove children. This is an inappropriate mechanism for many Aboriginal families who are facing poverty, barriers to accessing services and other structural factors.

Being in care and the trauma of moving between multiple placements harms many Aboriginal children. In many cases, children end up in worse situations than they were in before being removed. There is a strong need to provide more wraparound support to children in OOHC. Children placed in residential care have often experienced significant trauma and require therapeutic, wraparound and healing supports.

The expansion of the *Home Stretch* program, which supports young people leaving care until age 21, to ACCOs across the state is a positive step as previously Yorganop was the only ACCO delivering this program.

The size of WA is often forgotten, including that the resourcing requirements to effectively deliver programs statewide is much more varied and complex than in other parts of the country. Funding allocations must be responsive to these requirements. There is a need for long-term commitment to funding ACCO-led programs and services so that ACCOs can provide holistic family support designed to respond to their communities' specific needs.

### Building Block 4

Communities need to increase the transparency of processes and increase accountability to community. Often families do not know they are under investigation until they are facing removal of their children. Families are not given opportunities, resources or support to understand and address the concerns being raised; to respond to and address the issues being raised and to access the necessary supports. To help address this, ACCOs should be involved in all stages of child protection decision-making and have oversight of government and NGO accreditation processes to ensure they are culturally safe.

There are widespread gaps in the representatives and governance structures for Aboriginal communities across WA to lead and provide accountability for child protection systems and practice. Establishing a fully legislated and empowered Aboriginal Children's Commissioner is still needed as an independent monitoring and accountability mechanism, a role which advocates specifically for the rights and needs of Aboriginal children.

A peak body for Aboriginal children and families will also improve accountability and transparency, through supporting and facilitating community-led design, implementation, monitoring and evaluation of programs, policy, legislation and practice.

WA's *Closing the Gap Jurisdictional Implementation Plan* (September 2021) indicated that 11 of the 16 socio-economic targets under the *National Agreement* were deemed aspirational or highly aspirational and noted that WA was trending away from the national target with respect to Aboriginal children not being over-represented in the child protection system.

## Commissioner for Children and Young People WA – Jacqueline McGowan-Jones

Over-representation of Aboriginal and Torres Strait Islander children in OOHC in WA remains unchanged. While the number of Aboriginal children in OOHC has decreased, they have increased as a proportion of the total number (58%).

While Communities has commenced a range of initiatives and work related to *Safe and Supported*, progress has not been as significant as in other jurisdictions. The Roadmap and accompanying Action Plan have been drafted and are being finalised. The Action Plan is aspirational and will require collaborative oversight of implementation. Eleven ACCOs received grants to support the statewide establishment of AROs. However, we will need to see significant prioritisation to implement the Action Plan and see real change in the over-representation of Aboriginal children in OOHC. It is also noted that there is a need for continued focus on comprehensive implementation of the Child Placement Principle, particularly in relation to active efforts. The Commissioner for Children and Young People WA (CCYP) will continue to monitor over-representation and finalisation and implementation of the *Roadmap* and Action Plan.

Funding was provided to the Western Australian Council of Social Service (WACOSS) to support community services sector organisations to implement the National Principles for Child Safe Organisations (Principles). Resources developed by the CCYP are being used by WACOSS. CCYP is keen to see funding for the development of culturally responsive resources for embedding the Principles. Monitoring by CCYP on progress to embedding the Principles across government organisations will continue, noting that CCYP does not have a regulatory function to monitor the embedding of the Principles into the WA Government or community sector.

The newly formed Council of Aboriginal Services Western Australia (CASWA) is currently recruiting a CEO and the organisation has been supported by WA communities. CASWA is a peak body for all ACCOs in WA, rather than those specifically working in the children and family sector.

Cross-jurisdictional complexities continue to present challenges for Aboriginal families in remote parts of WA, including the Ngaanyatjarra Pitjantjatjara Yankunytjatjara lands which are situated at the tristate border between WA, NT and SA. The CCYP continues to advocate for the government to increase interstate collaborations in a manner that reflects an understanding of the unique needs of Aboriginal families in this region.

The AFLDM pilot projects in Mirrabooka and Geraldton have been extended for a further twelve months and appear to be having some successes. Nonetheless,

there is not yet a commitment for this to be expanded across the state and embedded into the child and family sector.

The WA Government is yet to establish a dedicated Commissioner for Aboriginal Children and Young People notwithstanding their commitment to the *Safe and Supported* and the National Agreement commitments. The Aboriginal community and the Australian and New Zealand Children's Commissioners, Guardians continue to advocate for the establishment of dedicated Aboriginal and Torres Strait Islander Commissioners in all jurisdictions, including the Commonwealth.

## Government input – provided by the Department of Communities (Communities)

The Communities works across government, with families, partner agencies and the sector to support some of the most vulnerable members of the community. It delivers programs and services (including earlier intervention and family support services) to address individual safety, health and development needs and to support the development of safe and nurturing environments that respect family, relationships and culture.

Communities is progressing significant reforms to enable and support child protection processes and decisions that are culturally informed and culturally safe for Aboriginal<sup>4</sup> people.

This reform agenda is underpinned by the WA Government's commitments towards the *National Agreement* and *Safe and Supported*.

The Roadmap is being developed in partnership with SNAICC to provide long-term strategic direction and WA's responses to Closing the Gap Target 12 and *Safe and Supported*. Communities and SNAICC are working with ACCOs and other significant stakeholders across government to build on early intervention initiatives currently underway and to develop new initiatives that will support vulnerable families so their children can remain safely with them at home and thrive.

The first priority of our work is to keep Aboriginal children safe in the care of their families. Included in this work are the *AFLDM Pilot program* and the AFSS. AFLDM aims to achieve greater participation and self-determination for Aboriginal families and communities to provide input into decisions regarding their children, which has been extended following positive evaluation findings, including from the Aboriginal families involved. AFSS aims to prevent family and domestic violence – the leading cause of Aboriginal children coming into care.

The *Building Safe and Strong Families: Earlier Intervention and Family Support Strategy* is continuing to have an impact. Early and intensive support is provided to Aboriginal families who are vulnerable to interactions with the child protection system through the Aboriginal

In-Home Support Service, Family Support Network, the Intensive Family Support Service and a new Regional Service Model in Communities.

Amendments to the *Children and Community Services Act 2004* have been made to drive improved outcomes for children who are in care, with a particular focus on strengthening connection to family, culture and Country for Aboriginal children in care.

Changes to the Child Placement Principle in section 12 of the Act prioritise placements in closer proximity to the child's community if placement with family or an Aboriginal person in the child's community cannot be achieved.

The Children's Court must now consider a written report from an Aboriginal agency or suitably experienced Aboriginal person before making a protection order, meaning that an Aboriginal voice, which is external to Communities, will provide advice on the cultural responsiveness of a proposed protection order for Aboriginal children.

An ARO Pilot program is working in two locations, with AROs being consulted on placement arrangements and cultural support planning for Aboriginal children in their community.

A key priority for Communities is to work in a more culturally competent and responsive manner, working to improve the cultural competence of the workforce, collaborations and partnerships, systems and processes. The *Aboriginal Cultural Capability Reform Program* will continue to drive an agency-wide cultural reform agenda, aimed at improving the cultural capability of Communities.

Through the *Aboriginal Community Controlled Organisation (ACCO) Strategy 2022-2032* and the *Out-of-Home-Care Commissioning project*, Communities is increasing the number of ACCOs delivering OOHC services for Aboriginal children and building their capability and capacity to do so.

Communities is committed to working with Aboriginal communities, families and children to improve outcomes.







## 2.4 Australian Government updates on relevant initiatives

### National Indigenous Australians Agency (NIAA)

The National Indigenous Australians Agency (NIAA) works in partnership with First Nations peoples and other government agencies to improve the safety and wellbeing of First Nations children and young people.

Safe and Supported is the key mechanism for the Commonwealth to address the National Agreement Target 12: to reduce the rate of over-representation of First Nations children in OOHC care by 45% by 2031. NIAA provides advice and support to the Department of Social Services (DSS) to deliver Safe and Supported, to ensure that the perspectives and unique circumstances of First Nations families are considered and that approaches are culturally safe, accessible, healing aware and trauma informed.

The Government is also delivering a range of measures to improve child safety and wellbeing through the following national frameworks:

- *National Plan to End Violence against Women and Children 2022-2032* (the National Plan), which aims to improve safety outcomes for women and girls
- *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030* (the National Strategy), which focuses on encouraging cultural change, supporting victims and survivors of child sexual abuse, and developing initiatives targeted at adult offenders.

In the 2023-24 Budget, the Government committed \$194 million to support initiatives under the *National Plan's Aboriginal and Torres Strait Islander Action Plan*. This includes \$23.2 million over four years for NIAA to partner with local organisations in up to seven locations across Australia to design and deliver place-based, trauma-aware and culturally responsive healing programs aimed at early intervention and recovery for First Nations children and families with experiences of family violence or child protection intervention.

NIAA is also delivering the following measures under the *National Strategy*:

- *Project BIRD (Believe, Inquire and Respond to Disclosure)*, which will design, pilot and evaluate a trauma-aware, healing informed and culturally appropriate national training package for frontline healthcare workers to improve early disclosure experiences and access to specialist services for First Nations victims and survivors of child sexual abuse

- *Supporting Healing for Families*, which will establish First Nations-led, trauma-aware healing initiatives for First Nations victims and survivors of child sexual abuse and their families in five locations.

The *National Aboriginal and Torres Strait Islander Early Childhood Strategy* (the Strategy) was developed by NIAA in partnership with SNAICC to support children to thrive in their early years across a range of priority areas including safety, family support, education, health and culture. The Strategy reflects the views and priorities of First Nations people and communities and provides a suite of evidence-based reform opportunities across government and the community sector. The Strategy will enable stronger collaboration across governments, strengthen future early education and care policy and investment and align efforts across the services that impact early childhood outcomes.

*The Indigenous Advancement Strategy* (IAS) funds activities that strengthen families, support healing and enable children to thrive. *The IAS Children and Schooling program* will provide around \$270 million in 2023-24 to increase school attendance and improve educational outcomes through family and parenting support, early childhood development, preschool and school education, youth engagement and transition to higher education. In 2023-24, *the IAS Safety and Wellbeing program* has been appropriated with over \$450 million for activities that support communities to be safe, reduce violence, address alcohol and substance misuse and support the social and emotional wellbeing of First Nations Australians.

### Department of Social Services (DSS)

Protecting Australia's children is everyone's business.

#### ***Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031***

Safe and Supported sets out Australia's 10-year strategy to make significant and sustained progress in reducing the rates of child abuse and neglect and its intergenerational impacts.

Safe and Supported will develop principles and approaches to support the child and family service system to shift away from crisis driven responses towards more early intervention and targeted supports.

In-line with the National Agreement, Safe and Supported acknowledges that improved outcomes for First Nations children and young people requires First Nations-led solutions.

It also commits to taking urgent action to reduce the over-representation of Aboriginal and Torres Strait Islander children and young people in child protection systems.

The Aboriginal and Torres Strait Islander First Action Plan focuses on Aboriginal and Torres Strait Islander children and families who are experiencing disadvantage or who are vulnerable. The Action Plan sets out the targeted actions and activities to address the over-representation of Aboriginal and Torres Strait Islander children in child protection systems. It is the main mechanism to respond to the National Agreement Target 12 to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in OOHC by 45 per cent by 2031.

A formal partnership agreement between all Australian Governments and the Aboriginal and Torres Strait Islander Leadership Group (Leadership Group), led by SNAICC, will support shared decision-making in implementing Safe and Supported.

The Australian Government has allocated \$30 million for five measures to support the delivery of Safe and Supported. The key measures include:

- improving support for non-parent carers (\$7 million over five years)
- supporting parents and non-parent carers with parenting practices (\$3 million over five years)
- establishing a National Advocate for Aboriginal and Torres Strait Islander children and young people (\$2 million over four years)
- supporting a *National Child and Family Investment Strategy* and innovation fund (\$10 million over five years)
- establishing an Aboriginal and Torres Strait Islander Centre for Excellence in Child and Family Support (\$8 million over five years).

Additionally, the Australian Government has invested \$98.5 million (ex GST) in four measures to address Targets 12 (OOHC) and 13 (family violence) which includes:

- \$49.0 million over five years to work with states and territories to review and redesign frontline service models to better support Aboriginal and Torres Strait Islander families with multiple and complex needs (Target 12)
- \$7.7 million over three years to develop the cultural competency and trauma responsiveness of the Indigenous and non-Indigenous child and family sector workforce funded by DSS (Target 12)
- \$3.2 million over two years to assess the needs and increase the involvement of ACCOs in the child and family sector (Target 12)
- \$38.6 million over three years to support innovative proposals initiated by ACCOs and other service delivery partners that address the OOHC and family violence targets.

## Families and Children's Programs

The Australian Government invests more than \$350 million annually in early intervention and prevention services and programs under its Families and Children Activity, which delivers support to at-risk children and their families, including those of Aboriginal and Torres Strait Islander descent. This includes:

- *Children and Family Intensive Support (CaFIS)* provides early intervention and prevention support to children or young people aged 0-18 years and their families in selected communities in the Northern Territory (NT) and Anangu Pitjantjatjara Yankunytjatjara Lands in SA. This service aims to support families with multiple and complex needs to enhance children and young people's health, safety and wellbeing. While CaFIS is a mainstream program, 11 of the 12 providers are ACCOs.
- Family and Relationship Services (FaRS) provide early intervention and prevention services and focus on at-risk families including families at risk of breakdown, families with children at risk of abuse and neglect and families experiencing disadvantage or vulnerability. FaRS aim to strengthen family relationships, prevent breakdown and ensure the wellbeing and safety of children through the provision of broad-based counselling and education to families of different forms and sizes.
- Family Mental Health Support Services (FMHSS) aim to improve mental health outcomes for children, young people, their families and carers. FMHSS provide early intervention support to children and young people who are showing early signs of, or are at risk of, developing mental illness, with the support of their families and carers. FMHSS is a non-clinical service.
- *Home Interaction Program for Parents and Youngsters (HIPPY)*, a two-year, home-based parenting and early childhood learning program that helps families transition their child into school. HIPPY is delivered in 100 communities across Australia, including 50 Indigenous-focused communities. Originally, HIPPY focused on children aged four and five years old. From January 2024, HIPPY will support families with children aged three and four years old instead.
- Children and Parenting Support (CaPS) services to build the capacity of parents, carers and children through activities such as community playgroups, parenting courses, home visiting, peer support groups, school readiness programs and web-based services or resources in identified areas of need.
- Communities for Children Facilitating Partners, a place-based model of investment, which facilitates a whole-of-community approach to support early childhood development and wellbeing in 52 sites across Australia.

- *Reconnect Program*, a community-based early intervention and prevention program for young people aged 12 to 18 years (or 12 to 21 years in the case of newly arrived youth), who are homeless or at risk of homelessness and their families. The aim of *Reconnect Program* is to prevent youth homelessness by intervening early with young people to stabilise and improve their housing situation, and their level of engagement with family, education, training, employment and the local community.
- The Budget Based Funded (BBF) program funds 30 services to provide families with flexible, affordable and accessible adjunct care and early learning services in a number of locations where those services would otherwise not be available. Services promote positive learning and development outcomes for school readiness and allow parents to access educational and training opportunities. From 1 July 2023, BBF services transitioned into the CaPS program.
- Closing the Gap Measure 3, *Stronger ACCOs, Stronger Families* is a two-part project. Part 1 is a research report, authored by SNAICC which identifies the strengths, needs, barriers and opportunities to increase the delivery of family and children's services by the Aboriginal community-controlled and Indigenous-led sector. The report, *Stronger ACCOs, Stronger Families* was published in May 2023 and made six recommendations and 14 sub-recommendations which DSS is progressing. Stage 2 has begun, to support other ACCOs and mainstream organisations to work together in genuine partnerships, and to build on the strengths and capability of ACCOs to deliver government services as part of DSS's investment in the *Families and Children Activity program*.
- Stronger Places, Stronger People (SPSP) is a community-led, collective impact initiative, stewarded by the Australian Government in partnership with state and territory governments and 10 communities across Australia. It seeks to demonstrate how place-based, collective impact can support better outcomes for children and their families through locally tailored and evidence-driven solutions to local problems, in partnership with local people. The long-term goal is to disrupt disadvantage in the participating communities. Through the Targeting Entrenched Disadvantage Measure in the May 2023 Budget, the SPSP initiative has been extended for a second five years, to 30 June 2029.

## Attorney-General's Department

The Attorney-General's Department provided \$249.5m in funding in 2022-23 under the Family Relationships Services Program to fund Family Law Services. The objective of the Family Relationships Services Program is to improve the wellbeing of Australian families, particularly families with children, who are at risk of separating or have separated. Family Law Services support families dealing with separation and aim to assist them to resolve post-separation family disputes without going to court. In recognition of the need for targeted services to support Aboriginal and Torres Strait Islander families, in 2022-23 the Attorney-General's Department commenced funding nine ACCOs to pilot the provision of culturally safe and appropriate Family Dispute Resolution services to First Nations families.







## PART 3

### CASE STUDIES OF ABORIGINAL AND TORRES STRAIT ISLANDER-LED TRANSFORMATION



## CASE STUDY

### CONNECTED BEGINNINGS

**The Connected Beginnings (CB) program, which has been operating since 2016, aims to provide greater access to existing early childhood, maternal and child health and family support services for Aboriginal and Torres Strait Islander children to ensure they are safe, healthy and ready to thrive at school by the age of five.**

SNAICC came on board as the Department of Education's Connected Beginnings Community Partner in July 2022, in response to feedback from existing sites on the need for greater Aboriginal and Torres Strait Islander self-determination and leadership in the program. SNAICC has developed and implemented a site selection methodology that centres community voice and cultural authority to support the establishment of CB in ten communities in its first year as Community Partner. Importantly, all ten of these sites have ACCOs providing leadership and backbone functions.

Self-determination produces lasting positive changes for Aboriginal and Torres Strait Islander communities. The impact of having CB ACCO leadership is evident in communities, such as those in Doonside and Mt Druitt (NSW) where ACCO backbone, Ngroo Education Aboriginal Corporation, is working to support families' linkage with much needed services. Their activities have included:

- partnership with Aboriginal preschool Murray-Toola Damana to conduct pop-up playgroups, which give families exposure to and connection with early childhood education and care
- Aboriginal and Torres Strait Islander early learning expo, which saw seven local preschools and childcare centres providing information on enrolment, as well as participation from a range of organisations, such as the NSW Registry of Births, Deaths and Marriages, Services Australia and Northcott Early Childhood NDIS
- linkage to screening and referrals by Hearing Australia, conducted at Kimberwalli Aboriginal Centre
- procurement of philanthropic funding for a free speech therapy program in response to needs identified at community consultation.

The impact of this work is evident in steadily growing participation of families and service providers:

- playgroup participation in Mt Druitt increased from four families to 15 in the first month of operation and is now regularly attended by 20 families
- free speech therapy services have been accessed by 15 families since its inception in October 2022

- support services, such as the non-Indigenous Connect Children and Families, which provides transition to school services, are attributing an increased demand for their services by Aboriginal families to word-of-mouth recommendations by the CB team
- buy-in of local service providers has also increased, with the CB team reporting that, initially, they were meeting with 10 services but now they have formed linkages with 25 local service providers.

Other ACCO-led CB backbone projects are also reporting similar success. The Mareeba CB Backbone, Mulungu Aboriginal Corporation, has built strong engagement with their community based on listening to and embedding community's aspirations for their children into integrated service provision. Strategies which have emerged from their 1,000 Voices consultation process have increased the community's engagement with supports for children and families. These include:

- Playgroup activities, conducted in parks and other natural spaces, to promote children learning about their environment.
- Maternity Unit Project: the creation of a safe, welcoming space for women and their families and greater cultural connection with the maternity unit environment. The Mareeba Maternal Health Unit, community stakeholders and CB staff collaborated on the Maternal health photo shoot – a portfolio of professional photographs and stories of 15 families and stories that tell of their connection to culture land and water.

In addition to increasing the numbers of ACCO-led backbone organisations in newly established CB sites, the Department of Education has commissioned SNAICC to develop a framework to guide the transition of the leadership 'backbone' functions to ACCOs in those project sites which have previously been led by non-Indigenous organisations. This framework, developed with input from ACCO and non-Indigenous CB backbone organisations, has been refined with CB transition sites in Port Augusta and Ceduna and will be applied in all sites that currently have a non-Indigenous backbone. The remaining 14 CB sites that currently have a non-Indigenous backbone organisation are scheduled for transition process before 30 June 2025.

## CASE STUDY

### REFOCUS ABORIGINAL AND TORRES STRAIT ISLANDER CHILD AND FAMILY SUPPORT SERVICES – DELEGATED AUTHORITY

**REFOCUS was founded in 2010 to specialise in providing services for Aboriginal and Torres Strait Islander families and communities living in the Moreton Bay, Sunshine Coast and Gympie regions. Children are the main focus, and REFOCUS is committed to ensuring that they, and their parents, receive the much-needed services to assist in creating resilient, safe and happy environments**

The REFOCUS Child and Family Wellbeing Hub is a place of respect, journey (pathways) and healing for Aboriginal and Torres Strait Islander people where their path to wellness is a connection to community and country. Programs include a parenting program, an attachment program, a program for mums and newborns, a men's program, a healing and self-empowerment program, learning how to budget, shop and cook for your family and intensive case management.

#### REFOCUS and Delegated Authority

On 29 October 2018, the *Child Protection Act 1999* was amended to enable the Chief Executive of Queensland's then Department of Child Safety, Youth and Women to delegate functions and powers to the Chief Executive Officer of an Aboriginal or Torres Strait Islander entity (Part 2A S148BB) in relation to an Aboriginal or Torres Strait Islander child. The Sunshine Coast was an early adopter site and REFOCUS volunteered to implement the first trial of the new legislation.

Delegated Authority offers:

- The opportunity for some decisions about the child and their family to be made by the Chief Executive Officer (or similar named role) of an Aboriginal and Torres Strait Islander community-controlled organisation, who is an Aboriginal and/or Torres Strait Islander and who understands the needs and aspirations of Aboriginal and Torres Strait Islander children and families.
- A culturally safe and responsive service that is community-led.
- Support for the child and family based on their needs and aspirations.
- Opportunities for the child and family to be actively involved in decisions that affect them.

For REFOCUS, Delegated Authority (DA) is not simply about a shift in power relations – it is about ensuring collaborative relations and an Aboriginal cultural lens is at the heart of every discussion and decision made in relation to Aboriginal and Torres Strait Islander children

and families. The aim is to ensure children and families are empowered in the decisions that affect their lives and that their voices are not only heard but are included in the decision-making process.

Specifically, REFOCUS has received delegation for reunification and contact decisions. With the transfer of authority and practice for these parts of the CPS, REFOCUS has worked closely with the Department of Children, Youth Justice and Multicultural Affairs to build collaborative relationships that are based on openness, honesty and transparency. This has required weekly meetings and building two-way trusting relationships. These meetings explore what has been working well and then in what ways success can be built on and put into practice more broadly.

*"What our families are asking for is not to be judged harshly, to be able to access services without fear, to be able to be vulnerable without judgement and that their voices be heard."*

A critical success factor has been the commitment to action learning that has allowed for practice to evolve as evidence of success emerges. For example, through action learning, a specific challenge was identified in the reunification process, that financial support or family payments could take up to six weeks to come through. This left families and reunification itself vulnerable due to additional financial pressures not being addressed adequately. Payments are now made within 14 days, allowing for the additional financial strain on the family post-reunification to be met.

#### Outcomes Achieved

Since the first reunification under DA in December 2021, there has been a steady increase in the number of referrals and, by late 2022, the DA process was going from strength to strength. As of October 2023, REFOCUS has delegation for 67 Aboriginal and Torres Strait Islander children, with scope for this to increase to 120 children before the end of 2023. Since inception, a total of 17 children have been reunified directly back with their parents.

**Notably, REFOCUS reports that none of the children that have so far been reunified would have been without the DA process being in place. Further, family time and contact has increased by 46% for children in the DA space.**

Success includes children living with parents they have not previously met, and children living with siblings and immediate family for the first time in seven years. Other successes include children returning to school full-time.

In terms of addressing the intersectionality of social and emotional wellbeing and other social and economic barriers to success for families, REFOCUS has secured two houses in late November 2022. The homes will accommodate families facing issues associated with the housing crisis in the region but most importantly, provide around the clock support for families where they can be observed as parents. Trained staff provide support using a Hope and Healing therapeutic model and with a specialist in Domestic and Family Violence based in the homes. *Gunyah of Wellness*, a health arm of REFOCUS, will also provide micro-programs concentrating on mental health.

*"There is no going back now, and it's been an amazing experience as we partner with families to give them the best chance to succeed."*

Accordingly, success is being built on success and learning from practice, and DA is now reaching beyond the Moreton Bay region to Gympie. This is representative of a trusting relationship reaching beyond the immediate region and enabling more Aboriginal and Torres Strait Islander families in more communities to have a sense of empowerment in choosing and determining their own futures, while receiving the supports they need. A significant change has occurred in the consideration of families being at the centre of practice and as strong partners, rather than just as participants in the process.

Finally, more work is being done to enhance meaningful data (quantitative and qualitative) collection that can further inform improved practice and reporting.

## Lessons Learned

As a new way of supporting Aboriginal and Torres Strait Islander families, REFOCUS has identified several areas where learning can lead to further improvements, which include:

- The importance of learning as you go and ensuring there is a process for capturing learnings in place. In this, there needs to be organisational and individual ability and intention to pivot quickly. This was a critical success factor when the new legislation was introduced.
- The DA space is exciting for organisations and families as self-determination moves from rhetoric to reality. It is also challenging with both new possibilities and increased accountabilities. It is easy to rush ahead and towards perceived guaranteed success. However, REFOCUS acknowledges that history has shown that when the Department of Children, Youth Justice and Multicultural Affairs rushes decisions, *"things fall over"*. Therefore, a lesson learned is to slow down, not to rush and allow time for relationships and trust to emerge on which sound decisions can be made by all partners involved.
- Associated with an organisational ability to slow down practice, there is recognition that many family circumstances are complex and stressful, and this can lead to stress for staff. REFOCUS intends not to have a crisis mentality and operates on a 90-second rule – that is, the time taken for stress before calmness resumes and on which decisions can better be made.
- REFOCUS has found that healing is in relationships, not programs. As more trusting relationships are developed between families and organisations, families gain a sense of empowerment and self-determination and, as a result, healing occurs.

As a new approach to child safety and child protection, new staff need training and capacity building to ensure they are aligned with organisational goals, values and commitment to the DA approach and practice. Significant time is spent with new staff to ensure they are inducted and trained to be able to implement the policies and practices that are both legislative and organisational.







## CASE STUDY

### TANGENTYERE COUNCIL ABORIGINAL CORPORATION OUT-OF-HOME CARE HOUSES

**The way we care – Aboriginal-led community care model.**

*“It’s about the community being capable to involve itself in statutory work. If a child comes into care, they don’t necessarily have to leave their community... We take a human rights approach [to child welfare]. It’s a right to be brought up within your community.”*

Tangentyere Council Aboriginal Corporation quoted in SNAICC article titled Indigenous Responses to Child Protection Issues (Higgins & Butler, 2007).

Tangentyere Council Aboriginal Corporation (Tangentyere Council) has been operating our OOHC services since 2002. Over the last 20 years, the model of care and practices have developed. However, this original sentiment remains the same.

Today, Tangentyere Council operates two OOHC houses in Mparntwe/Alice Springs providing care to children aged 0-12 years when their immediate family are temporarily unable to. The Safe Houses form part of the family and kin programs operated by Tangentyere Council to support family safety, preservation and connection.

In 2021, following management and divisional restructuring, the Tangentyere Council Safe House leadership team was provided with the opportunity to review its operation. This opportunity led to significant changes in the model and structure of the houses



towards the integration of culturally embedded care practices and child-centred frameworks. This has involved the implementation of the following principles:

1. Children are at the centre of everything we do and all decision-making.
2. Local people caring for local kids: employment of a predominantly Aboriginal workforce, culturally resonant care practices, familial and kin connections.
3. Creating a home: improving infrastructure, replication of familiar structures, routine and consistency.
4. Connecting families to support: child, family and kin programs integrated and collaborative response to families.
5. Bringing the team along: commitment to positive work culture and stability in our carers, capacity building and staff development.
6. Accountability: implementation of clinical governance and quality management committee.
7. Voice: development of child rights resources and feedback loops, advocacy and support of child-led goals.
8. Sharing the care: supporting families and the community to remain involved in the care of children.
9. Collaboration with broader Tangentyere Council community, including events with Tangentyere Women's Family Safety Group, Tangentyere artists and Tangentyere Aged Care Services.

Over the past two and a half years, the outcome of this has been a better care experience for children, a positive work culture for staff, an increase in staff retention and strong, long-lasting relationships with the children and families that have lived in our houses.

Tangentyere Council does not view The Safe Houses as residential care, rather, we see ourselves as temporarily looking after children for their families while they receive support to heal and care for their children. It is imperative that we strive to care for children as an extension of our community. The families of the children we care for are not invisible or absent from their children's lives. We advocate strongly for meaningful access and reunification plans and believe that relationships between our carers and families are vital to children's healing and to meeting their developmental, physical, emotional and spiritual needs. We hope to continue to build on our 'sharing the care' practices and advocate for a more flexible approach to family involvement in OOHC. We believe that children and their families need to be kept informed and

included in all decision-making, both statutory and in placement, and that the preservation of connection and repair of connections to family and community are critical to the healing and development of children in our care.

For Tangentyere Council, The Safe House is not seen as a funding responsibility for the NT Government, but rather the provision of a service in a community where there are few appropriate alternatives. As an ACCO, Tangentyere Council has a responsibility to the community and to local children and young people. This responsibility is not only to provide services in the early intervention and primary prevention sphere with the goal of reducing Aboriginal and Torres Strait Islander families' interaction with the CPS, but to support and improve the experiences of the children, young people and their families already in contact with the system. Part of this responsibility means holding CPS to account in improving the way the Child Placement Principle is operationalised (Krakouer, Wise, & Connolly, 2018). As we further solidify our integrated models of support through programs like Family Support Service, Family and Kin Care program and The Safe Houses, we hope to provide an evidence base for how the system should interact with local Aboriginal families and communities. Through the example of The Safe House, Tangentyere Council hopes to lead the way in providing a model for other ACCOs to enter the child protection and OOHC sectors.

We want to see the uptake and prioritisation of Aboriginal community care placements ahead of non-Indigenous foster and residential care options. We hope to see funding directed to ACCOs across the country to provide such services, particularly in the NT. Tangentyere Council sees this as urgent work, vital in keeping Aboriginal and Torres Strait Islander children who are in care connected to their community, culture and country, giving them the greatest possible opportunity to thrive.



## CASE STUDY

### REPLANTING THE BIRTHING TREES

*“The birthing tree was a place of ‘women’s business’ where Aboriginal women came for many centuries to a place of security and safety during labour and birth. The tree is strong and healthy and has strong roots that are embedded deeply in culture, Country and family.”*

Aunty Dr Doseena Fergie OAM, a Wuthathi, Mabiauag Island and Ambonese Elder, nurse, midwife and health researcher.

Currently, there is no applied evidence for how to safely and effectively identify and support Aboriginal and Torres Strait Islander parents experiencing complex trauma.<sup>1</sup>

To address this, the project *Healing the Past by Nurturing the Future* was launched in 2018 to bring together the western evidence and millennia-old wisdom of communities to co-design acceptable, safe and feasible perinatal strategies for Aboriginal and Torres Strait Islander parents experiencing complex trauma.<sup>2</sup>

*Replanting the Birthing Trees* builds on this project that will involve working in collaboration with seven services, including the Royal Women’s Hospital and the Mercy Hospital in Melbourne and five services in WA.<sup>3</sup> The project takes a focus on the first 2,000 days of life, including pregnancy and birth.

The project brings together leading researchers across Australia, led by Professor Catherine Chamberlain, Palawa woman and Professor of Indigenous Health at the Melbourne School of Population and Global Health at Melbourne University. It is working with community, Elders, leading researchers, midwives, social workers, parents and other healthcare professionals and service providers to develop resources for parents and healthcare professionals and advocacy to create better systems.

### THE FIRST 2,000 DAYS OF LIFE

There are three reasons why this time is so important.<sup>4</sup> First, people are more likely to experience trauma-related distress, so this time is almost like a ‘natural stress test’ for experiencing trauma-related stress.

Second, despite the challenges, qualitative and quantitative studies show that it’s the best time for healing and recovery.

Although complex trauma disrupts relationships and connectedness, babies come into the world needing to connect and attach with caregivers and, with appropriate supports, this can help parents and families heal from past trauma. A positive strengths-based focus during this often-optimistic period has the potential to transform the vicious cycle of intergenerational trauma into a ‘virtuous cycle’ that contains positively reinforcing elements through nurturing love between parents and children. There are few other healing opportunities for relational trauma as strong as the transition to parenting during a person’s life course.

Third, it is a time when young people make contact with the healthcare system. The project is working to make sure that those interactions with the care system are therapeutic, positive and not harmful.

Unfortunately, one of the things we know from the past is that the maternity care system has been harmful for Aboriginal and Torres Strait Islander people.<sup>5</sup> One of the major parts of this work has been the poor experiences of Aboriginal and Torres Strait Islander families with child protection services.

The healthcare system should be providing therapeutic care and support and not compounding trauma. For too many families, having a baby removed is still a devastatingly traumatic experience, which is getting worse not better.

By working with communities to recreate safe and sacred spaces for Aboriginal and Torres Strait Islander parents giving birth, the project is supporting healing by providing nurturing care and bonding with babies so that Aboriginal and Torres Strait Islander babies can have the best start to life.

1. [https://cope.org.au/wp-content/uploads/2013/12/COPE\\_Mapping-Project\\_WEB.pdf](https://cope.org.au/wp-content/uploads/2013/12/COPE_Mapping-Project_WEB.pdf)
2. <https://mispgh.unimelb.edu.au/centres-institutes/centre-for-health-equity/research-group/indigenous-health-equity-unit/research/HPNF>
3. <https://mispgh.unimelb.edu.au/centres-institutes/onemda/research-group/indigenous-health-equity-unit/research/replanting-the-birthing-trees>
4. <https://bmjopen.bmj.com/content/9/6/e028397.abstract>
5. <https://bmjopen.bmj.com/content/9/6/e028397.abstract>

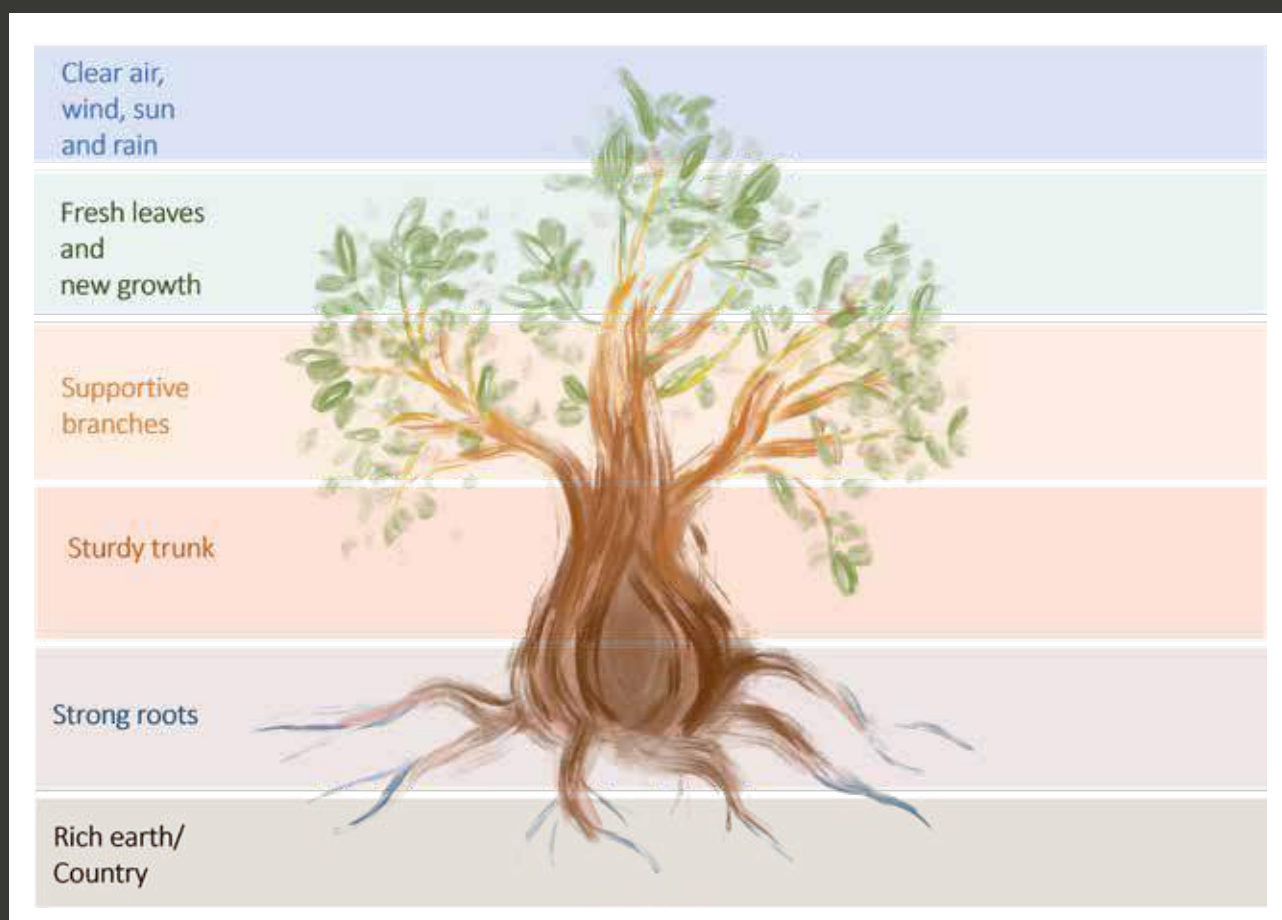


FIGURE 22: Project streams and alignment to the Birthing Tree

## PROJECT STREAMS

There are six project streams that each align to a part of the birthing tree:

### Clean air, wind, sun and rain

- informed by rigorous research and practice evidence

### Fresh leaves and new growth

- resource repository for parents, service providers and decision-makers
- a support framework will be developed to identify support availability and gaps, including support for parents with complex needs
- culturally validated trauma and self-efficacy assessment items including the *Baby Coming You Ready? program*

### Supportive branches

- workforce development resources, including:
  - flexible online and face-to-face training with Emerging Minds
  - train the trainer and safety champion training and mentorship with We al-li
  - sensitive enquiry for assessment

### Sturdy trunk

- culturally safe trauma-integrated continuity-of-carer toolkit to enable scale-up to other maternity and maternal and child health services

### Strong roots

- support Aboriginal Families to stay together from the start (SAFeST Start) advocacy to prevent the removal of babies
- building workforce expertise to support parents experiencing socially and emotionally complex situations, including a 'Wise Counsel' model

### Rich earth/Country

- grounded in and drawing from Indigenous knowledges and worldviews.





# CONCLUSION AND RECOMMENDATIONS

## CONCLUSION

As this edition of the Family Matters report has highlighted, there is significant work needed to get on track to achieve Target 12 of the National Agreement – to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031.

Aboriginal and Torres Strait Islander communities know the pathway to achieving this Target. The challenge lies in ensuring governments across Australia enable our communities to lead the way.

This is where the Family Matters report makes consistent recommendations for the Australian Government and state and territory governments to action.

Processes to share decision-making between Aboriginal and Torres Strait Islander people and governments are showing promising progress, such as the ECPP and the governance bodies for Safe and Supported. However, as well as sharing decision-making, there needs to be an equal commitment from governments to action on the factors that keep child protection systems disproportionately in contact with our children and families.

SNAICC and the Family Matters Leadership Group fully intend to continue the strong advocacy needed to hold governments accountable. The effective advocacy of Commissioners, Guardians and Advocates for Aboriginal and Torres Strait Islander Children must also be recognised – and the urgent need for the establishment of a National Commissioner for Aboriginal and Torres Strait Islander Children. These accountability checks at all levels are a vital function to ensure that the best outcomes are prioritised for Aboriginal and Torres Strait Islander children.

Recommendations from this report are presented below, aligned with the Family Matters Building Blocks. To change the trajectory of child protection systems, there is an urgent need for governments to progress these solutions in partnership with Aboriginal and Torres Strait Islander communities, families and organisations.



# RECOMMENDATIONS

## BUILDING BLOCK 1

All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive

### 1. Increase the availability of universal and targeted prevention and early intervention support by:

- a. increasing investment in prevention and early intervention support programs delivered by ACCOs
- b. setting targets for the percentage of family support and intensive family support services funding directed to ACCOs in each jurisdiction and each region to be equivalent to the representation of Aboriginal and Torres Strait Islander children in child protection services.

Despite demonstrated evidence that child protection systems need to be reoriented towards prevention and early intervention to keep children safe, proportional investment in prevention and early intervention services has decreased in the last five years. A clear strategy and target are critical to drive investment, including evidence-based and culturally safe Aboriginal and Torres Strait Islander community-controlled early childhood education and care, maternal and child health, trauma-informed and healing services, family support services and family violence prevention and response.

An increase in proportional investment to prevention and early intervention cannot safely be achieved by simply shifting funding from already stretched child protection and OOHC systems. What is needed is the foresight of governments to invest more in and recognise the long-term benefits of prevention and early intervention that are demonstrated in the evidence.

**Progress since last year:** Spending on family support and intensive family support services has not kept pace with total child protection spending. Nationally, proportional investment in family support and intensive family support compared to other child protection services decreased between 2021 and 2022. Spending in 2021-22 is still behind 2017-18 levels (see Table 2, Part 1 of this report).

### 2. Establish a dedicated funding model and program for Aboriginal and Torres Strait Islander community-controlled integrated early years services, including new investment to expand their scope and coverage.

The Aboriginal and Torres Strait Islander early years sector offers one of the most powerful opportunities for changing trajectories for our children and families. Services like ACFCs and Multifunctional Aboriginal Children's Services offer a unique type of support that is culturally grounded, holistic, trauma-informed and responsive to complex needs. The importance of this sector is recognised within Goal 2 of the *Early Childhood Strategy*, which identifies the opportunity to "boost support to Aboriginal and Torres Strait Islander community-controlled integrated early years services, and develop initiatives to support their sustainability and holistic services responses to address child, family and community needs".

The current subsidy-based and market-driven models of child care designed to provide childminding for working families are ineffective in sustaining our services and addressing the learning and developmental support needs of children. A well-resourced Aboriginal and Torres Strait Islander early childhood education and care sector, with integrated health, development and family supports, is an essential and indispensable component to preventing trajectories that lead to child protection intervention and must be better resourced, grown and supported.

**Progress since last year:** Work is progressing through the ECPP to develop new funding model options for ACCO early education and integrated services in partnership with SNAICC and sector leaders. The outcomes of this work must be progressed through urgent funding reform.

### 3. Develop and resource a joint state- and Commonwealth-funded national program for ACCO-led integrated family support services.

Large scale reform efforts and investments in healing and strengthening families are needed to turn the current rates of removal of Aboriginal and Torres Strait Islander children around and meet Target 12.

Action 1 in the First Action Plan for Safe and Supported aims to improve early and targeted support for children and families at risk of coming into contact with child protection systems. Despite this ambitious goal, funding for Safe and Supported is extremely limited and unlikely to lead to the kind of prevention activity that can achieve the target. State and Federal Budgets for 2023-24 largely did not include significant commitments to family support services.

Resources continue to be directed towards tertiary and crisis-driven child protection interventions, rather than supports for families that address the challenges they face before they are in crisis. A dedicated program needs to be developed to shift the focus to strengthen families.

The forthcoming *National Child and Family Investment Strategy* (the Strategy), an action under the Aboriginal and Torres Strait Islander Action Plan for Safe and Supported, aims to shift investment from tertiary and crisis responses, towards early support and prevention. However, the Strategy will need significant investment into prevention and early support to progress an overarching shift from tertiary crisis responses that are not fit-for-purpose, towards preventative support to strengthen families.

A significantly bolstered ACCO-led family services sector would provide families with culturally safe and responsive, both intensive and non-intensive, wraparound and step-down casework supports and referrals to address the barriers and challenges families experience in providing safe care for children. Family support providers are typically made up of a range of organisations with connected expertise across child protection, health, child development and early education. There are significant opportunities to build on the capacity already existing in these sectors, as well as to transfer resources and capacity from mainstream agencies that are ineffective in engaging and supporting Aboriginal and Torres Strait Islander families. Given the key drivers of child protection intervention sit across a broad range of federal and state responsibilities, there is a strong argument for collective state and Commonwealth investment and effort in this space.

**Progress since last year:** There has been no progress towards establishing a jointly funded program for ACCO-led integrated family support services. Some initiatives such as the Improving Multidisciplinary Responses program demonstrate elements of a holistic, culturally safe approach. However, these initiatives do not establish a specific ongoing program for ACCO-led integrated family supports





## BUILDING BLOCK 2

### Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children

4. Set targets for the proportion of funding for child protection and family support services directed towards ACCOs to be equivalent to the proportion of Aboriginal and Torres Strait Islander children involved in child protection systems in each jurisdiction and each region.

5. Establish, resource and support independent Aboriginal and Torres Strait Islander family-led decision-making models in every state and territory, and across all regions, supported by legislation, for all families across all significant child protection decision-making points.

In 2020, all Australian governments signed the National Agreement. The National Agreement commits all governments to building the Aboriginal and Torres Strait Islander community-controlled sectors. However, once again the Family Matters Report shows that investment in Aboriginal and Torres Strait Islander organisations to provide family support and child protection services is minimal when compared to the representation of our children in these systems.

This report identifies the critical importance of Aboriginal and Torres Strait Islander-led service delivery to improving outcomes for children. It is essential that our organisations are strengthened and supported so that Aboriginal and Torres Strait Islander people lead the service design and delivery and the decision-making for our children.

Investment should reflect need and be proportionate to the engagement of Aboriginal and Torres Strait Islander families with child protection systems. Investment approaches must recognise the strengths of our organisations, rather than adopting competitive tendering that privileges large non-Indigenous organisations that are often ineffective in engaging and supporting our families. Service delivery models and contract requirements must not be tightly constrained so that our agencies can design community-driven and culturally strong approaches to supporting our families. And finally, ambitious targets must be set and reported against to ensure dedicated efforts and accountability for progress.

**Progress since last year:** Jurisdictions that have set targets for proportions of child protection and family support services are not meeting these targets. In 2021-22 7.67% of NSW Government expenditure, 20.3% of Queensland Government expenditure, and 6.89% of South Australian Government expenditure on family support and intensive family support was directed to ACCOs. This remains well below the proportion of Aboriginal and Torres Strait Islander children in child protection services.

Aboriginal and Torres Strait Islander families have the cultural authority, knowledge and capability to make the best decisions and improve outcomes for their children. The participation of children and their families in child protection decision-making is enhanced when formal processes such as AFLDM models are legislatively required as early as possible and for all significant decisions and when Aboriginal and Torres Strait Islander organisations are resourced to facilitate family participation in culturally safe ways.

AFLDM models provide opportunities to bring Indigenous cultural perspectives and worldviews to the fore in decision-making, ensuring respect for Indigenous values, history and unique child-rearing strengths. Studies have shown that plans generated through these processes have tended to keep children at home or with their relatives and that the approach reinforced children's connections to their family and community. Reviews of existing programs in Victoria and Queensland have confirmed the value and success of these approaches, but uptake across the country remains very limited.

Independent facilitation and support of these processes by Aboriginal and Torres Strait Islander people and organisations is fundamental to their success. Without this, poorly designed and delivered processes can disempower and adversely affect families, reinforcing power imbalances between families and statutory agencies and subjugating their voices. These kinds of processes must be distinct from those that genuinely seek to provide families with safe spaces and opportunities to discuss issues and work collaboratively towards family-led solutions.

**Progress since last year:** The majority of jurisdictions have not included AFLDM in child safety legislation. SNAICC and other ACCOs have called for this in recent legislative reviews in South Australia and the ACT.



The South Australian Government allocated \$13.4 million into additional FGC services and will be piloting family-led decision-making for kinship placements for Aboriginal children and support for families with children at risk of being removed into OOHC. However, SA ACCOs are concerned that a significant proportion of funding is directed towards non-Indigenous NGO services.

The Victorian Government initiated pilots of FGC and other models for family participation in decision-making, but VACCA reported that AFLDM and other similar models are under-resourced.

The Tasmanian Government is working with the Tasmanian Aboriginal Legal Service and Tasmanian Legal Aid to develop a pilot Early Intervention Unit to deliver pre-litigation, non-legal advocacy support for families.

**6. Expand and appropriately fund the transfer of authority to Aboriginal and Torres Strait Islander community-controlled organisations for statutory child protection functions across Australia, ensuring ACCOs are fully resourced to perform statutory roles.**

Increasing self-determination for Aboriginal and Torres Strait Islander peoples in child protection requires that our communities and organisations exercise full authority over the decisions and actions taken to care for and protect our children.

Better decisions will be made, and better outcomes achieved, when responsibility is transferred to our agencies and exercised by people who have the requisite cultural knowledge and authority to understand and advance the rights of our children.

In Victoria, the early progress and strengths of delegated authority in child protection have been recognised and celebrated, supporting increased reconnection and reunification of children in out-of-home care with their families.

Despite the commitment under Safe and Supported to transfer authority for child protection to our organisations, to date only Queensland and Victoria have implemented transfers of decision-making authority. Progress across the rest of the country is relatively minimal.

**Progress since last year:** Action 1 in the Aboriginal and Torres Strait Islander First Action Plan for Safe and Supported includes a commitment from all governments to delegation of decision-making authority in child protection to ACCOs. This is an important development, which SNAICC looks forward to progressing as Safe and Supported is implemented. The first step is developing a national shared definition

of transfer of child protection authority. This will create an opportunity to learn from implementation in jurisdictions that have already progressed with transferring child protection decision-making authority to ACCOs and to improve the models of transfer.

Victoria's *Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Act 2023*, which received Royal Assent in June 2023, and the *Community Protecting Boorais* pilot include provisions for ACCOs authorised under legislation to undertake investigations of reports of neglect and abuse.

The NT Government has committed to transfer legislative child protection authority under its *Planting Seeds* First Action Plan for the *10-Year Generational Strategy for Children and Families*.

In September 2023, QATSICPP released *Reclaiming our storyline: Transforming systems and practice by making decisions our way* (Reclaiming our storyline), a 10-year blueprint for implementation of delegated authority in Queensland. *Reclaiming our storyline* outlines the approach and implementation plan for transferring child protection decision-making into the ACCO sector.

**7. Develop community-based, youth-led models for participation of children and young people in matters that affect them, as part of mechanisms for partnership and shared-decision making with Aboriginal and Torres Strait Islander communities.**

Children and young people with lived experience of child protection systems must be involved in decision-making about matters that affect them. Creating effective, age-appropriate and culturally safe mechanisms for children and young people to inform decision-making is essential to fulfilling the commitments under the National Agreement and the UN Declaration on the Rights of Indigenous Peoples.

These mechanisms must be community-based and youth-led, according to the needs and circumstances of children and young people across all regions, jurisdictions and cultural and language groups.

**Progress since last year:** Action 4 in the First Action Plan for Safe and Supported is focused on creating mechanisms for people with lived experience of child protection systems to inform monitoring and governance. A Youth Advisory Group has also been established to inform Safe and Supported.



## BUILDING BLOCK 3

### Law, policy and practice in child and family welfare are culturally safe and responsive

#### 8. End adoption of Aboriginal and Torres Strait Islander children from out-of-home care.

Aboriginal and Torres Strait Islander children have a right to connection with family, community, culture and Country. Adoption threatens to break these connections and thereby undermine Aboriginal and Torres Strait Islander children's rights.

**Progress since last year:** In 2021-22 there were six adoptions of Aboriginal and Torres Strait Islander children around the country. While this number is small, the previous ten years saw increasing numbers of Aboriginal and Torres Strait Islander children being adopted, with the majority (66.3%) adopted by non-Indigenous parents.

#### 9. Legislate requirements that ACCOs must approve permanent care orders for Aboriginal and Torres Strait Islander children and partner with ACCOs to create alternative, culturally safe approaches to promoting stability and permanency, including ensuring ACCOs have information and roles to support ongoing cultural connections for Aboriginal and Torres Strait Islander children on permanent orders.

Stability for Aboriginal and Torres Strait Islander children must involve supporting and sustaining connections to family, community, culture and Country.

Permanent care orders risk severing Aboriginal and Torres Strait Islander children's ties to their kin, community and culture. Aboriginal and Torres Strait Islander people must be provided with opportunities to design alternative policies to support stability for Aboriginal and Torres Strait Islander children in connection with kin, culture and community.

Although SNAICC recommends that permanent care orders or adoption not be used for our children, where permanent care orders are used, they must never be applied without clear evidence that the Child Placement Principle has been fully applied nor without the endorsement of an Aboriginal and Torres Strait Islander agency.

This report demonstrates that inadequate efforts are being progressed to support families to stay together or to ensure children's connections to culture and family is maintained. In these circumstances, the pursuit of permanent care orders, particularly within limited mandated legal time frames, presents an unacceptable level of risk to our children's stable sense of identity and cultural connection.

**Progress since last year:** Aboriginal and Torres Strait Islander children continue to be severely over-represented in permanent care arrangements. 80.9% of all Aboriginal and Torres Strait Islander children in OOHC at 30 June 2022 are on long-term child protection orders. Some jurisdictions have mandated limited time frames for permanency, with no oversight of these outcomes by ACCOs.

#### 10. Establish national standards to ensure family support and child protection legislation, policy and practices adhere to all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle to the standard of active efforts, including:

- nationally consistent standards for implementation of the Child Placement Principle to the standard of active efforts and linked jurisdictional reporting requirements under Safe and Supported
- increased representation of Aboriginal and Torres Strait Islander families, children and communities at each stage of the decision-making process, including through independent Aboriginal and Torres Strait Islander family-led decision-making in every jurisdiction
- comprehensive, active and dedicated efforts to connect Aboriginal and Torres Strait Islander children in out-of-home care to family and culture, through cultural support planning, family finding, return to Country, and kinship care support programs.

**Progress since last year:** Safe and Supported commits to full implementation of the Child Placement Principle to the standard of active efforts. Action 5a. in the Aboriginal and Torres Strait Islander First Action Plan includes an action to develop national standards for active efforts to implement the Aboriginal and Torres Strait Islander Child Placement Principle.

The NSW Parliament passed the *Children and Young Persons (Care and Protection) Amendment (Family is Culture Review) Bill 2022* in late 2022. This Bill introduced requirements for active efforts to implement the Aboriginal and Torres Strait Islander Child Placement Principle. However, these provisions have not yet been proclaimed, and thus have not yet taken effect.

The Victorian Government passed the *Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2023*, which includes legislative

provisions for the five elements of the Child Placement Principle.

**11. Increase investment in reunification services to ensure Aboriginal and Torres Strait Islander children are not spending longer in out-of-home care than is necessary due to inadequate planning and support for parents, and increase investment in support services for families once children are returned to support sustained reunification outcomes for children and families.**

Returning Aboriginal and Torres Strait Islander children to their families must be a priority for child protection authorities from the point of removal. A combination of efforts is needed to support families to care for their children including proactive planning and culturally safe engagement by child protection practitioners with parents and families, support for ongoing contact between children and their families and addressing a range of needs such as housing, culturally-informed parenting education and support, and trauma.

SNAICC often hears that many supports are discontinued once reunification occurs, which can create challenges for the family. Families and children need continued support to sustain reunification outcomes and to adjust to children's return to the family, sometimes after significant periods of separation.

As detailed in Part 1 of this report, rates of reunification of Aboriginal and Torres Strait Islander children remain critically low. Increased efforts to increase rates of reunification are required to achieve Target 12 of the National Agreement.

**12. Establish ongoing initiatives to improve practice, knowledge, responsiveness and accountability to Aboriginal and Torres Strait Islander people in government agencies, in accordance with Priority Reform 3 under the National Agreement, including:**

- a. applying the Family Matters Reflective Practice Tool on a regular basis to assess agencies' progress with regard to cultural safety, support for shared decision-making and self-determination, staff capability and safe and effective practice with Aboriginal and Torres Strait Islander children and families
- b. identifying and eliminating racism – by assessing capability to understand, apply and promote anti-racism
- c. employing Aboriginal and Torres Strait Islander people in both identified and non-identified roles at all levels
- d. commitment to increasing capability and practice improvement to ensure culturally safe engagement with all Aboriginal and Torres Strait Islander stakeholders including service users, partner agencies and staff

- e. partnering with Aboriginal community-controlled organisations to engage with Aboriginal and Torres Strait Islander communities, deliver services, promote truth-telling and ongoing healing and to improve service delivery by government and non-Indigenous agencies
- f. improving engagement with Aboriginal and Torres Strait Islander people with transparent feedback processes, with Aboriginal and Torres Strait Islander leadership of these processes.

Many Aboriginal and Torres Strait Islander communities and organisations have had negative experiences of tokenistic collaborations with government and non-Indigenous organisations. Tokenistic involvement does not lead to better services for Aboriginal and Torres Strait Islander families. Tokenism can hold up progress as organisations that appear to be culturally responsive but fail to adjust their service delivery create deeper levels of mistrust, perpetuate power imbalances and fail to promote reconciliation. Priority Reform 3 commits all governments to transforming their institutions, practice, approach and relationships with Aboriginal and Torres Strait Islander peoples to address the underlying systemic and institutional inequality and discrimination that has been perpetrated by government and non-Indigenous institutions.

To work effectively with Aboriginal and Torres Strait Islander people, communities and organisations, government agencies must transform their policies, practices and ways of working to be culturally safe and responsive.

The Family Matters Reflective Practice Tool provides a child and family specific agencies with a framework to assess their organisation and a pathway to improvement. The tool can assist government agencies with meeting their obligations under the National Agreement.

**Progress since last year:** Several jurisdictions have progressed practice and policy changes with an aim to improving cultural responsiveness and engagement with Aboriginal and Torres Strait Islander people, including:

- Action 1 in the *Planting the Seeds* First Action Plan for the *10-Year Generational Strategy for Children and Families in the Northern Territory* is an Aboriginal Cultural Security Framework and Plan to ensure accountability for cultural safety and security in child and family sector.
- The WA DoC commenced work on a Cultural Capability Reform Program.
- The Queensland Government decided to end its use of the Structured Decision-Making Tool, which increased child protection involvement in Aboriginal and Torres Strait Islander children and families' lives.



- The NSW Government established the MAP Group to work with ACCO peak bodies. However, AbSec and ALS NSW/ACT report that the NSW Government has moved backwards on several commitments to shared decision-making and the National Agreement.
- The DSS has invested \$7.7 million over three years to develop the cultural competency and trauma responsiveness of the child and family sector workforce.



However, the implementation and outcomes of these initiatives is inconsistently reported, and it is unclear if they align with evidence and best practice as according to the National Agreement on Closing the Gap.

## BUILDING BLOCK 4

### Governments and services are accountable to Aboriginal and Torres Strait Islander people

#### 13. Establish and resource peak bodies that support and enable equal participation of Aboriginal and Torres Strait Islander people in shared decision-making and partnership for policy and service design and in the oversight of systems impacting children, in accordance with the National Agreement Priority Reform 1.

For genuine self-determination, partnerships and shared decision-making between Aboriginal and Torres Strait Islander people and governments, formal roles must be established for Aboriginal and Torres Strait Islander people to lead policy and service design, drive implementation and provide oversight of child protection systems in order to hold governments and services accountable to protecting the rights of Aboriginal and Torres Strait Islander children.

Aboriginal and Torres Strait Islander peak bodies are needed in each jurisdiction to enable a community-controlled sector representative voice that can direct the response to child protection concerns based on Aboriginal and Torres Strait Islander perspectives. Peaks play a critical role in legislation and policy development and the support and establishment of quality and effective community-controlled service systems. Peaks must be designed and driven from the ground up by Aboriginal and Torres Strait Islander communities. However, governments have responsibility to provide resources and opportunities for peaks to develop and operate.

**Progress since last year:** The SA Government engaged SNAICC to work with the South Australian Aboriginal Community Controlled Organisations Network (SAACCON) to establish a peak body for Aboriginal and Torres Strait Islander children and families in SA.

The WA Government worked with the Aboriginal Health Council of WA to establish the Council of Aboriginal Services WA (CASWA) as a cross-sector peak for Aboriginal and Torres Strait Islander community-controlled organisations in WA. However, CASWA is not specific to children and families.

#### 14. Establish Commissioners for Aboriginal and Torres Strait Islander Children nationally and in every state and territory, in accordance with the UN Principles relating to the Status of National Institutions, empowered and resourced by legislation.

The scale of the issues impacting Aboriginal and Torres Strait Islander children calls for dedicated commissioners nationally and in each state and territory. Their role is pivotal in providing Aboriginal and Torres Strait Islander leadership to advocate for the rights of children and to create accountability for necessary systems and practice transformation.

They should be responsible for investigating and shining a light on key child rights issues, monitoring progress of reforms and brokering solutions to persistent failures to protect our children's rights. Commissioner roles should be established in conformity with the United Nations benchmark guidelines for national human rights institutions (the Paris Principles). To achieve this, roles must:

- be established by legislation to ensure independence and autonomy from government
- be filled by an identified Aboriginal and Torres Strait Islander person with appropriate qualifications, knowledge and experience and appointed through a transparent process

- be mandated with a clear scope and purpose for the role
- be granted appropriate functions and powers to promote systemic change and accountability, including powers of inquiry and investigation
- be adequately resourced to perform its role effectively.

**Progress since last year:** The ACT Government passed legislation to establish an Aboriginal and Torres Strait Islander Children's Commissioner.

Action 7 in the Aboriginal and Torres Strait Islander Action Plan for Safe and Supported is the development of nationally agreed minimum requirements for Aboriginal and Torres Strait Islander Children's Commissioners. These were developed by the First Nations Children's Commissioners, Guardians and Advocates in September 2023, and are being considered through the shared decision-making processes for Safe and Supported.

The ECPP agreed to take forward a priority to consider a National Commissioner for Aboriginal and Torres Strait Islander Children and Young People.

**15. Establish partnerships between Aboriginal and Torres Strait Islander communities and governments to guide the design, collection, interpretation and use of data relevant to Aboriginal and Torres Strait Islander children. As a priority, we call on all jurisdictions to address data gaps identified throughout this report.**

Governments should collect and report data in an accessible and timely way to empower Aboriginal and Torres Strait Islander communities to access, use and interpret data for local decision-making. The National Agreement commits to shared access to location-specific data and information to inform decision-making.

Currently there are limited structures and supports at local and regional levels that enable communities to access and use data relating to outcomes for Aboriginal and Torres Strait Islander people. Initiatives are needed to support local communities' ownership of their data and capacity to guide policy and program responses based on administrative, evaluation and outcomes data. This is critical to shifting power in how data is used and responded to from its traditional place as the exclusive domain of government to an approach based on self-determination.

Current data sets do not track progress against the things that matter most for improving safety and wellbeing for Aboriginal and Torres Strait Islander children. What is required is a much broader set of data that can meaningfully indicate whether the needs of Aboriginal and Torres Strait Islander children and their rights to healthy development and connection with community, family and culture are being met in their

interactions with child protection systems. Future data development should take account of identified gaps throughout this report.

**Progress since last year:** Action 2 in the First Action Plan for Safe and Supported includes a review of national reporting to improve data about child and family services. Action 3 in the Aboriginal and Torres Strait Islander First Action Plan for Safe and Supported includes scoping for a national Aboriginal and Torres Strait Islander Centre for Excellence in Child and Family Support. The Aboriginal and Torres Strait Islander Leadership Group for Safe and Supported is also working towards an agreed definition of Data Sovereignty.

Some jurisdictions have partnered with ACCOs for monitoring and evaluation, such as the evaluation of the Queensland *Our Way Changing Tracks Strategy* action plan. There were no other data sharing or data improvement initiatives reported by governments for this report.

**16. Change the definition and counting rules for out-of-home care to include children on permanent care orders.**

The exclusion of children who have been permanently removed from their families from the definition and count of children in OOHC care makes large numbers of our children invisible in the system. This change to the definition and counting rules in recent years has reduced government transparency and accountability for protecting the rights of our children. It also provides a potential perverse pathway to achieving Target 12 by prioritising permanent removal rather than preventing children from coming into the system and reunifying them with their families.

The permanent removal of children from their families presents echoes of the Stolen Generations for Aboriginal and Torres Strait Islander peoples and raises deep concern that governments will continue to repeat the devastating mistakes of history by severing children's cultural identity and connections. In these circumstances, accountability and transparency are even more important, and governments must count all our children who have been removed and fully acknowledge their enduring responsibility for protecting our children's rights.

**Progress since last year:** There has been no progress since last year. Children on permanent care orders continue to be excluded from the definition and count of Aboriginal and Torres Strait Islander children in OOHC. New data tables reported by the Australian Institute of Health and Welfare (AIHW) in the *Child Protection Australia Report* make it possible to identify the total number of children removed from their parents when children on third-party parental responsibility orders are combined with children in OOHC. However, increased visibility does not address the core concern that governments are reducing and renouncing their





# APPENDICES

## Appendix I: Methodology for the projection scenario

Projections of OOHC population in Figure 15 in the report were calculated using the average annual population growth rates (APGR). Theoretically, a more complex model that is dynamical (is a function of time and space) and state-dependent (i.e., the population in each year depends on the population in previous periods) may be constructed and used in projecting future populations. However, due to the limitation of the available data and the lack of well-verified population dynamics models, only the APGR is used for projections.

The aim is to show one possible path of population growth for Aboriginal and Torres Strait Islander and non-Indigenous children in OOHC, assuming that each population continues to grow at the APGR. Lower and upper limits for the projected populations were estimated using the minimum and maximum APGR of the populations from the same period. This provides a good perspective on what to expect if the APGR is different from the mean APGR.

For ease of interpretation, all numbers in the model have been scaled to a base population of 1000 (there are far more non-Indigenous children in the Australian population, so growth rates were standardised to a base population of 1000 in order to facilitate the comparison of growth rates within each population). There are also several important caveats that are listed in Appendix II. These caveats highlight that the figures presented in the scenario need to be interpreted with caution. Moreover, the growth scenario represents a simplified approximation of what may happen. The scenario is not predictive and should not be interpreted as such.



## Appendix II: Caveats for the projection scenario

### Caveats as a result of the model restrictions:

- The growth scenarios for the 2021, 2022 and 2023 Family Matters Reports are based on different data to those used in the years prior to 2021. Due to the introduction of a standardised definition for OOHC applied by the AIHW, the decision was made to truncate the range of data used for 2021, 2022 and 2023 reports. This decision was based on the provision of updated data by the AIHW on the number of children in OOHC and on TPROs for all states and territories. These data have been retroactively updated from 2017 and have therefore been used to estimate the national growth scenario presented in this Report.
- The use of a truncated data set has implications for the interpretability and comparability of this scenario to previous years. First, estimates prior to 2021 were based on calculations that attempted to approximate the total number of children in OOHC by including third party parental responsibility orders and other supported placements. Given the significant jurisdictional variability in how these children were counted in OOHC statistics, previous calculations may have included additional 'noise' that inflated the projected growth in the Aboriginal and Torres Strait Islander OOHC population.
- Using the updated AIHW data means that there are fewer data points on which to base calculations of future growth. This means that the estimates in this year's Report may over or under-estimate the rate at which the Aboriginal and Torres Strait Islander OOHC population will grow. As more data becomes available, the margin of error in the growth scenario will decrease.
- However, given the standardisation of counting rules for all states and territories, the updated data provide a much stronger foundation from which to estimate growth in the Aboriginal and Torres Strait Islander OOHC population. Drawing on more recent data (from 2017 onwards) also provides a more accurate representation of the OOHC population,



as these data are more closely aligned with recent policy and legislative changes across various jurisdictions, particularly pertaining to TPPROs. Therefore, we anticipate that over time, and in the absence of further changes to counting rules, the growth scenarios will provide a more accurate representation of potential future trends.

- Unlike more complex models, the scenarios presented in the projections do not explicitly incorporate the re-enforcing feedback from exits to notifications via re-reports. This shortcoming is due to the fact that we have no data on the nature and timing of re-entry to out-of-home care.
- Restricted by the availability of data, the current model does not account for any system capacity constraints. In other words, the model allows the population of children in out-of-home care to grow without limit. As this assumption is unlikely to hold in reality, the trajectories in the model must be interpreted with this shortcoming in mind. This is particularly relevant for figures that are projected further into the future.

## Appendix III: Methodology for the Report Card table

The Report Card table at the front of this Report makes a subjective assessment of highlights and lowlights and a corresponding *traffic light* designation in relation to state and territory progress on aligning legislation, policy and practice with each of the four building blocks of the Family Matters Campaign.

Assessments are led by the Aboriginal and Torres Strait Islander community-controlled sector (and community members) and have been developed with the review and input of state Family Matters jurisdictional representatives and peak Aboriginal and Torres Strait Islander agencies in the child and family sectors. The methodology interrogates specific data points in the report that align most accurately to each of the building blocks when considering the framework detailed in the *Family Matters Roadmap*. A number of data points in the Family Matters Report were not provided by jurisdictions and, as a result, these are excluded from the Report Card assessment. In line with the Campaign's commitment to self-determination for Aboriginal and Torres Strait Islander peoples, the views provided in the Community Voices section of this report (Part 2) have been given significant weight in making assessments.

The specific data points considered in identifying highlights and lowlights and making assessments are:

**Building Block 1:** Prevention and early intervention investment and service access data, including universal and targeted services, particularly in family support and early childhood education and care; child protection system over-representation; investment in community-controlled prevention and early intervention; and early developmental outcomes reflected in the Australian Early Development Census.

**Building Block 2:** Resourcing of Aboriginal and Torres Strait Islander representative organisations to participate in child protection processes and decision-making; processes and resources for Aboriginal and Torres Strait Islander family-led decision-making; Aboriginal and Torres Strait Islander peak body roles in policy and service system design; delegation of statutory functions to ACCOs; and investment in ACCO service delivery.

**Building Block 3:** Placement of Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers and kin; rates of reunification; permanent care and adoption for Aboriginal and Torres Strait Islander children; programs for cultural support planning and implementation; kinship carer identification, assessment and support programs; ACCO roles to deliver culturally safe and strong services.

**Building Block 4:** Aboriginal and Torres Strait Islander system reform oversight and monitoring bodies, including Aboriginal and Torres Strait Islander representative bodies and children's commissioners; development of strategies to address over-representation and monitoring and evaluation of implementation and impact; provision of additional data requested to inform the Family Matters Report.





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