



# **FAMILY MATTERS**

Strong communities. Strong culture.  
Stronger children.



# **THE FAMILY MATTERS REPORT 2021**

MEASURING TRENDS TO TURN THE TIDE  
ON THE OVER-REPRESENTATION OF  
ABORIGINAL AND TORRES STRAIT ISLANDER  
CHILDREN IN OUT-OF-HOME CARE  
IN AUSTRALIA





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The Family Matters Report 2021 is a collaborative effort of SNAICC – National Voice for our Children, the Family Matters campaign and the University of Melbourne.

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**Family Matters – Strong communities. Strong culture. Stronger children.** is Australia's national campaign to ensure 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

|                 |  |
|-----------------|--|
| <b>AbSec</b>    | NSW Child Family and Community Peak Aboriginal Corporation   |
| <b>ATSICCO</b>  | Aboriginal and Torres Strait Islander community-controlled organisations                                       |
| <b>ACCO</b>     | Aboriginal community-controlled organisations  |
| <b>ACCHO</b>    | Aboriginal community-controlled health organisations   |
| <b>ACFC</b>     | Aboriginal Child and Family Centres  |
| <b>AIHW</b>     | Australian Institute of Health and Welfare   |
| <b>ANC</b>      | antenatal care   |
| <b>APGR</b>     | annual population growth rate  |
| <b>ATSICPP</b>  | Aboriginal and Torres Strait Islander Child Placement Principle (referred to as the Child Placement Principle) |
| <b>BBF</b>      | Budget Based Funding   |
| <b>CCS</b>      | Child Care Subsidy (as of July 2018)   |
| <b>COAG</b>     | Council of Australian Governments  |
| <b>CSO</b>      | community services organisation  |
| <b>DFV</b>      | domestic and family violence   |
| <b>ECEC</b>     | early childhood education and care   |
| <b>FLDM</b>     | family-led decision-making   |
| <b>IFSS</b>     | intensive family support service   |
| <b>MACS</b>     | Multifunctional Aboriginal Children's Service  |
| <b>OOHC</b>     | out-of-home care   |
| <b>QATSICPP</b> | Queensland Aboriginal and Torres Strait Islander Child Protection Peak   |
| <b>RoGS</b>     | Report on Government Services  |
| <b>SEIFA</b>    | Socio-Economic Indexes for Areas   |
| <b>VACCA</b>    | Victorian Aboriginal Child Care Agency   |





## FOREWORD BY FAMILY MATTERS CO-CHAIRS

**In the year before the first Family Matters report, Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda described the disproportionate (and growing) intervention in the lives of Aboriginal and Torres Strait Islander children and families as “one of the most pressing human rights challenges facing Australia today.”**

This statement reflects decades of advocacy. It aligns with the landmark Bringing Them Home report that urged governments to change course, to listen to Aboriginal and Torres Strait Islander communities, and to take action with a greater focus on self-determination, accountability, family support and healing.

In the years since, the Family Matters report has taken up this call. The report annually tracks developments and provides an opportunity to elevate community voices on this issue. It should make for uncomfortable reading for child protection administrators and governments across the country. The ongoing story of the Family Matters report, now in its sixth edition, demonstrates that governments need to do far more to transform child protection systems and practice to promote the rights, interests and wellbeing of Aboriginal and Torres Strait Islander children.

The disproportionate surveillance and intervention in the lives of Aboriginal and Torres Strait Islander children and families by child protection systems has continued to rise. Aboriginal and Torres Strait Islander children are more than five times more likely to be subject of a notification, and more than 10 times more likely to be removed and growing up in out-of-home care or on permanent third-party orders. Investment in prevention, family supports and restoration continue to be dwarfed by resourcing for intervention. Nationally, only 16 cents in every child protection dollar is spent on supporting families to stay safely together, while 84 cents is spent chasing the losses of a system predicated on removal. Critical connections to family, community, culture and Country that are proven to provide the foundation for our children's lifelong social and emotional wellbeing continue to be poorly understood and poorly supported by policy frameworks. This is only compounded by limited ongoing scrutiny and accountability.

There has been no shortage of commitments, but not nearly enough change. Each year, we hear from Aboriginal and Torres Strait Islander communities who report that their voices are marginalised. They tell us that systems, practice and reforms remain grounded in non-Indigenous perspectives of what's best for our kids and our families, that oversight mechanisms are limited, and that governments need to be pushed to do more to achieve change. Our communities are increasingly concerned by the disconnect between commitment and action. The language of reform and social justice is too often deployed to disguise the reality of initiatives that perpetuate these challenges. Key recent changes – including the imposition of arbitrary short timeframes for reunification, and streamlined pathways to permanent care orders – further entrench many of the problems, while framing them as solutions. They minimise state responsibility and accountability, artificially removing from view the children who in fact most deserve our focus.

The assumption is that these systems, by virtue of their involvement in the lives of our children, deliver the optimal conditions for children to thrive. But we know from the data in this year's report, and the well-documented correlation between child protection involvement and the experience of long-term social disadvantage and over-representation in juvenile justice and adult criminal justice systems, that the current approach is failing. It is time that the commitments from governments to do things differently are matched with actions.

Critically, the foundations of a transformed system are well known – self-determination, respect for culture, accountability, and a focus on prevention and early intervention, so that our children never need to be removed in the first place. This year's Family Matters report puts a spotlight on the incredible Aboriginal and Torres Strait Islander organisations that support our

children to be strong and healthy in their early years, the years that matter most to changing the storyline for our families. Under the new *National Framework for Protecting Australia's Children 2021–2031*, governments have committed to rebalancing the system towards these positive, preventative measures that build up our families instead of punishing them for their perceived deficits. Governments will need to prove that they mean what they say: they must **ensure that the first five-year action plans for the National Framework set out a clear and resourced pathway to genuinely transform Australia's child and family service systems.**

The Family Matters Roadmap provides the key building blocks that can guide this transformation. We urge governments to engage communities to establish the building blocks in every jurisdiction:

- invest in universal and targeted family supports so that all Aboriginal and Torres Strait Islander families have equitable access to the high-quality, culturally safe services they need
- ensure that families are able to participate in and shape their own futures and that of their children, within systems determined and administered by their own communities
- move urgently to address flaws in legislation, policy and practice to safeguard Aboriginal and Torres Strait Islander children and achieve safe and responsive systems, and
- establish empowered mechanisms to keep systems accountable to Aboriginal and Torres Strait Islander communities.

The change that is needed requires courage and leadership.

While we acknowledge that not everyone has the same starting point, all jurisdictions have an enormous challenge and responsibility to embed these reforms and turn the tide for our children. This means shifting decision-making about our children to our communities. It means establishing empowered oversight and accountability mechanisms to ensure the rights and interests of our children drive the decisions that shape their futures. It means investing in communities to heal our families so that all children can thrive.



**Catherine Liddle**  
Family Matters Co-Chair



**Paul Gray**  
Family Matters Co-Chair





# INTRODUCTION

## GOAL OF THE REPORT

**Family Matters – Strong communities. Strong culture. Stronger children.** is Australia’s national campaign to ensure 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 reports focus on what governments are doing to turn the tide on over-representation and the outcomes for 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.

## FAMILY MATTERS BUILDING BLOCKS

This year’s Family Matters report is the second to be published following the development of the new *National Agreement on Closing the Gap* (the National Agreement), which was entered into in July 2020. Under the National Agreement, governments across the country committed to make decisions in genuine partnership with Aboriginal and Torres Strait Islander peoples and organisations; to invest in our community-controlled services; to transform government agencies and non-Indigenous services into culturally safe organisations; and to develop data and monitor outcomes in partnership with Aboriginal and Torres Strait Islander peoples. The National Agreement also committed specifically to reducing Aboriginal and Torres Strait Islander children’s over-representation in out-of-home care by 45% by the year 2031, a target well-aligned to the Family Matters campaign’s call to eliminate over-representation by 2040.

After one year of the National Agreement’s existence, it is clear that – sadly – limited progress has been made to redress over-representation and the drivers of child protection intervention. Aboriginal and Torres Strait Islander children continue to be separated from their families, communities and cultures at devastatingly high rates. There were 21,523 Aboriginal and Torres Strait Islander children in out-of-home care – one in every 15.6 – at 30 June 2020, making our children 10 times more likely to be in out-of-home care than non-Indigenous children (up from 9.7 times more likely in 2018–19). These numbers differ slightly from those in other government reports, because they include children on permanent care orders who are otherwise excluded by states and territories from the definition of out-of-home care. Given that these children are permanently removed from their parents, the Family Matters campaign believes that re-including them in

**The Family Matters Roadmap** (published separately) proposes four inter-related building blocks, underpinned by evidence, ethics, and human rights, detailing the 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



out-of-home care statistics more accurately reflects the obligations of governments to uphold their rights and support their safety, wellbeing and ongoing connections to culture.

The impacts of colonisation, past and present discriminatory policies and practices, and persistent social inequity, coupled with under-investment in Aboriginal and Torres Strait Islander community-led and-controlled solutions, have created a legacy of disproportionate child protection intervention in our communities across Australia. A genuine commitment to broad and holistic changes to systems and practice will therefore be needed to achieve the Closing the Gap out-of-home care target. *Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031* (the National Framework), released in December 2021, aims to catalyse this fundamental shift in national policy related to child protection. Developed through a co-design process with SNAICC (involving extensive consultations with Aboriginal and Torres Strait Islander people and organisations across the country), the National Framework recognises our right to self-determination, aligns to the National Agreement's four Priority Reforms, and supports achievement of the Closing the Gap out-of-home care target.

The National Framework's four key focus areas also align well with the Family Matters building blocks –

including a renewed focus on early intervention and targeted support for children and families experiencing vulnerability or disadvantage, improved information sharing and data analysis, and a commitment to strengthen the child and family sector workforce. Recognising that Aboriginal and Torres Strait Islander community-controlled services are better for our people, the National Framework explicitly commits to building the community-controlled sector.

As detailed in this report, if the National Framework's commitments do not eventuate and the tide is not turned, we project the population of Aboriginal and Torres Strait Islander children living in out-of-home care will increase by 54% in the next 10 years, and the level of over-representation will also increase (with our children likely to make up almost half of all children in out-of-home care). However, University of Melbourne researchers have shown that if early intervention and prevention efforts could reduce entry to out-of-home care for Aboriginal and Torres Strait Islander children by just 5% per year, the Closing the Gap target can be met. If efforts can also be applied to support increasing numbers of Aboriginal and Torres Strait Islander children in out-of-home care to reunify with their parents and family members, the target can be exceeded.



## STRUCTURE OF THE REPORT

The report is structured in four 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 and trends in over-representation in out-of-home care.** 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. The report also includes a description of the types of child protection data that are publicly available; new data provided by state and territory governments; and key data gaps that need to be addressed to properly gauge progress.

**Part 2: Recent efforts to address the over-representation of Aboriginal and Torres Strait Islander children in out-of-home-care.** This part sets out, for each jurisdiction:

- 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 over-representation. 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 2 also discusses new overarching national policy frameworks in 2021.

**Part 3: Structural drivers and service inadequacies that contribute to Aboriginal and Torres Strait Islander children encountering the child protection system:** Despite the cultural strengths and committed effort of the vast majority of Aboriginal and Torres Strait Islander people to care for children in safe and nurturing environments, some of our communities find themselves under a level of strain that is impacting negatively on children, requiring a whole-of-society response to redress these issues. This part focuses on the structural drivers that contribute to children and families encountering the child protection system, including individual and collective experiences of trauma; systemic racism; poverty and socioeconomic disadvantage; access to safe and stable housing; family violence; drug and alcohol issues; and mental ill-health. This part also analyses service engagement and availability barriers in the service sectors that have

been identified as the highest priorities in responding to issues impacting on a child's development, wellbeing and safety, and in addressing the impacts of intergenerational trauma that have resulted from experiences of colonisation, the Stolen Generations and other discriminatory government policies.

**Part 4: Self-determination, cultural authority and connection to culture:** Respect for Aboriginal and Torres Strait Islander people's right to self-determination and culture is essential to achieving all four building blocks of the Family Matters campaign. Efforts to advance safety and wellbeing for children must be driven by the cultural authority of Aboriginal and Torres Strait Islander families and communities, who know best what is needed for their children to thrive. This part analyses the extent to which governments across Australia enable Aboriginal and Torres Strait Islander self-determination, participation and partnership in decision-making at the individual, family, community and systems levels through laws, policies and practice. Profiles are also provided of some of the most promising and effective approaches of Aboriginal and Torres Strait Islander people and organisations working to support children and families and end over-representation.

Throughout this report, we consider government efforts across all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle, which is the primary principle in legislation and policy that safeguards children's cultural identity and connections, and seeks to ensure self-determination for Aboriginal and Torres Strait Islander peoples in child protection. The five inter-related elements of the Child Placement Principle (prevention, partnership, participation, placement and connection) are discussed with a particular focus on strategies and progress to drive early intervention and prevention.

*The Family Matters Report 2021* is also an opportunity for us to exercise data sovereignty in the 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 report uses 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.

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.



# KEY RECOMMENDATIONS

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

Ensure that the first five-year action plans for *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031* set out a clear and resourced pathway to transform Australia's child and family service systems to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031. *The Family Matters Roadmap*, which has been developed through extensive review of the evidence and consultation with leading Aboriginal and Torres Strait Islander experts, provides a vision and clear strategies for achieving fundamental change to systems, policy and practice.

## 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 investment in universal and targeted early intervention and prevention, including family support and reunification services, and including funding to community-controlled services at a rate equivalent to the representation of Aboriginal and Torres Strait Islander children in child protection services.
2. Invest to increase the coverage and capacity of Aboriginal and Torres Strait Islander community-controlled integrated early years services through a new specific funding model and program designed to meet the needs of our children and families.

## BUILDING BLOCK 2

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

3. Set and implement investment targets to increase investment in Aboriginal and Torres Strait Islander service design and delivery by community-controlled organisations in line with self-determination and the aspirations of communities.
4. Establish and support independent Aboriginal and Torres Strait Islander family-led decision-making models in every state and territory, for all families across all significant child protection decision-making points.
5. Expand and appropriately fund the delegation of authority to Aboriginal and Torres Strait Islander organisations for statutory child protection functions across Australia.





### BUILDING BLOCK 3

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

6. End the policy and practice of adopting Aboriginal and Torres Strait Islander children from out-of-home care and engage with Aboriginal and Torres Strait Islander peoples to create an alternative system of promoting stability and permanency for children, instead of using permanent legal orders. Where permanent care orders are used, legislate a requirement that an Aboriginal and Torres Strait Islander organisation must approve the making of the order.
7. Establish national standards to ensure family support and child protection legislation, policy and practices are in adherence to all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle, including:
  - a. nationally consistent standards for Aboriginal and Torres Strait Islander Child Placement Principle implementation and linked jurisdictional reporting requirements under *Safe and Supported: National Framework for Protecting Australia's Children 2021-2031*
  - 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. increased investment in reunification services to ensure children are not spending longer in out-of-home care than is necessary due to inadequate planning and support for parents; and increased investment in support services for families once children are returned
  - d. 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.

### BUILDING BLOCK 4

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

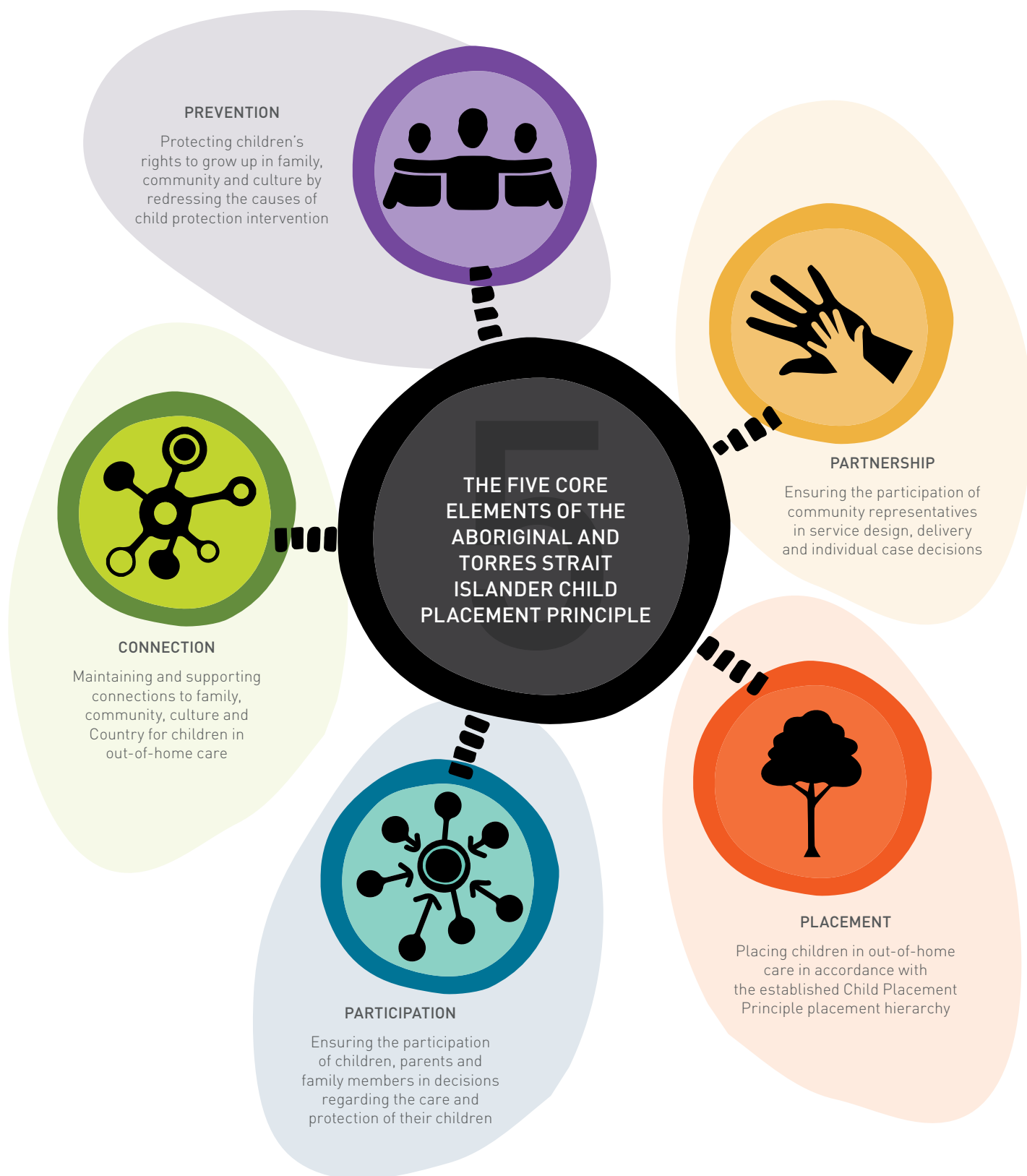
8. The establishment and resourcing of peak bodies that support and enable participation of Aboriginal and Torres Strait Islander people in policy and service design and in the oversight of systems impacting children.
9. The establishment of a commissioner for Aboriginal and Torres Strait Islander children nationally and in every state and territory.
10. The establishment of 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.
11. Change the definition and counting rules for out-of-home care to include children on permanent care orders.













## EXECUTIVE SUMMARY

### PART 1. CURRENT DATA AND TRENDS IN OVER-REPRESENTATION IN OUT-OF-HOME CARE

There were a staggering 21,523 Aboriginal and Torres Strait Islander children in out-of-home care at 30 June 2020, which represents one in every 15.6 Aboriginal and Torres Strait Islander children living in Australia. Aboriginal and Torres Strait Islander children were 10 times more likely than non-Indigenous children to be in out-of-home care, an over-representation that has increased consistently over the last 10 years.

The new *National Agreement on Closing the Gap* was signed in 2020 and includes a target (Target 12) to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45%, by the year 2031. This target provides a high level of ambition to reduce statutory intervention in the lives of Aboriginal and Torres Strait Islander families that is closely aligned with the goal of the Family Matters campaign to end over-representation in out-of-home care by 2040.

#### CURRENT RATES OF OVER-REPRESENTATION

Aboriginal and Torres Strait Islander children are over-represented at virtually every point of the child protection system: from notifications, investigations and substantiations of child harm, to removal into out-of-home care, permanent removal and adoption. Over-representation in out-of-home care has increased in every state and territory over the last 10 years. In 2019–20 the highest rate of over-representation was observed in Western Australia (17.6), followed closely by Victoria (17.2). Tasmania displayed the lowest rate of over-representation (4.6), followed by Queensland (8.5). Nationally, 4,588 Aboriginal and Torres Strait Islander children were admitted to out-of-home care in 2019–20, at a rate of 13.8 admissions per 1,000 children (nearly 10 times the rate of entry for non-Indigenous children). Admissions to out-of-home care were at the highest rate by far in Victoria (38.4 admissions per 1,000 children).

Aboriginal and Torres Strait Islander children were also less likely than non-Indigenous children to be reunified with their birth families. Nationally, only 14.8% of Aboriginal and Torres Strait Islander children in out-of-

home care (1,567 children) were reunified in 2019–20, compared to 20.6% of non-Indigenous children (3,747 children). The difference was most pronounced in the Northern Territory, where 17% of Aboriginal and Torres Strait Islander children and 30% of non-Indigenous children were reunified, but this discrepancy can be seen in every jurisdiction bar New South Wales (which reunified 8.8% of Aboriginal and Torres Strait Islander children but only 7% of non-Indigenous children). Reunification rates for Aboriginal and Torres Strait Islander children ranged from a shocking 7% in South Australia to 31% in Victoria.

These deeply concerning trends highlight that current legislative and policy settings are failing to reduce the inequities Aboriginal and Torres Strait Islander children experience across all key decision-making points of Australia's child protection systems. Achieving the Closing the Gap target will require a comprehensive approach to address the drivers of child protection intervention and to create a new system of child protection and service supports that are grounded in the strengths of culture and led by Aboriginal and Torres Strait Islander peoples. To be successful, the new *National Framework for Protecting Australia's Children 2021–2031* must ensure that governments live up to their commitments to resource Aboriginal and Torres Strait Islander community-controlled organisations to provide family preservation and reunification, and other prevention and early intervention supports for our families.

#### PERMANENT CARE AND ADOPTION

For children placed in out-of-home care, stability of relationships and identity are vitally important to their wellbeing and must be promoted. Accordingly, recent years have seen state and territory child protection authorities increasingly using legislation, policy and practice to promote stability through longer-term care arrangements for children in out-of-home care. For an Aboriginal and/or Torres Strait Islander child, their stability is grounded in the permanence of their identity in connection with family, kin, culture, and Country. But many recent permanency reforms have narrowly pursued legal permanency at the expense of children's cultural rights and connections, and without adequate focus on children's social and emotional wellbeing.

Children on permanent care orders have been excluded by governments from the definition of out-of-home care, reducing transparency and the visibility of children who have been permanently removed from their families. As well as preventing them from being considered for reunification with their birth families, this has also reduced the supports, oversight and protection provided to these children. *The Family Matters Report 2021* re-includes these children in its data and calls on governments to reverse the decision to exclude them.

In a number of states and territories the use of permanent care and adoption orders for Aboriginal and Torres Strait Islander children is high and escalating. In the previous five years to June 2020, 40 Aboriginal and Torres Strait Islander children were adopted, including 32 to non-Indigenous adoptive parents. Alarming, the most recent two years (2018–19 and 2019–20) have seen the highest numbers of finalised adoptions for Aboriginal and Torres Strait Islander children in the past 25 years. The Family Matters campaign is firmly of the view that no Aboriginal and Torres Strait Islander children should be adopted from out-of-home care.

At 30 June 2020, there were 17,068 Aboriginal and Torres Strait Islander children on long-term (permanent to age 18) guardianship, custody or third-party parental responsibility orders, making up 79% of all Aboriginal and Torres Strait Islander children in out-of-home care (as defined by the Family Matters campaign). The rate of Aboriginal and Torres Strait Islander children on these long-term orders was highest in Victoria (80.1 per 1,000), with high rates also evident in South Australia (71.5 per 1,000), the Australian Capital Territory (69.9 per 1,000), and New South Wales (64.6 per 1,000). These data reflect disturbing trends to increase the use of permanent care, which carries unacceptable risks of severing cultural and family connections for children. For example, New South Wales applied permanent care orders for Aboriginal and Torres Strait Islander children at the highest rate of any state or territory in 2019–20 (18.7 per 1,000) but did not provide data indicating whether these children were placed with Aboriginal and Torres Strait Islander carers or kin. This reflects a concerning lack of transparency regarding efforts to ensure culturally connected placements.

## PROJECTED GROWTH IN OVER-REPRESENTATION

Now that the new *National Agreement on Closing the Gap* has been in place for a year, attention has turned to how policy and service systems need to be overhauled to enable progress against Target 12. Alongside the first release of Closing the Gap Implementation Plans by the Australian, state and territory governments, we are also seeing the commencement of the second *National Framework for Protecting Australia's Children (2021–2031)*, which marks a fundamental shift in national child protection policy by recognising Aboriginal and Torres Strait Islander peoples' right to self-determination. However, against the backdrop of these new and refreshed frameworks, the future projection

of Aboriginal and Torres Strait Islander children in care remains deeply concerning and highlights just how much needs to change. The number of our children living in out-of-home care is projected to increase by 54% over the next decade if the current trajectory is not interrupted by profound and wholesale change to legislation, policy and practice.

While it is troubling that these projections continue to indicate significant growth in over-representation, there remains hope that with increased efforts to support families and address the drivers of child protection intervention, this trajectory can be altered. Modelling from the University of Melbourne shows that if early intervention and prevention efforts could reduce the rate of entry to out-of-home care for Aboriginal and Torres Strait Islander children by just 5% per year, the Closing the Gap target to reduce over-representation by 45% by 2031 can be met. If efforts can also be applied to support increasing reunifications of Aboriginal and Torres Strait Islander children with their parents and family members, this target can be exceeded.

## PART 2. RECENT EFFORTS TO ADDRESS THE OVER-REPRESENTATION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN IN OUT-OF-HOME CARE

The Australian, 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. This year, all governments provided input. These data are addressed throughout this report, with direct responses provided in part 2.

Family Matters jurisdictional working groups and Aboriginal and Torres Strait Islander community-controlled peak bodies and organisations are invited to respond to the government input as well as provide their own commentary on progress to address over-representation. Commissioners (or similar) for Aboriginal and Torres Strait Islander children in New South Wales, Queensland, South Australia and Victoria were also approached for their input, and this was included in part 2.

## PART 3. STRUCTURAL DRIVERS AND SERVICE INADEQUACIES THAT CONTRIBUTE TO ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN ENCOUNTERING THE CHILD PROTECTION SYSTEM

Aboriginal and Torres Strait Islander families and communities have successfully provided love and care for their children, growing them up strong and safe in

their cultural traditions for thousands of generations. These traditions remain the dominant paradigm, with Aboriginal and Torres Strait Islander child-rearing practices contributing to safe and nurturing environments and providing holistic care of children. However, some of our communities find themselves under a level of strain that is impacting negatively on children.

The wide range of challenges faced by Aboriginal and Torres Strait Islander communities across Australia can be traced back to the systemic racism that has persisted since colonisation and the intergenerational traumas that it has wrought. Clear evidence shows that unhealed trauma negatively affects neurological development and can be passed on biologically and psychosocially to future generations. Aboriginal and Torres Strait Islander people also continue to experience racial prejudice at least twice as frequently as non-Indigenous people while the child protection system is considered to still be rife with systemic racism. This cumulates in Aboriginal and Torres Strait Islander people experiencing long-lasting physical and mental harm, services being rendered ineffective and culturally unsafe, outcomes being unfair and unjust, and decision-making structures not being developed into genuinely inclusive and respectful spaces.

Part 3 focuses on those structural drivers and barriers that lead children and families to encounter the child protection system. On average, Aboriginal and Torres Strait Islander families are more frequently exposed to a wide range of these interrelated structural drivers, and evidence indicates that many Aboriginal and Torres Strait Islander families still face significant barriers to services sectors that can critically impact on development, wellbeing and safety.

The structural drivers examined in this part include:

**Socioeconomic disadvantage:** Children growing up in poverty are more likely to experience adverse circumstances linked to child welfare involvement and their families are less able to recover from adverse events due to a lack of economic resources and psychosocial supports. At the same time, on average, Aboriginal and Torres Strait Islander people have higher unemployment rates than non-Indigenous people and lower household incomes. Low incomes are associated with a wide range of disadvantage, including poor health, shortened life expectancy, poor education, reduced social participation, and increased rates of substance abuse, crime and violence.

**Poor access to safe, affordable and quality housing:** Disparities exist between Aboriginal and Torres Strait Islander people and non-Indigenous people across a range of housing measures, with Aboriginal and Torres Strait Islander people less than half as likely to own their home, 11 times more likely to live in social housing, and almost four times as likely to live in crowded dwellings. Aboriginal and Torres Strait Islander people were 9.4 times more likely to access specialist

homelessness services than non-Indigenous people in 2019–20, with this disparity particularly acute in remote and very remote areas facing high costs of living. Access to safe and healthy housing environments has a substantial impact on the capacity of families to provide safe and supportive care for children.

**Exposure to family violence:** The outsized impact of family violence on Aboriginal and Torres Strait Islander women leads our children to be especially vulnerable to the direct and indirect effects of family violence. This includes that family violence is a leading cause of homelessness for Aboriginal and Torres Strait Islander women and children, and that mothers can have a 'failure to protect' perception written into child protection assessments. Family violence contributes significantly to Aboriginal and Torres Strait Islander children's over-representation in child protection systems, and the current limited availability of supports for victim survivors (predominately mothers) can lead to the forced separation of children from victim survivor parents and/or carers.

**Drug and alcohol misuse:** Parental substance misuse is a significant risk factor for child abuse and neglect and is often closely interlinked with factors such as mental ill-health, socioeconomic disadvantage, and previous experiences of trauma. It also presents significant risks to children through conditions developed in utero, such as fetal alcohol spectrum disorders. While, on average, Aboriginal and Torres Strait Islander people are seven times more likely than non-Indigenous people to access addiction treatment services, the available data do not detail the effectiveness of available services nor the prevention and treatment strategies that work best for Aboriginal and Torres Strait Islander people. Information is also lacking on how services address children's safety and the extent of child-focused practice in addiction treatment services.

**Mental ill-health:** It is unsurprising that Aboriginal and Torres Strait Islander people experience higher rates of mental illness than non-Indigenous Australians, given their higher exposure to racism, socioeconomic disadvantage and social exclusion as well as the ongoing impacts of intergenerational trauma and colonisation. This can impact parents' ability to provide adequate quality care for their children, especially when undiagnosed, untreated or poorly managed parental mental illness can adversely affect a parent's daily functioning and quality of life. While Aboriginal and Torres Strait Islander people are over three times as likely as non-Indigenous people to use public mental health services, it is unlikely that most of these services are equipped to deliver the trauma-informed healing approaches that our community members need for holistic social and emotional wellbeing. There also are significant risks to children's mental health when they are involved with child protection systems, risks likely to be amplified for Aboriginal and Torres Strait Islander children suffering disconnection from their culture.



**Maternal and child health inequities:** Maternal health is a key factor in child mortality rates, while pregnancy, birth and early childhood present critical transition opportunities for a child's healthy growth and development. Despite some improvements, health outcomes for Aboriginal and Torres Strait Islander mothers and babies remain substantially worse than those for non-Indigenous mothers and babies. Further to this, even with an upward trend in the proportion of Aboriginal and Torres Strait Islander mothers attending at least one antenatal care session in their first trimester – from 50.5% in 2012 to 67% in 2019 – this proportion is still lower than that of non-Indigenous mothers. Evidence also indicates that Aboriginal and Torres Strait Islander infants are being removed at increased rates, which only drives Aboriginal and Torres Strait Islander mothers' reluctance to engage with antenatal care. With Aboriginal and Torres Strait Islander women more likely to have pre-existing health conditions than non-Indigenous women, the consequences of avoiding antenatal care are also likely to be more severe for Aboriginal and Torres Strait Islander mothers. It is essential to support pregnant Aboriginal and Torres Strait Islander women and mothers with universal provision of high quality culturally safe prenatal care, complimenting this with legislative reforms that embed a *prevention-first* approach for pregnant women by child protection systems.

**Barriers to participation in early childhood education and care:** While all children benefit from high-quality early learning programs, evidence is clear that the strongest positive impacts are for children experiencing vulnerability. Yet many Aboriginal and Torres Strait Islander children miss out on accessing quality early years education, putting them at a higher risk of developing problems that will impact on their long-term health, education outcomes, and social wellbeing. Nationally, in 2018, Aboriginal and Torres Strait Islander children were 2.5 times more likely than their non-Indigenous peers to be developmentally vulnerable in two or more developmental domains. This rate has shown no significant improvement over the past decade, decreasing by only about 5%.

The national rate of Aboriginal and Torres Strait Islander children enrolled in preschool has stayed on par with that of non-Indigenous children since 2017. However, enrolment data do not reflect levels of actual attendance and engagement of Aboriginal and Torres Strait Islander children in preschool programs. This report considers data on the extent to which Aboriginal and Torres Strait Islander children attend 600 hours of preschool per year, or 15 hours per week, which has been identified as the minimum required to deliver quality outcomes. There are substantial variations between jurisdictions in the proportions of our children accessing preschool with this frequency – with Aboriginal and Torres Strait Islander children in the Northern Territory only 40% as likely to attend

600 hours of preschool as their non-Indigenous peers, and only 80% as likely in South Australia and Western Australia.

Further, there are still striking disparities in access to Australian Government-funded services, such as long day care, family day care and out-of-school hours care. In 2019–20, Aboriginal and Torres Strait Islander children aged 0 to 5 years old were attending these services at 65% the rate of non-Indigenous children, a very slight increase from 64% in 2018–19. This evidence confirms what Aboriginal and Torres Strait Islander early years education services are experiencing in practice: that the Child Care Subsidy, with its focus on parental workforce participation and imposition of strict administrative requirements, is exacerbating inequality, and intensifying the barriers to crucial early years education, for our most vulnerable children.

**Inadequate government investment in family support services:** Prevention and early intervention programs and services are essential for strengthening families, as this supports parents and carers to provide the best possible environment for their children. An increased focus on (and funding of) such programs is critical to addressing the breakdown of family systems and preventing any need for a child to be removed from their home. Nevertheless, data indicate that 84.1% of national expenditure on child protection systems is allocated to the tertiary end of the sector (protective interventions and out-of-home care services). This is compared to 15.9% of expenditure directed towards measures that seek to strengthen families, prevent further or formal interventions in the future, and reunify children with their parents. Not only have governments failed to shift the focus in the right direction, despite rhetoric about the value of prevention and early intervention, the proportion of overall expenditure invested in family support and intensive family support services has decreased from 17.1% in 2015–16 to 15.9% in 2019–20.

## **PART 4. IMPROVING SERVICE SYSTEMS THROUGH SELF-DETERMINATION, CULTURAL AUTHORITY AND CONNECTION TO CULTURE**

Part 4 focuses on how child protection service systems can be improved, including through the genuine achievement of self-determination, cultural authority, connection to culture, data sovereignty and by addressing structural racism and ritualism. To achieve systems transformation, it is crucial that the all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle are implemented, alongside the strengthening of the Aboriginal community-controlled sector and independent oversight mechanisms.

## SELF-DETERMINATION

Self-determination is a collective right of Aboriginal and Torres Strait Islander peoples to determine and control their own destiny by exercising autonomy in their own affairs and maintaining distinct political, legal, economic, social and cultural institutions. In 2020, this right has played out through the National Agreement and the new *National Framework for Protecting Australia's Children 2021–2031*. Through this right, Aboriginal and Torres Strait Islander communities are recognised as best placed to make informed decisions about the safety, wellbeing and protection needs of their children. As such, governments should support upscaling the Aboriginal community-controlled organisation (ACCO) sector, including through increased funding, and support the transfer of control and power from government agencies and non-Indigenous organisations to Aboriginal and Torres Strait Islander peoples, communities and ACCOs.

## DATA SOVEREIGNTY

Data sovereignty is supported by the National Agreement's Priority Reform Four, recognising that people who have control over their own data have the power to set their own agenda, design programs that work for them, and measure their impact. Governments need to transfer their current data and information control to Aboriginal communities, experts and ACCOs and support Aboriginal and Torres Strait Islander communities to build their capabilities to collect, use, store and interpret data in a meaningful way. Through SNAICC's 2021 community consultations, Aboriginal and Torres Strait Islander people highlighted that a lack of government accountability and transparency in the child protection sector is driven by governments' inability to share critical data, including implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.

## SUPPORTING A STRONG ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITY-CONTROLLED SECTOR

The National Agreement recognises that Aboriginal and Torres Strait Islander community control is an act of self-determination and commits all governments to increase the proportion of services delivered by ACCOs. This will require both short-term measures, including redirecting expenditure towards ACCOs, and long-term holistic and sustainable reforms through such tools as the *Closing the Gap Early Childhood Care and Development Sector Strengthening Plan* and the *National Aboriginal and Torres Strait Islander Early Childhood Strategy*.

New South Wales leads the nation in the proportion of total child protection expenditure directed to ACCOs (6.05%), although around two thirds of this goes to out-of-home care rather than earlier intervention services. Queensland delivers the highest proportion of expenditure on ACCOs for the delivery of family support

and intensive family support services (21.82%). Western Australia also invests a relatively high proportion of its family support and intensive family support services expenditure in ACCOs (21.41%). However, because it invests the lowest proportion of total child protection funds into support services, it also shows the largest discrepancy between overall child protection expenditure and representation of Aboriginal and Torres Strait Islander children, with only 2.38% of expenditure directed to ACCOs while 43.53% of children receiving child protection services are Aboriginal or Torres Strait Islander children. While Victoria is known to significantly invest in ACCOs for child protection-related services, the state's Department of Families, Fairness and Housing (DFFH) identifies that its ACCO expenditure data cannot be used to calculate proportions of total expenditures due to comparability issues.

## ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

The five elements of the Aboriginal and Torres Strait Islander Child Placement Principle (Child Placement Principle) aim to ensure children's connections to family, community and culture are prioritised and that Aboriginal and Torres Strait Islander peoples are self-determining in child protection.

To achieve full implementation and maximise the benefits of all five elements, governments need to confront institutional racism and ritualism, and continuously apply active efforts.

## PREVENTION

A prevention approach to child wellbeing is critical to protecting our children's rights to grow up in family, community and culture. Despite limited government investment in this area, ACCOs are demonstrating excellence in supporting families before (or early in) crises, and transforming the lives of Aboriginal and Torres Strait Islander children for the better. Through their community roots, these organisations are able to quickly establish trusting relationships with families and provide culturally safe, non-judgmental spaces for families to recognise their strengths, tackle their challenges and meet with service providers who can support them to address their needs. Further critical elements of success include that ACCOs employ and demonstrate genuine respect towards Aboriginal and Torres Strait Islander employees; equally value Aboriginal ways of knowing, doing and being alongside Western approaches to health and education; and purposefully provide holistic wraparound supports for families through their prevention programs.

## PARTNERSHIP

Partnership requires genuine inclusion – not mere consultation – of Aboriginal and Torres Strait Islander community representatives in child and family welfare decisions. *Delegation of authority* is the key means to achieve this; meaning governments' genuine delegation

of case management and/or statutory powers to ACCOs when a case involves an Aboriginal and Torres Strait Islander child. This power has been exercised to varying degrees in Victoria and Queensland. While both states fall short of enabling ACCOs to design and deliver their own systems, these are important examples of governments' willingness to relinquish control over key decisions in order to promote self-determination and support the safety, wellbeing and connection of Aboriginal and Torres Strait Islander children and families.

In Victoria, the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* includes a framework for the case management of Aboriginal children on protection orders to be transferred from DFFH and non-Indigenous service providers to ACCOs, under the Transitioning Aboriginal Children to ACCOs program. There is also a mechanism in Section 18 of the *Children, Youth and Families Act 2005* (Vic) for DFFH to delegate its legislative powers and functions to the CEO of an authorised ACCO in respect of an Aboriginal child on a protection order. Four ACCOs have now been authorised to undertake statutory powers for more than 180 Aboriginal children (with two more in the process of authorisation) and around 50% of all Aboriginal children in care are case-managed by ACCOs.

In Queensland, the *Child Protection Act 1999* was amended in 2019 to enable a relevant chief executive to delegate one or more of their functions or powers to the CEO of an ACCO, thereby allowing the ACCO to make decisions for the child in relation to child protection matters. Implementation of these provisions is currently being trialled in two communities through a partnership between Queensland's Department of Children, Youth Justice and Multicultural Affairs (DCYJMA), the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) and two local ACCOs.

## PLACEMENT

The national rate of placement of Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers continues to fall each year. It reached a low of 42.5% at 30 June 2020, dropping over 10 percentage points in just the last six years.

This large reduction, alongside the growing numbers of Aboriginal and Torres Strait Islander children in out-of-home care, has concerning implications for children's connections to their family, community, culture and Country. When placements with non-Indigenous family and kin carers are added, the rate of Aboriginal and Torres Strait Islander children placed with any family or kin has steadied in the last two years but still shows a decrease of 11 percentage points since 2006. This indicates an increasing and concerning trend for Aboriginal and Torres Strait Islander children to be placed with their non-Indigenous family rather than Aboriginal and Torres Strait Islander kin.

In 2019–20, Victoria had the highest rate of Aboriginal and Torres Strait Islander children being placed with their kin or Aboriginal and Torres Strait Islander carers (79.3%). However, there was a decrease in placements with Aboriginal and Torres Strait Islander carers specifically (39.4%), with children being placed with non-Indigenous kin at a high rate. New South Wales had the second highest rate of placement with Aboriginal and Torres Strait Islander carers or kin (73.8%) and the highest rate of placement with Aboriginal and Torres Strait Islander carers specifically (50.2%). Despite a small drop from 2018–19 to 2019–20, the Australian Capital Territory has consistently improved against both measures and was the only jurisdiction to increase placement for Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers in the last five years (from 37% to 40.2%). The lowest rate of placement with Aboriginal and Torres Strait Islander carers and other kin was in the Northern Territory (34.4% in 2019–20). Tasmania had the lowest rate of placement with Aboriginal and Torres Strait Islander carers specifically, at just 15.7% in 2019–20.

## PARTICIPATION

This element requires Aboriginal and Torres Strait Islander children and family members to be involved in all decision-making that affects them. Given the impacts on children and families when a child is removed, governments have a responsibility to afford procedural justice to families and communities to ensure they are meaningfully involved in these life-impacting decisions. There has been recent mixed progress to increase the use of family-led decision-making processes that are facilitated by independent Aboriginal and Torres Strait Islander people and agencies. In 2019–20, the Queensland Government allocated \$14m to support Aboriginal and Torres Strait Islander families to participate in key decisions that affect them across the child protection system (through the Family Participation Program).

In New South Wales, legislative reform to the *Children and Young Persons (Care and Protection) Act 1998* has meant that all families must be offered alternative dispute resolution, preferably family group conferencing. In 2019–20, 47% of these conferences (331) were for Aboriginal families. However, there are no requirements to implement a distinct Aboriginal family-led decision-making model that is designed and facilitated by Aboriginal people and organisations. New South Wales ACCOs report that inadequate government resourcing also continues to undermine the model's effectiveness. Similar criticisms have been made regarding a Western Australian Government's Aboriginal family led decision-making pilot, launched in September 2021. The pilot aims to support Aboriginal families to make decisions about their children in a culturally safe way and keep Aboriginal children safely connected to community. However, at present, this pilot is only being trialled by two ACCOs and has only been funded for \$715,000.

In the Northern Territory, Multi-Agency Community and Child Safety Teams (MACCSTs), made up of community members, local heads of government agencies and non-government organisations, identify issues and implement action plans for family and community safety. This approach is being held up as a demonstration of local collaborative decision-making; however, Northern Territory ACCOs consider MACCSTs as problematic as there is no specific means for families to be involved or to articulate their needs, and even the inclusion of Aboriginal community members can be rare.

The legislated right to participation in the context of child protection decision-making also varies across jurisdictions. Queensland's legislation remains the most comprehensive, particularly in meaningfully supporting the participation of Aboriginal and Torres Strait Islander children, families and communities. Victoria's legislation is also closely aligned to this purpose.

## CONNECTION

In 2019–20, 71.2% of all Aboriginal and Torres Strait Islander children in out-of-home care who were required to have cultural support plans were reported as having a current plan. However, the accuracy and usefulness of these data are limited, including as to a plan's quality or practical implementation. The Family Matters campaign has consistently called for the development of meaningful ways to measure the development, quality and implementation of cultural plans for Aboriginal and Torres Strait Islander children in care.

## OVERSIGHT AND ACCOUNTABILITY

Community representatives across Australia have long called for dedicated Aboriginal and Torres Strait Islander children's commissioners, including a national commissioner. Only Victoria, South Australia and Queensland have appointed a children's commissioner with a dedicated role for all our children, while the New South Wales Aboriginal deputy children's guardian's remit only includes children in out-of-home care. However, in its first *Closing the Gap Implementation Plan*, the Australian Capital Territory committed to undertake preliminary work towards establishing a commissioner for Aboriginal and Torres Strait Islander children and young people.

Peak bodies are another important mechanism to provide advocacy, oversight and accountability for systems that impact Aboriginal and Torres Strait Islander children and their families. Peak organisations with a dedicated focus on the child protection and family services sector operate in Queensland and New South Wales, while SNAICC – National Voice for our Children operates at the national level. Policy participation roles are resourced in Victoria through the Victorian Aboriginal Child Care Agency and the Victorian Aboriginal Children & Young People's Alliance.

While there is no state-wide peak in Western Australia, the Noongar Family Safety and Wellbeing Council works to provide a strong voice for Noongar children and families and advocate on their behalf. In South Australia, the Department for Child Protection has committed to developing a model for an Aboriginal child and family peak body, including the provision of funding, following a community consultation process in 2021–22.







# FAMILY MATTERS

Strong communities. Strong culture.  
Stronger children.

# THE FAMILY MATTERS REPORT CARD 2021

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  
TPPRO: third-party parental responsibility order

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

| Headline indicator<br>Over-representation in OOHC + TPPRO (rate) |      | BUILDING BLOCK 1<br>Universal and targeted services  | BUILDING BLOCK 2<br>Participation, control and self-determination   | BUILDING BLOCK 3<br>Culturally safe and responsive systems  | BUILDING BLOCK 4<br>Accountability   |
|--|------|--|---|---|--|
| ACT  | 13.8 | <ul style="list-style-type: none"><li>\$5.7M investment for five years in family support programs delivered in partnership with an ACCO</li><li>Second lowest rate of Aboriginal children on track against all five AEDC domains (26%)</li><li>Equal highest Aboriginal childcare attendance rate compared to non-Indigenous children (77%)</li><li>Low proportion of expenditure on family support and intensive family support (12.3%)</li></ul> | <ul style="list-style-type: none"><li>Continued funding of family group conferencing with promising results, but community concern about lack of independent Aboriginal process</li><li>New commitment to resource an ACCO/s for policy, advocacy and service design roles</li><li>Lowest reported proportion of expenditure on ACCO services (1.2%)</li></ul>  | <ul style="list-style-type: none"><li>Provides ACCO-led required training to staff on application of the five elements of the ATSICPP</li><li>Commencing legislative review with commitment to consult and embed the full intent of the ATSICPP</li><li>Third highest placement with kin and Aboriginal carers (64.1%) and consistent improvement</li></ul>   | <ul style="list-style-type: none"><li>Independent Aboriginal-led oversight body monitors implementation of <i>Our Booris, Our Way</i> review</li><li>New commitment to commence preliminary work to establish an Aboriginal and Torres Strait Islander children's commissioner</li><li>Aboriginal elected body plays an important role in policy design and oversight more broadly</li></ul>   |
| NSW  | 9.9  | <ul style="list-style-type: none"><li>Third lowest rate of Aboriginal entry to OOHC</li><li>Commitment to invest 30% of targeted early intervention in ACCOs not progressing (0.66% funding growth in the last three years)</li><li>Investment in nine community-controlled Aboriginal Child and Family Centres to support prevention</li><li>Highest rate of Aboriginal children on track against all five AEDC domains (42%)</li></ul>           | <ul style="list-style-type: none"><li>Community voices highlight that ongoing cycles of government-led reforms are not working</li><li>Highest proportion of expenditure on ACCOs (6.1%) but well below share of Aboriginal children in OOHC (41.4%)</li><li>47% of family group conferences were for Aboriginal families, but no Aboriginal-led model or oversight</li><li>Aboriginal peak body funded for policy and sector development roles, but large funding cuts in 2020</li></ul> | <ul style="list-style-type: none"><li>Promising CTG implementation plan commitments for system reforms, but investments not identified</li><li>Highest use of permanent care orders (long-term TPPRO) for Aboriginal children (18.7 per 1000)</li><li>Second lowest reunification rate for Aboriginal children in out-of-home care (8.8%)</li><li>Highest placement with Aboriginal carers (50.2%)</li></ul>  | <ul style="list-style-type: none"><li>Community voices identify that <i>Family is Culture</i> review recommendations have been "sidelined, watered down, or overlooked"</li><li>Key data not provided, including whether children in permanent care are with kin or Aboriginal carers</li><li>Deputy Aboriginal children's guardian appointed, but lacks children's commissioner powers and role has narrow focus on OOHC system</li></ul> |
| NT   | 11.1 | <ul style="list-style-type: none"><li>Second lowest rate of Aboriginal entry to OOHC</li><li>Three new ACCO-run Aboriginal Child and Family Centres established to support families</li><li>Lowest rate of Aboriginal children on track against all five AEDC domains (18%)</li><li>High proportion of expenditure on family support (23.7%), but high internal spend and community report limited supports and enormous unmet need</li></ul>      | <ul style="list-style-type: none"><li>ACCOs providing kinship care services report lack of authority in care decisions for children</li><li>No independent Aboriginal family-led decision-making model in legislation or practice</li><li>Community voices identify multi-agency community and child safety teams as problematic for community input to decisions (see part 2)</li><li>New investment in ACCO-led family support services</li></ul>                                       | <ul style="list-style-type: none"><li>Second highest reunification rate for Aboriginal children in out-of-home care (17%)</li><li>Aboriginal kinship program funds six ACCOs to find, assess and support Aboriginal carers</li><li>Community continue to report that service system is culturally unsafe and not trauma-informed</li><li>Lowest placement of Aboriginal children with kin or Aboriginal carers (34.4%)</li></ul>                                  | <ul style="list-style-type: none"><li>No dedicated commissioner or peak body for Aboriginal children and families</li><li>Children and Families Tripartite Forum provides high-level accountability with ACCOs represented</li><li>Tripartite Forum has developed a 10-year Generational Strategy for children and families due for release late 2021</li></ul>  |
| QLD  | 8.5  | <ul style="list-style-type: none"><li>Second lowest rate of OOHC over-representation</li><li>Highest proportion of expenditure on ACCOs for family support and intensive family support (21.8%), but not proportional to high child/unborn baby needs</li><li>Continued investment in 33 ACCO Family Wellbeing services, with high ACCO driven success (93% of families requiring no further investigation)</li></ul>                              | <ul style="list-style-type: none"><li>Commitment to state-wide delegated authority to ACCOs – implementation commenced for two ACCOs</li><li>Aboriginal and Torres Strait Islander family-led decision-making in child protection and youth justice, but resources not matched to demand</li><li>Increased resources to QATSICPP (state peak body) for system reform leadership roles</li></ul>   | <ul style="list-style-type: none"><li>Second highest return to care within 12 months for Aboriginal children reunified (22.6%)</li><li>Development of a <i>Family Caring for Family</i> kinship care model led by the ACCO sector in progress</li><li>Second lowest placement with Aboriginal and Torres Strait Islander carers (33%)</li><li>Legislative change to maintain adoption as an option passed despite strong community opposition</li></ul>           | <ul style="list-style-type: none"><li>First Children and Families Board guides and oversees whole-of-government <i>Our Way</i> strategy and will be engaged on adoption decisions</li><li>Aboriginal commissioner appointed and leading investigation of application of the ATSICPP</li><li>Lack of regional practice consistency and accountability to communities by government services</li></ul>                                       |
| SA   | 10.8 | <ul style="list-style-type: none"><li>Second highest Aboriginal entry to OOHC rate</li><li>Engaging two ACCOs to deliver intensive family support and working towards 30% funding commitment</li><li>Comparatively low Aboriginal pre-school attendance for 600 hours (80% of non-Indigenous rate)</li><li>Second lowest proportion of expenditure on family support services (8.8%)</li></ul>   | <ul style="list-style-type: none"><li>Community voices identify continued government control over decisions for Aboriginal families</li><li>Family group conferences for Aboriginal families promising but lack of ACCO resourcing and roles</li><li>SA Government has indicated intention to advance delegated authority through legislative reform</li><li>Third lowest reported proportion of expenditure on ACCO services (3.4%)</li></ul>  | <ul style="list-style-type: none"><li>Lowest use of permanent care, but highest long-term guardianship orders for Aboriginal children</li><li>Lowest reunification rate for Aboriginal children (7%)</li><li>ACCO kinship care support program delivered by three ACCOs (\$3 million over two years)</li><li>High increase in cultural identity support tool completion rate from 20.2% to 92.7% in two years.</li></ul>  | <ul style="list-style-type: none"><li>Process commenced for Aboriginal-led design of Aboriginal children and families peak</li><li>Legislation passed to elevate the powers of the Aboriginal commissioner for children and young people</li><li>Lack of a dedicated plan to address over-representation overseen by Aboriginal people</li></ul>   |
| TAS  | 4.6  | <ul style="list-style-type: none"><li>Lowest rate of Aboriginal OOHC over-representation</li><li>Lowest rate of Aboriginal entry to OOHC</li><li>Funding to ACCOs for intensive family support and employment of liaison officers for the Advice and Referral Line to assist families in need of support</li><li>Second highest rate of Aboriginal children on track against all five AEDC domains (37%)</li></ul>                                 | <ul style="list-style-type: none"><li>Future commitments to identify and build capacity for Aboriginal facilitators of family group conferences and to develop an Aboriginal-led case management service model for OOHC</li><li>No Aboriginal peak, few formal and funded roles for ACCOs, and no model for family or ACCO participation in child protection case decisions</li></ul>   | <ul style="list-style-type: none"><li>Third lowest reunification rate for Aboriginal children in out-of-home care (10.1%)</li><li>Partnership with TAC to deliver cultural training to carers and government child protection staff</li><li>By far lowest rate of placement of Aboriginal children with Aboriginal carers (15.7%)</li></ul>   | <ul style="list-style-type: none"><li>No dedicated commissioner or peak body for Aboriginal children or formal system leadership roles for independent Aboriginal representatives</li><li>No dedicated and monitored strategy to address Aboriginal over-representation</li><li>Strong Kids Safe Families next steps action plan has limited areas of focus on Aboriginal children</li></ul>   |
| VIC  | 17.2 | <ul style="list-style-type: none"><li>Second highest over-representation in OOHC and highest by far Aboriginal entry to OOHC</li><li>Equal highest Aboriginal child care attendance rate compared to non-Indigenous children (77%)</li><li>Highest proportion of expenditure on family support and intensive family support (25.8%), but ACCO funding for early intervention is limited (7%)</li></ul>   | <ul style="list-style-type: none"><li>Delegation and case management of Aboriginal children driven by ACCOs continues to grow and succeed, but transfer targets have been missed.</li><li>Trials of Aboriginal-led child protection investigations and diversion pathways commenced</li><li>High rate of investment in ACCO services</li><li>ACCOs resourced for policy and leadership roles</li></ul>  | <ul style="list-style-type: none"><li>Second highest use of permanent care orders (long-term TPPRO) for Aboriginal children (16.9 per 1,000)</li><li>Highest reunification rate for Aboriginal children (31.3%), but also highest rate of return to care within 12 months (24.4% of those reunified)</li><li>Highest placement with kin or Aboriginal carers (79.3%), but high placement with non-Indigenous kin and low with Aboriginal carers (39.4%)</li></ul> | <ul style="list-style-type: none"><li>High accountability and partnership with ACCOs through the Aboriginal Children's Forum and the <i>Wungurilwil Gaggapduir Agreement</i></li><li>Commissioner for Aboriginal children and young people leads independent systemic oversight</li><li>Greater government action and investment needed to respond to and address high entry to care rates</li></ul>                                       |
| WA   | 17.6 | <ul style="list-style-type: none"><li>Highest over-representation in OOHC nationally</li><li>Only one ACCO early intervention service in the state, delivered in the Perth Metropolitan Region</li><li>Lowest proportion of expenditure on family support and intensive family support (5.8%)</li><li>Comparatively low Aboriginal pre-school attendance for 600 hours (80% of non-Indigenous rate)</li></ul>                                      | <ul style="list-style-type: none"><li>One Aboriginal OOHC service through Yorganop servicing only 4% of Aboriginal children in OOHC</li><li>Aboriginal family-led decision-making pilot has tokenistic funding (\$715k) and requires expansion</li><li>New legislation increases consultation requirements with ACCOs, but roles yet to be resourced</li><li>Second lowest reported proportion of expenditure on ACCO services (2.38%)</li></ul>  | <ul style="list-style-type: none"><li>Third highest use of permanent care orders (long-term TPPRO) for Aboriginal children (10.4 per 1,000)</li><li>Aboriginal Cultural Capability Reform Program in process, including development of an agency-wide <i>Aboriginal Cultural Framework</i></li><li>Missed opportunity to include the five elements of the ATSICPP in recent legislative reform</li></ul>  | <ul style="list-style-type: none"><li>Independent Reference Group for OOHC, including Aboriginal representatives working on system reforms was disbanded</li><li>No dedicated commissioner for Aboriginal children or state-wide Aboriginal peak body</li><li>Lack of dedicated strategy to address over-representation, but renewed commitment to develop a 10-year roadmap</li></ul>   |

The methodology for development of the Report Card table is described in Appendix IV  
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 AND TRENDS IN OVER-REPRESENTATION IN OUT-OF-HOME CARE

### 1.1 OVERVIEW

In 2021, national child protection data continues to show a rising number and representation of Aboriginal and Torres Strait Islander children who have been removed from their parents and are living in out-of-home care. With the new Closing the Gap target in place to reduce over-representation in out-of-home care by 45% by 2031 (Target 12), annual progress is being tracked through an online dashboard and data compilation report produced by the Productivity Commission (PC 2021). The first annual data compilation shows that the out-of-home care target is amongst the most off-track, and hardest to achieve, of Closing the Gap targets based on current trajectories.

Data and trends nationally continue to demonstrate that current systems for child protection are not equipped to turn the tide on the rising rate of Aboriginal and Torres Strait Islander children in out-of-home care. Target 12 will not be met without a substantial transformation of these systems. 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 service supports that are grounded in the strengths of culture and led by Aboriginal and Torres Strait Islander peoples.

Part 1 of this report analyses the systems data that reflect the engagement of Aboriginal and Torres Strait Islander children and families with child protection services. This data is critical to understanding the current situation and what it will take to bring about substantial change. It is important to note early in this report that the numbers presented regarding children in out-of-home care will appear different to figures reported by other sources, because the Family Matters campaign includes children on long-term third-party parental responsibility orders (TPPROs) in the out-of-home care count. In contrast, the official definition of out-of-home care 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 Family Matters Leadership Group disagree with this decision. Part 1.2 provides more detail on this issue, and part 1.3 discusses the impact of long term TPPROs, along with finalised guardianship and custody orders, in more detail.

From a systems perspective, the number of children in out-of-home care 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 out-of-home care on a given day. Some children will have been in out-of-home care for one day and some for 17 years. This gives a **point-in-time** count of the **prevalence** of out-of-home care and is reported nationally as at 30 June in *Child Protection Australia* [published by the Australian Institute of Health and Welfare (AIHW)] and the *Report on Government Services* (RoGS), published 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 out-of-home care in a given period of time (usually over one year). Some children may have been in out-of-home care 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 out-of-home care (that is, new cases) or an **entry cohort**.

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

This is a count of all children exiting out-of-home care in a given period (usually a year). This is known as an **exit cohort**. Most children exit care because they turn 18 years (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, the Family Matters campaign does not consider exit to permanent care to be a genuine exit from the system because the government is 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 children enter care, they may stay for very short to long periods of time, 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 out-of-home care.

When considered this way, over-representation and under-representation could occur in any or all of these processes. Focusing only on those children currently in out-of-home care, or those exiting out-of-home care, leads to poor policy decisions. Reducing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care requires legislative, policy and programmatic attention to 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** provides the best possible opportunity for children to be safe and thrive in connection with their cultures.

Over-representation of Aboriginal and Torres Strait Islander children in out-of-home care is reflective of systemic racism and a lack of action to protect and promote the human rights of Aboriginal and Torres Strait Islander children. Past and present discriminatory government policies and practices, and their continuing impact on children, families and communities, drive ongoing contact with child protection systems. The lack of culturally safe and responsive service systems results in under-representation in universal prevention and early intervention services, which contributes to over-representation in statutory service systems.

In SNAICC's consultations in early 2021 to inform the new *National Framework for Protecting Australia's Children*, 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 reaching out for help. The likelihood of an Aboriginal or Torres Strait Islander child coming to the attention of authorities, being investigated, having concerns substantiated and being placed in out-of-home care is far greater than the likelihood for non-Indigenous children. At the same time, Aboriginal and Torres Strait Islander children are less likely to be returned to the care of their parents and spend longer periods of time on average in out-of-home care than non-Indigenous children. Overall, 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. This must change.

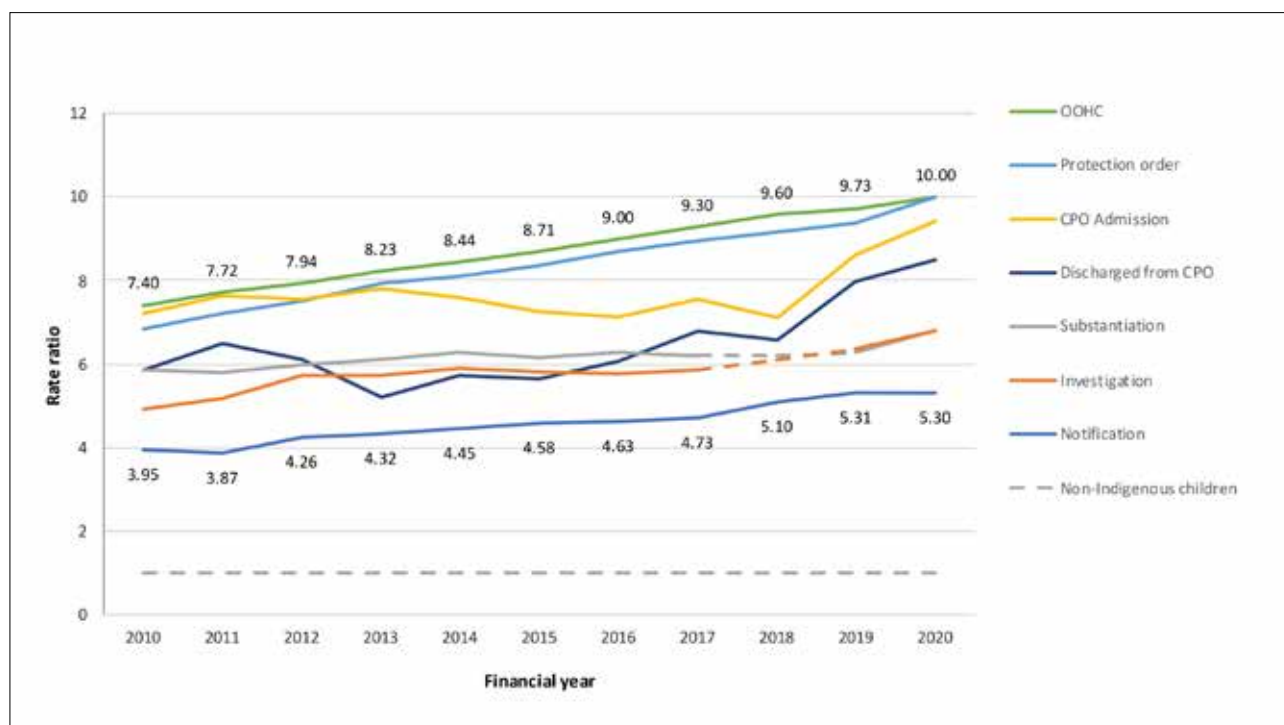
## 1.2 CURRENT SITUATION AND TRENDS IN CHILD PROTECTION OVER-REPRESENTATION

In 2019–20, Aboriginal and Torres Strait Islander children were 5.3 times more likely to be reported to child protection authorities, 10 times more likely to be subject to a child protection order, and 10 times more likely to be living in out-of-home care (including on permanent care orders) than non-Indigenous children (see **Figure 1**). Time series of these rate ratios (using the non-Indigenous rate as the baseline in order to show how many times greater the Aboriginal and Torres Strait Islander rate is) indicate that the over-representation of Aboriginal and Torres Strait Islander children across key decision-making points within child protection systems continues to increase year on year. The number of Aboriginal and Torres Strait Islander children in out-of-home care also continues to increase, reaching 21,523 at June 2020 (AIHW 2021b, Table T3).

Notably, while the over-representation of Aboriginal and Torres Strait Islander children in cases of substantiated child neglect or abuse has not increased significantly in recent years, the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care has continued to climb. This is the result of several variables (some discussed in part 1.1 above) 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**. It can also be seen that, while over-representation in child protection investigations and substantiations increased slightly between 2018–19 and 2019–20, over-representation in notifications was static. This suggests that a higher proportion of notifications regarding Aboriginal and Torres Strait Islander children were investigated, compared to notifications regarding non-Indigenous children *and* previous years, which may suggest concerning implications about levels of racial discrimination within child protection systems (though in some cases, identification of Indigenous status at the notification stage may be less reliable than at the investigation and assessment stages).

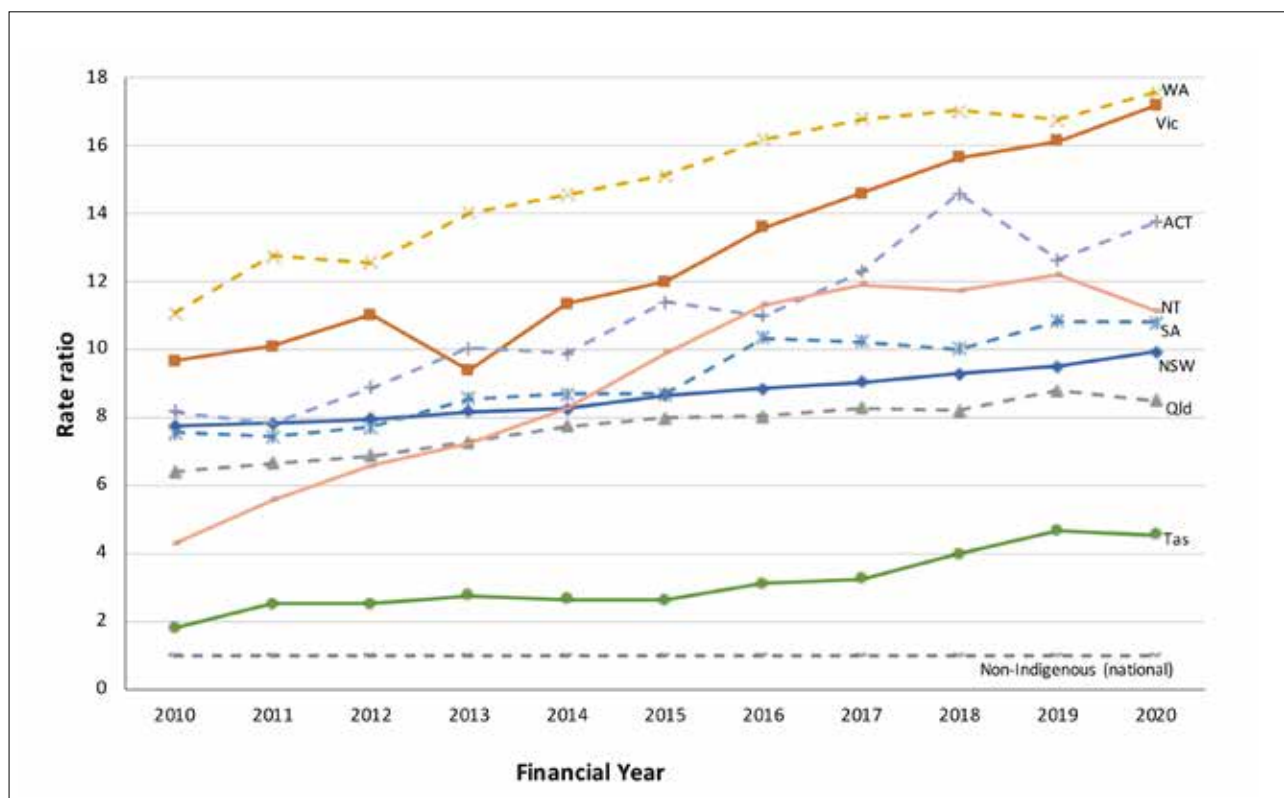
When over-representation trends for Aboriginal and Torres Strait Islander children in out-of-home care are viewed at the state and territory level (**Figure 2**), it becomes apparent that over-representation is a significant issue right across the country, increasing in every state and territory over the last 10 years. The highest rate of over-representation was observed in Western Australia (17.6), followed closely by Victoria (17.2). Tasmania displayed the lowest rate of over-representation (4.6), followed by Queensland (8.5). Western Australia, Victoria, New South Wales and the Australian Capital Territory all saw rates of over-representation increase from 2018–19; for Western

**FIGURE 1** Rate ratios comparing Aboriginal and Torres Strait Islander children and non-Indigenous children involved with child protection systems in Australia, 2009–10 to 2019–20



Note: Data for investigation and substantiation in NSW not available for the 2017–18 financial year.  
Data sources: SCRGSP (2021c); AIHW (2021i)

**FIGURE 2** Rate ratios comparing Aboriginal and Torres Strait Islander children and non-Indigenous children in out-of-home care by state and territory, 2009–10 to 2019–20



Note: Children on finalised third-party parental orders added to NSW data (2015 to 2019) and Vic data (2018 to 2019). Differences between RoGS and AIHW published data tables mean that individual state changes between 2018–19 and 2019–20 rate ratios should not be relied upon.  
Data sources: SCRGSP (2021c); AIHW (2021i)



Australia and the Australian Capital Territory this followed a *decrease* over the previous year, but for New South Wales and Victoria this ratio has been increasing continuously since at least 2012–13. The Northern Territory was the only jurisdiction to show a significant drop in over-representation between 2018–19 and 2019–20 (from 12.2 to 11.1), with Tasmania, Queensland and South Australia all showing very slight decreases in their rate ratios.

## DATA GAP

### EXCLUSION OF CHILDREN ON PERMANENT CARE ORDERS

Out-of-home care counting rules changed for all states and territories from 2018–19 and now exclude children on third-party parental responsibility orders (TPPROs) from the count of children in out-of-home care. The Family Matters campaign 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 into statutory care. Closing the Gap Target 12, which aims to reduce statutory intervention in Aboriginal and Torres Strait Islander family life, will be frustrated if states and territories seek to achieve it by permanently removing children from their families, and excluding them from the count of children in out-of-home care. As a result of these concerns, the data presented in Figures 1, 2 and 3 re-includes children on third-party parental responsibility orders in the count.

**Recommendation:** The exclusion of children on third-party parental responsibility orders from the count of children in out-of-home care must be reversed so that children permanently removed from their families are not invisible in the system, and governments are held accountable for protecting their rights.

Over-representation is also present in every state and territory for other child protection processes, as shown by **Figure 3**, 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 out-of-home care placement. Aboriginal and Torres Strait Islander children are at least four times more likely than non-Indigenous children to be involved in *any* stage of the child protection system, in any jurisdiction.

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 out-of-home care). One notable exception is the Australian Capital Territory, in which the rate ratio for child protection investigations (10.5) is substantially higher than for substantiations (6.3). The reasons underpinning this compounding over-representation are unclear and likely complex; while a higher likelihood of substantiation following investigations could reflect that there are more serious family safety concerns (resulting from systemic failures to address the structural drivers of child protection involvement) driving initial notifications about Aboriginal and Torres Strait Islander families, it is also likely that discriminatory judgements are being made about individual families at some points in the system.

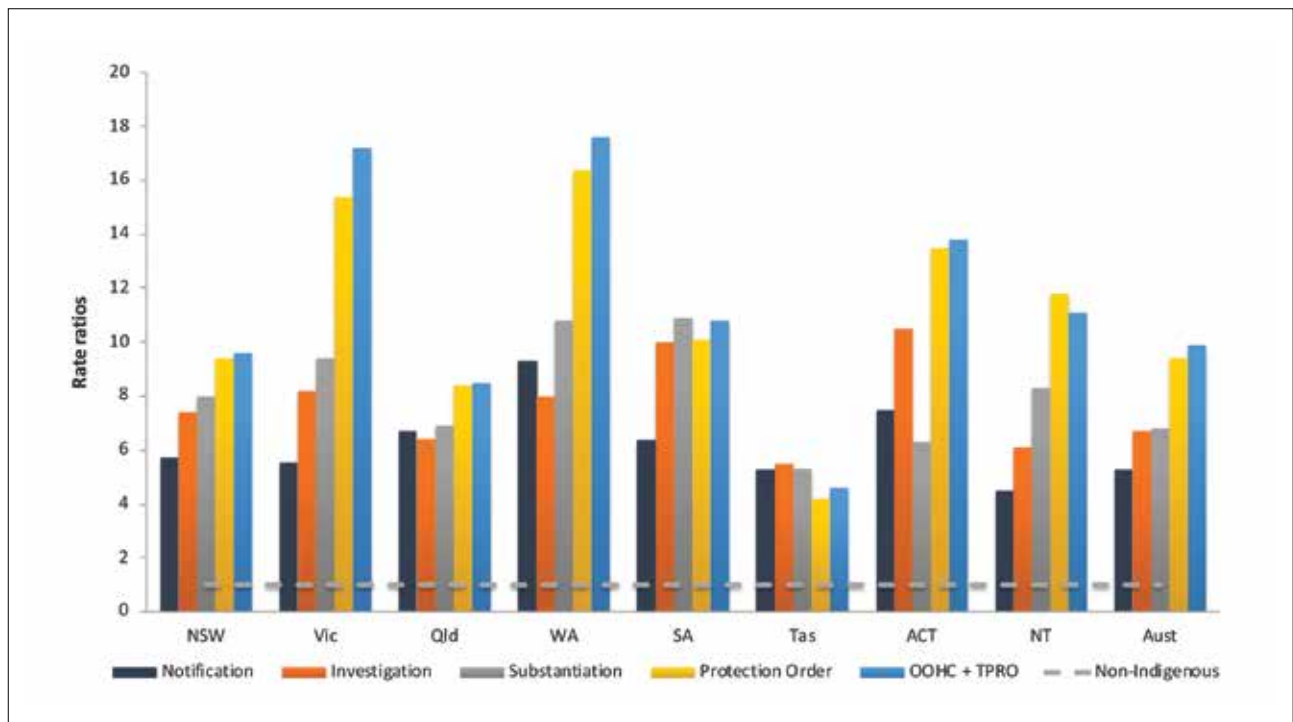
### ENTRY TO AND EXIT FROM OUT-OF-HOME CARE

Achieving Target 12 of the *National Agreement on Closing the Gap* (the National Agreement) – to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% within a decade – will require a focus on enabling children to stay safely at home with their families, connected to their cultures and communities. The provision of prevention and early intervention supports to families, and broader efforts to address the underlying issues that drive removal of Aboriginal and Torres Strait Islander children (part 3), are required to reduce the rate at which Aboriginal and Torres Strait Islander children are entering out-of-home care. Data on admission to out-of-home care can provide a proxy indication of whether these efforts are succeeding. However, these data lack context without considering the extent to which safety and wellbeing concerns are being addressed for children, by enabling Aboriginal and Torres Strait Islander families to access quality support services, in driving changes in entry to out-of-home care.

Nationally, 4,588 Aboriginal and Torres Strait Islander children were admitted to out-of-home care in 2019–20, at a rate of 13.8 admissions per 1,000 children. This is nearly 10 times the rate of entry for non-Indigenous children (1.4 admissions/1000). In 2018–19, there were 3,894 Aboriginal and Torres Strait Islander children who exited care, at a rate of 11.7 exits per 1,000 children, which was 8.5 times the rate of exit for non-Indigenous children (1.4/1000 children) (AIHW 2021b). Exits from out-of-home care may occur because children reach the age of 18 or are reunified with their parent/s. However, due to changes to the out-of-home care definition discussed above, exits may also be to permanent care (part 1.3) for children who remain separated from their families.

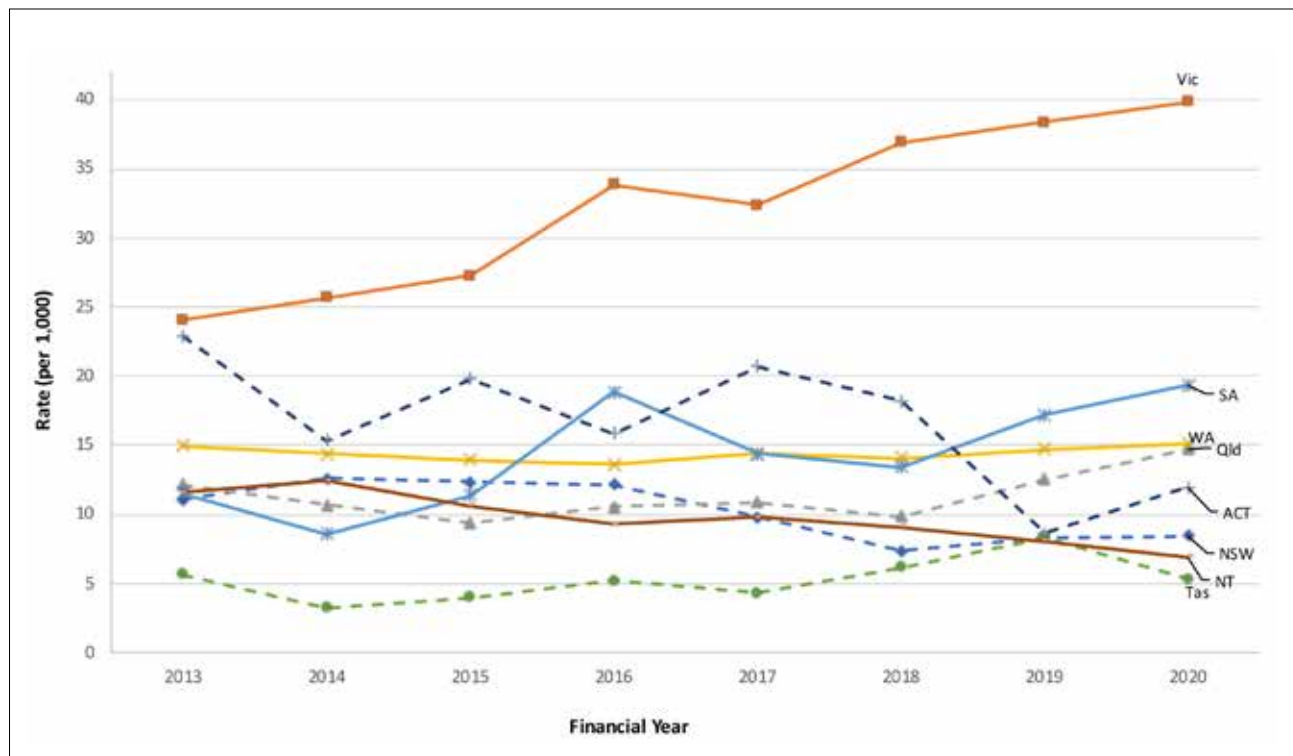
**Figure 4** shows that while rates of admission have remained consistently high, there has been relatively low variation in admission rates across a number of jurisdictions in recent years, such as Western Australia, New South Wales and the Northern Territory. Victoria stands out as having by far the highest rate of entry for Aboriginal and Torres Strait Islander children to out-

**FIGURE 3** Rate ratios comparing Aboriginal and Torres Strait Islander children and non-Indigenous children involved with child protection systems, by state and territory, 2019–20



Notes: (a) Notification, investigation and substantiation rates were calculated as the number of children aged 0–17 years (including those whose age was not stated) in each category, divided by the estimated population aged 0–17 at 31 December, multiplied by 1,000. For Aboriginal and Torres Strait Islander children, the June projections for two years were averaged to obtain a population figure for December of the relevant year. (b) Protection order and OOHC rates measured at June 30 each financial year. (c) OOHC figures include children on third-party parental responsibility orders.  
Data sources: SCRGSP (2021c), Tables 16.A1, 16.A2; AIHW (2021i), Tables S4.10, T4, P4.

**FIGURE 4** Rate of admission to out-of-home care for Aboriginal and Torres Strait Islander children, 2012–13 to 2019–20



Notes: Includes all children admitted to OOHC for the first time, as well as those children returning to care who had exited care >60 days previously. Children admitted to OOHC more than once during the year were counted only at the first admission.  
Data source: AIHW (2018a), Table S51; AIHW (2020b), Table S5.17; AIHW (2021i), Table S5.1.



of-home care (39.8 entries per 1,000 children), and a concerning increase in admission rates over the past five years. South Australia (19.4/1,000 children) and Queensland (14.7/1,000 children) are also of concern, having both seen two consecutive years of growth in admission rates for Aboriginal and Torres Strait Islander children for the first time in several years.

Tasmania (5.3 entries per 1,000 children) was the only jurisdiction to show a significant decrease in admission rates for Aboriginal and Torres Strait Islander children to out-of-home care between 2018–19 and 2019–20, though this drop comes on the back of a two year increase. The Northern Territory's admission rates have been very gradually decreasing over the past three years, from 9.8/1,000 children in 2016–17 to 6.9/1,000 children in 2019–20. Meanwhile, the Australian Capital Territory (8.66/1000 children) has seen significant volatility in admission rates for Aboriginal and Torres Strait Islander children to out-of-home care over the time period shown in the last two years (from a 2016–17 peak of 20.7/1,000 children to a 2018–19 low of 8.7/1,000 children).

Despite the decreasing or relatively static admission trends depicted in Figure 4, there has been a continued rise in the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. For example, in New South Wales, over-representation continues to rise steadily despite a reduction in admission rates for Aboriginal and Torres Strait Islander children since 2015–16 (and little change since 2017–18). This is driven, in part, by the fact that there has been a *greater* reduction in entry rates for non-Indigenous children over the same period. There are many other factors that contribute to this situation across Australia, 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 (part 1.4).

The deeply concerning trends in child protection systems data for Aboriginal and Torres Strait Islander children highlight that current legislative and policy settings are failing to reduce the inequities children experience across all key decision-making points of Australia's child protection systems. The Family Matters campaign has long advocated for the development of a national, comprehensive strategy to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. While an ambitious target has now been adopted through the National Agreement, it will be critical that the second *National Framework for Protecting Australia's Children* sees all jurisdictions adopt a dedicated strategy and Implementation Plan for Aboriginal and Torres Strait Islander children, designed and led by Aboriginal and Torres Strait Islander people. Part 2.2 provides more detail.

## 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. Family Matters campaign members continue to report poor and inconsistent practice in identifying children.

**Recommendation:** That policy and legislation in each state and territory require children and families to be asked at their earliest engagement with the service system about their Aboriginal and Torres Strait Islander identity; that this question is revisited regularly; and that this status is 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 CHILD 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, but how often they experience this. National data on children who are repeat clients of child protection systems are not currently reported by Indigenous status.

**Recommendation:** That data be reported on new and repeat contact with child protection services, by Indigenous status, at each stage of contact (notification, investigation, substantiation, entry to child protection orders, entry to/exit from out-of-home care, reunification, entry to permanent care, adoption).

## REPORTS FOR UNBORN CHILDREN

Several risk factors experienced more frequently by Aboriginal and Torres Strait Islander women during pregnancy, including family violence and mental ill health, are also associated with a heightened risk of pre-birth notifications to child protection agencies (Taplin 2017). Evidence indicates that Aboriginal and Torres Strait Islander infants less than one year old are being removed and placed in out-of-home care at increased rates (O'Donnell *et al.* 2019). In many instances, potential harm to unborn infants is identified by health professionals. Those working in the health sector are encouraged to make prenatal reports, as this may allow for the provision of early assistance to mothers and their babies (Davis 2019).

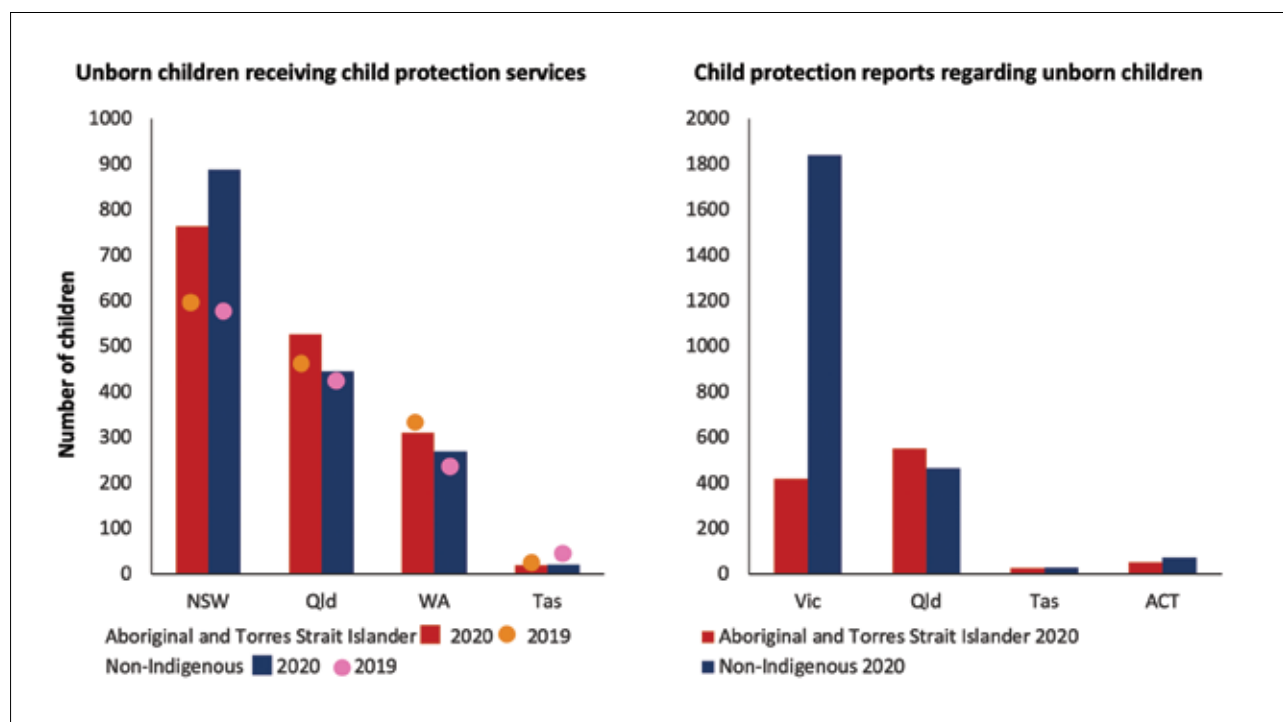
Of course, the provision of early intervention supports to vulnerable families during pregnancy, including antenatal care (part 3.6), is a crucial opportunity to address risk factors that place these families at risk of child protection involvement, and thereby prevent the removal of Aboriginal and Torres Strait Islander children at birth. However, due to a lack of capacity in child protection services and systems, parents are often provided with little or no casework support – sometimes not even being notified of the report – and the report will simply result in the issuance of a high risk birth alert.

Fear of child removal may lead pregnant women to avoid health services, with potentially severe consequences for Aboriginal and Torres Strait Islander

mothers, as they are more likely to have pre-existing health conditions (part 3.6 provides more detail). Further, there are no data to indicate whether prenatal reporting alone leads to improved outcomes for the child, or whether it reduces the likelihood of child removal at or shortly after birth (Davis 2019) – what is most needed is a “prevention first” approach by child protection systems to vulnerable Aboriginal and Torres Strait Islander pregnant women. One promising example is the commitment by the Victorian Department of Families, Fairness and Housing (DFFH) to refer all unborn child reports for Aboriginal and Torres Strait Islander mothers to ACCOs for support to prevent unnecessary child removals at birth, with 100% referral to ACCOs a target of the *Wungurilwil Gapgapduir Children and Families Agreement* (VACYPA 2019).

While the AIHW reports on the number of unborn children who receive a child protection service, this is defined as beginning at investigation of a notification (AIHW 2019). Legislative authority for governments to investigate and substantiate unborn child protection reports varies widely between states and territories (Wise and Corrales 2021), so direct comparisons between jurisdictions are difficult. Here, data are not published for jurisdictions where legislation does not typically allow for investigation prior to the child's birth (Australian Capital Territory, Northern Territory, South Australia and Victoria), as unborn child protection reports in these jurisdictions are excluded from the Child Protection National Minimum Data Set reporting.

**FIGURE 5** Aboriginal and Torres Strait Islander and non-Indigenous unborn child (antenatal) reports to a child protection service, 2018–19 to 2019–20



Data sources: AIHW (2019c), Table S3; AIHW (2020b), Table S5.3; AIHW (2021i), Table S2.3; unpublished data provided to SNAICC by the ACT, Queensland, Tasmanian and Victorian Governments.

**Figure 5** shows the number of unborn children receiving a child protection service across jurisdictions, as well as the number of child protection reports made in the jurisdictions that provided these data voluntarily (Victoria, Queensland, Tasmania and the Australian Capital Territory).

The number of unborn children receiving child protection services in NSW between 2018–19 and 2019–20 increased significantly – for both Aboriginal and Torres Strait Islander (from 595 to 763) and non-Indigenous children (from 580 to 997), following a first sharp increase between 2017–18 and 2018–19 (Family Matters Campaign 2020). All other states' numbers were relatively unchanged, although the proportion of unborn child protection services that Queensland delivered to Aboriginal and Torres Strait Islander children, which already exceeded the proportion delivered to non-Indigenous children, increased. Queensland also saw a higher – and seemingly disproportionate – share of unborn child protection reports regarding Aboriginal and Torres Strait Islander children, compared to non-Indigenous children. For all other states shown, non-Indigenous children made up a higher proportion of unborn child protection reports, although the difference was most pronounced in Victoria, which had by far the highest number of reports – 2,255 in total.

### 1.3 THE IMPACTS OF PERMANENCY PLANNING AND ADOPTION

Child protection intervention and removal to out-of-home care can have highly negative impacts on the stability of a child's relationships, culture and identity, which are all vitally important to child safety and wellbeing. Efforts must focus on achieving and promoting stability 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 stability is grounded in the permanence of their identity in connection with family, kin, culture, and Country (SNAICC 2016).

State and territory child protection systems have taken a focus in recent years on the introduction of legislation, policy and practices that prioritise stability for children through what is commonly referred to as *permanency planning*. Typically, permanency planning policies identify reunification as the first priority for securing a child's long-term stability (part 1.4 provides more detail); however, where reunification is identified as not possible within a specified timeframe, efforts are directed to securing permanent child protection orders or adoption, which effectively remove the child from their parents until the age of 18 (AIHW 2021b).

The introduction of maximum timeframes to pursue reunification before the focus turns to permanent legal orders has been of high concern for Aboriginal and Torres Strait Islander peoples, given the enormous risk of permanently severing a child's connection to family,

community and culture. These policy measures have often prioritised *legal permanency* over the evidence that confirms permanency for children encompasses a broader scope of positive, caring and stable relationships alongside physical and legal stability (Tilbury and Osmond 2006). Aboriginal and Torres Strait Islander people also commonly question permanency decisions that are based on a narrow construct of attachment theory that pursues a singular attachment for a child to their carer and that does not recognise the importance of kinship relationships and cultural identity development to achieving permanence and belonging for children (SNAICC 2016). Systemic failures identified throughout this report, such as poor implementation of the Aboriginal and Torres Strait Islander Child Placement Principle and limited involvement of Aboriginal and Torres Strait Islander peoples in child protection decision-making, highlight the risk that child protection systems will cause harm by permanently separating children from culture.

Aboriginal and Torres Strait Islander people have consistently identified that a systems 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). A review of permanency implementation issues in Victoria concluded that "reducing timeframes for family reunification and promoting adoption of children in out-of-home care, without first addressing resourcing and practice issues, risks unintended consequences as well as undermining the rights and best interests of vulnerable children and their families" (Mackieson, Shlonsky and Connolly 2019, p. 1). The *Family is Culture Review Report* concluded that rigid time frames (in New South Wales) 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). In its review of Victoria's permanency reforms, the Victorian Commission for Children and Young People found that systemic pressures – including high caseloads for child protection case management practitioners, and inadequate support services to meet families' complex needs – prevented many parents from resuming care of their children within the legislated timeframe of two years (CCYP (Vic) 2017).

One feature of permanent care orders in many jurisdictions that is particularly detrimental to Aboriginal and Torres Strait Islander children is that there is no legal mechanism to ensure ongoing connection to family, community and culture (AbSec 2018). 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 (CCYP (Vic) 2017).



The high risks and significant impacts of permanency planning are evidenced in the data, which shows that the vast majority of Aboriginal and Torres Strait Islander children in out-of-home care are in long-term care arrangements, with reunification to their families not identified as a case plan goal. Data in part 4 of this report highlights that numbers of placements for our children with Aboriginal and Torres Strait Islander carers are consistently dropping, creating further risks of culture loss. For Aboriginal and Torres Strait Islander people, increasing rates of permanent removal of Aboriginal and Torres Strait Islander children from their families and cultures presents deeply distressing parallels to the Stolen Generations.

A further complicating and concerning factor in the transparency of data regarding permanent placements has been a change to the definition of out-of-home care to exclude children on third-party parental responsibility orders (TPPROs) from being recorded as part of this cohort. Many Aboriginal and Torres Strait Islander people and organisations have objected strongly to this change, holding that government authorities cannot absolve responsibility for children they have removed permanently from their parents by *exiting* the child to the care of a third-party. Echoing these objections in the strongest possible terms, the Family Matters campaign expresses particular concern for the effect of this change on jurisdictions' efforts towards Closing the Gap Target 12. There is a real risk that governments

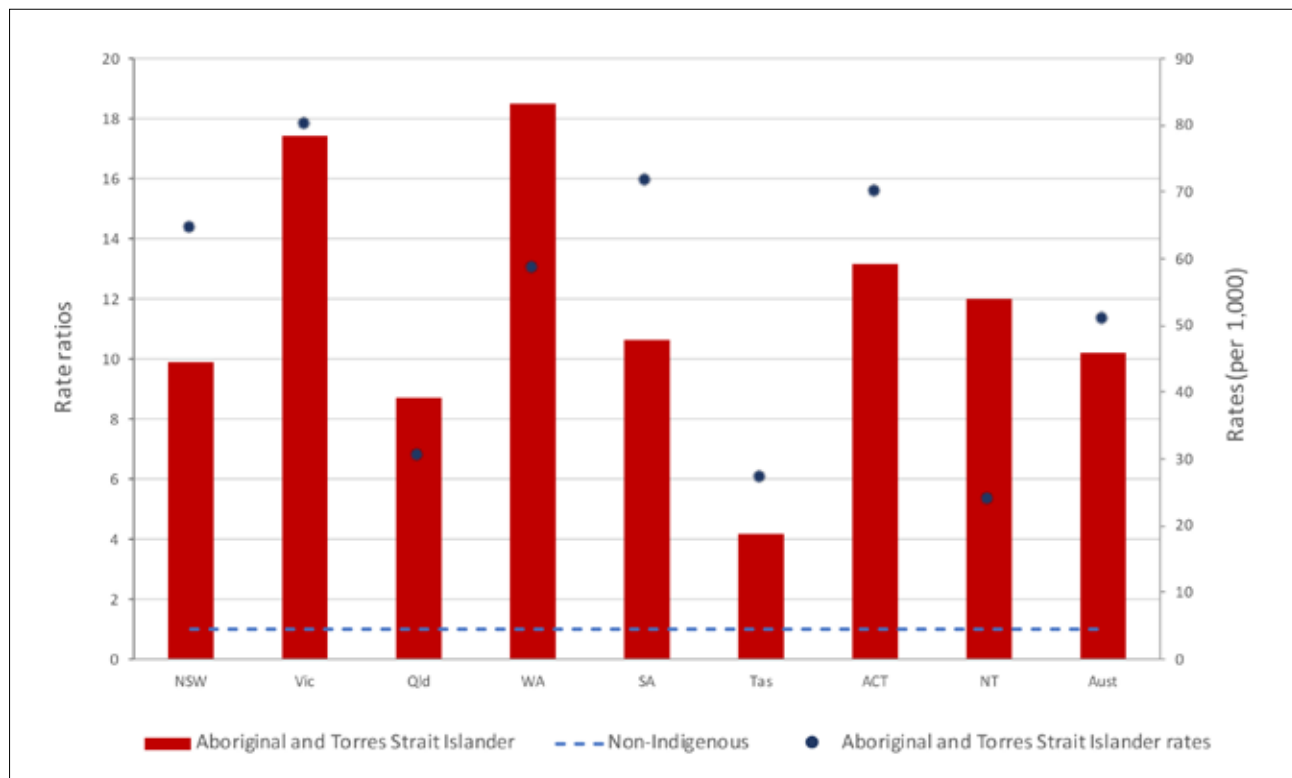
could *comply* with the target reductions in our children's over-representation in out-of-home care simply by shifting Aboriginal and Torres Strait Islander children removed from their families towards TPPROs, rather than genuinely addressing the structural, social, community and family factors that drive child protection intervention.

### LONG-TERM GUARDIANSHIP, CUSTODY AND THIRD-PARTY PARENTAL RESPONSIBILITY ORDERS

The two order types reflecting long-term and permanent care that are examined in this part of the report are *long-term finalised guardianship and custody orders* and *long-term third-party parental responsibility orders*. The former transfers guardianship of the child to the state until age 18, while the latter permanently transfers guardianship of the child to a nominated person (ordinarily a kinship or foster carer) until age 18.

Across Australia at 30 June 2020, there were 17,068 Aboriginal and Torres Strait Islander children on long term guardianship, custody or third-party parental responsibility orders, making up 79% of all Aboriginal and Torres Strait Islander children in out-of-home care or on third-party orders (AIHW 2021b). **Figure 6** shows that the rate of Aboriginal and Torres Strait Islander children on these orders was highest in Victoria (80.1 per 1,000), with particularly high rates also evident in

**FIGURE 6** Rates and rate ratios of Aboriginal and Torres Strait Islander children and non-Indigenous children on long-term finalised guardianship or custody orders and long-term third-party parental responsibility orders, by state and territory, at 30 June 2020



Data source: AIHW (2021i), Table S4.10.

South Australia (71.5 per 1,000), the Australian Capital Territory (69.9 per 1,000), and New South Wales (64.6 per 1,000). By far the highest number of Aboriginal and Torres Strait Islander children on these long-term orders were in New South Wales (7,317 children). Notably, comparatively low rates of long-term and permanent orders are applied for Aboriginal and Torres Strait Islander children in the Northern Territory (23.8 per 1,000), Tasmania (27.2 per 1,000), and Queensland (30.5 per 1,000).

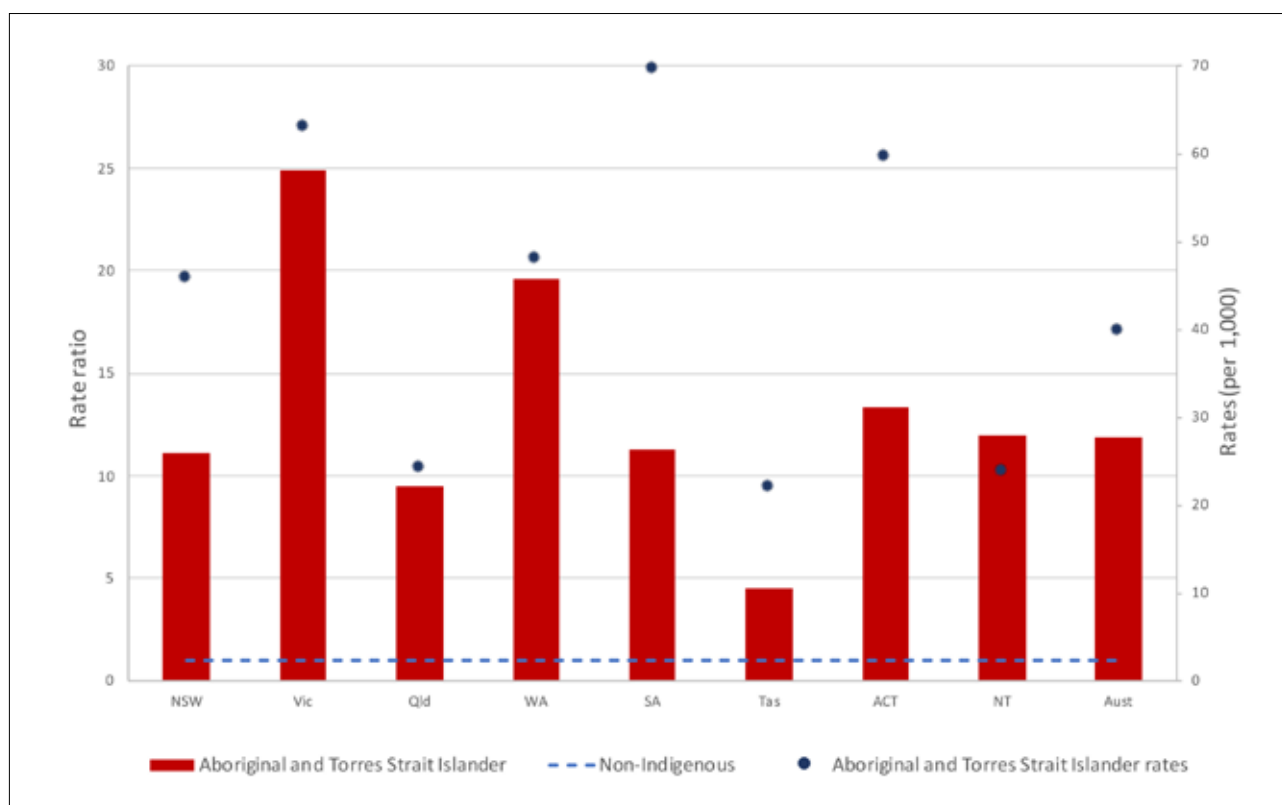
The following two charts separate this data into the two different order types, presenting the data on long term care to the State (custody/guardianship orders), and long-term care to a nominated person (third-party orders) separately. **Figure 7** shows that South Australia applies the highest rate of long term guardianship and custody orders to Aboriginal and Torres Strait Islander children (69.6 per 1,000), followed by Victoria (63.1 per 1,000) which also has a very high over-representation of Aboriginal and Torres Strait Islander children on these orders (24.9 times more likely than non-Indigenous children).

**Figure 8** is particularly significant when considering the implications of permanent care for Aboriginal and Torres Strait Islander children because it reflects the circumstances where states and territories have

transferred parental responsibility for the child to a kinship or foster carer and no longer count the child as being within the definition of out-of-home care. 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.

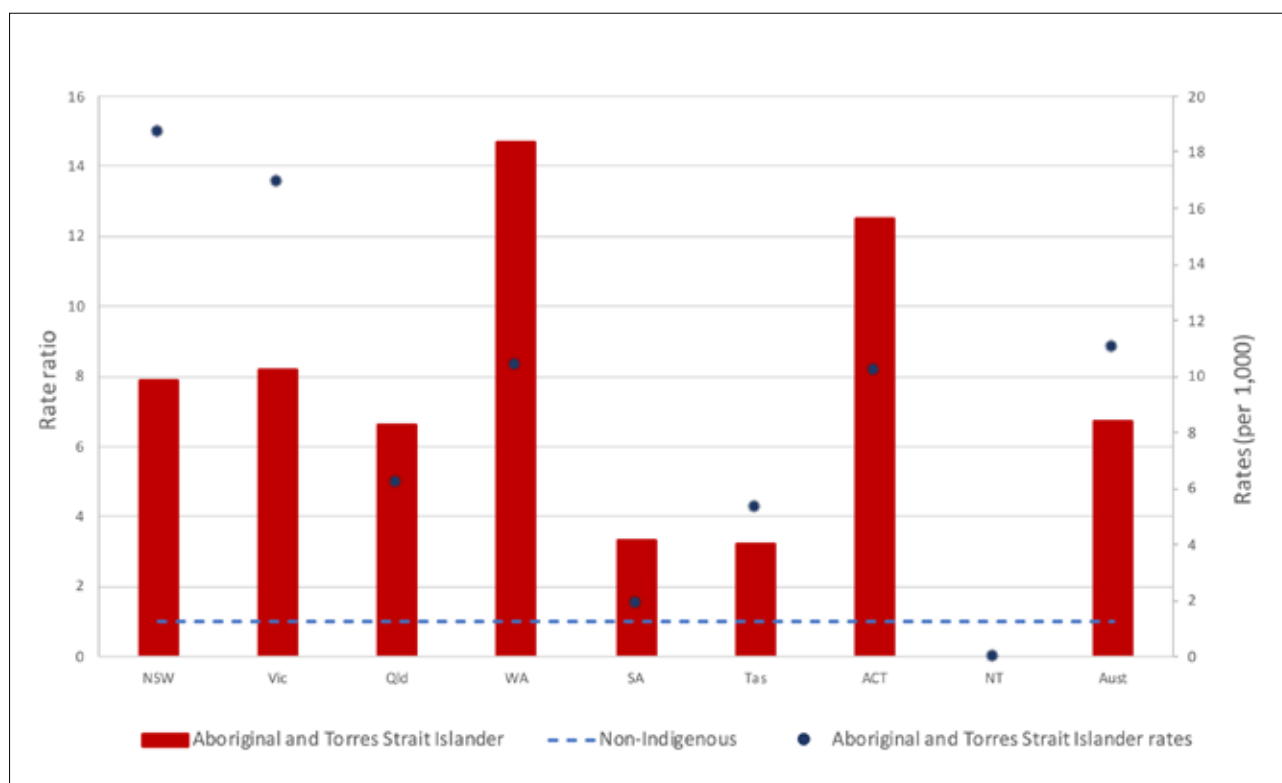
These finalised third-party parental responsibility orders are used at standout high rates for Aboriginal and Torres Strait Islander children in New South Wales (18.7 per 1,000), and Victoria (16.9 per 1,000). These orders do not exist in the Northern Territory and are seldom used for Aboriginal and Torres Strait Islander children in South Australia (1.9 per 1,000). The rate of placement for children on permanent care orders with Aboriginal and Torres Strait Islander carers is addressed in part 4 of this report. Notably, despite having the highest rate of finalised third-party orders, New South Wales did not provide any data indicating whether these children are placed with Aboriginal and Torres Strait Islander carers or kin. This reflects an extremely concerning lack of transparency regarding efforts to ensure culturally connected placements for Aboriginal and Torres Strait Islander children in permanent care.

**FIGURE 7** Rates and rate ratios of Aboriginal and Torres Strait Islander children and non-Indigenous children on long-term finalised guardianship or custody orders, by state and territory, at 30 June 2020



Data source: AIHW (2021i), Table S4.10.

**FIGURE 8** Rates and rate ratios of Aboriginal and Torres Strait Islander children and non-Indigenous children on long-term finalised third-party parental responsibility orders, by state and territory, at 30 June 2020



Data source: AIHW (2021i), Table S4.10.

### AN ALARMING TREND TOWARDS INCREASED ADOPTION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

The Family Matters campaign has consistently identified that adoption from out-of-home care is not an appropriate option for 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”

*The Family Matters Report 2020* highlighted an alarming spike in adoption numbers for Aboriginal and Torres Strait Islander children in recent years, which has continued into 2019–20. In 2019–20 there were 12 adoptions of Aboriginal and Torres Strait Islander children, on par with the number of adoptions in 2018–

19. This is the highest number of finalised adoptions for Aboriginal and Torres Strait Islander children in the past 25 years (AIHW 2021a). Even more concerning is that only four of these 12 children were adopted by Aboriginal and Torres Strait Islander parents. In the past five years there have been 40 adoptions of Aboriginal and Torres Strait Islander children, with only 20% of those children being adopted by Aboriginal and Torres Strait Islander people. This is up from 23 adoptions in the preceding five-year period.

National adoption data is not reported by state and territory. States and territories were invited to provide adoption data to inform the Family Matters report. There were seven adoptions in New South Wales, with only two to Aboriginal and Torres Strait Islander people. Zero adoptions were reported in Victoria, South Australia, Northern Territory, Australian Capital Territory and Tasmania. Both Queensland and Western Australia reported that adoption numbers were small enough to risk identifying individual children.

### 1.4 INADEQUATE REUNIFICATION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN WITH THEIR FAMILIES

Reunification (also known as restoration) forms an integral part of permanency planning. While permanency planning is more often associated with



permanent care, reunification is the first priority, and (all else being equal) the best outcome for children. Safely reunifying children to the care of their family is particularly important for Aboriginal and Torres Strait Islander children who are at increased risk of disconnection from culture, family, and community in out-of-home care systems. Yet in most jurisdictions, Aboriginal and Torres Strait Islander children are reunified less frequently than non-Indigenous children.

When children first enter out-of-home care, a permanency plan is developed, which typically involves considering the possibility of reunifying the child to the home from which they were removed (although little information is publicly available regarding the reasons that some children are not considered candidates for reunification: Krakouer 2020). Ideally, reunification is worked towards for a period of no less than two years after entry into out-of-home care (AIHW 2021b); however, whether this occurs in practice is unknown, since data concerning reunification practices for Aboriginal and Torres Strait Islander children are limited. Children are typically reunified with their parents, although differing definitions of reunification also include other family members or guardians, particularly if the child was living with these adults prior to entry into care (AIHW 2021b).

**Note:** Children on long-term guardianship, custody or third-party parental responsibility orders are not considered to be candidates for reunification in any jurisdiction (reflecting policymakers' desire for permanent outcomes), and as such they are not included in the numbers of children for which reunification data are reported. The numbers of children in out-of-home care reported in this discussion therefore differ significantly from other parts of the Family Matters report; as described in part 1.3 above, the high and increasing prevalence of permanent care orders means that up to 79% of Aboriginal and Torres Strait Islander children in out-of-home care in 2019–20 were not even considered as having a potential possibility of reunification with their families.

## NATIONAL REUNIFICATION DATA FOR 2019–20

In previous years, the AIHW's *Child Protection Australia* series has reported on a range of state- and territory -level reunification indicators for Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care. However, the 2019–20 edition of that report did not disaggregate reunification by state and territory. This section therefore presents state- and territory-level data from *The Aboriginal and Torres Strait Islander Child Placement Principle Indicators 2019–20* (AIHW 2021c), along with the national aggregates published in *Child Protection Australia*.

**Table 1** shows the number of children reunified from out-of-home care in each state or territory, by Indigenous status, in 2019–20. Overall, a total of 5,338 children were reunified with family; this represented only a minority of children (18.5%). This included 1,567 Aboriginal and Torres Strait Islander children and 3,747 non-Indigenous children. By jurisdiction, Victoria had by far the highest numbers of Aboriginal and Torres Strait Islander children (629) and non-Indigenous children (2,429) reunified in 2019–20, followed by Queensland (which reunified 352 Aboriginal and Torres Strait Islander children and 481 non-Indigenous children).

The Australian Capital Territory had the lowest total reunification numbers, with eight Aboriginal and Torres Strait Islander children and 25 non-Indigenous children reunified in 2019–20.

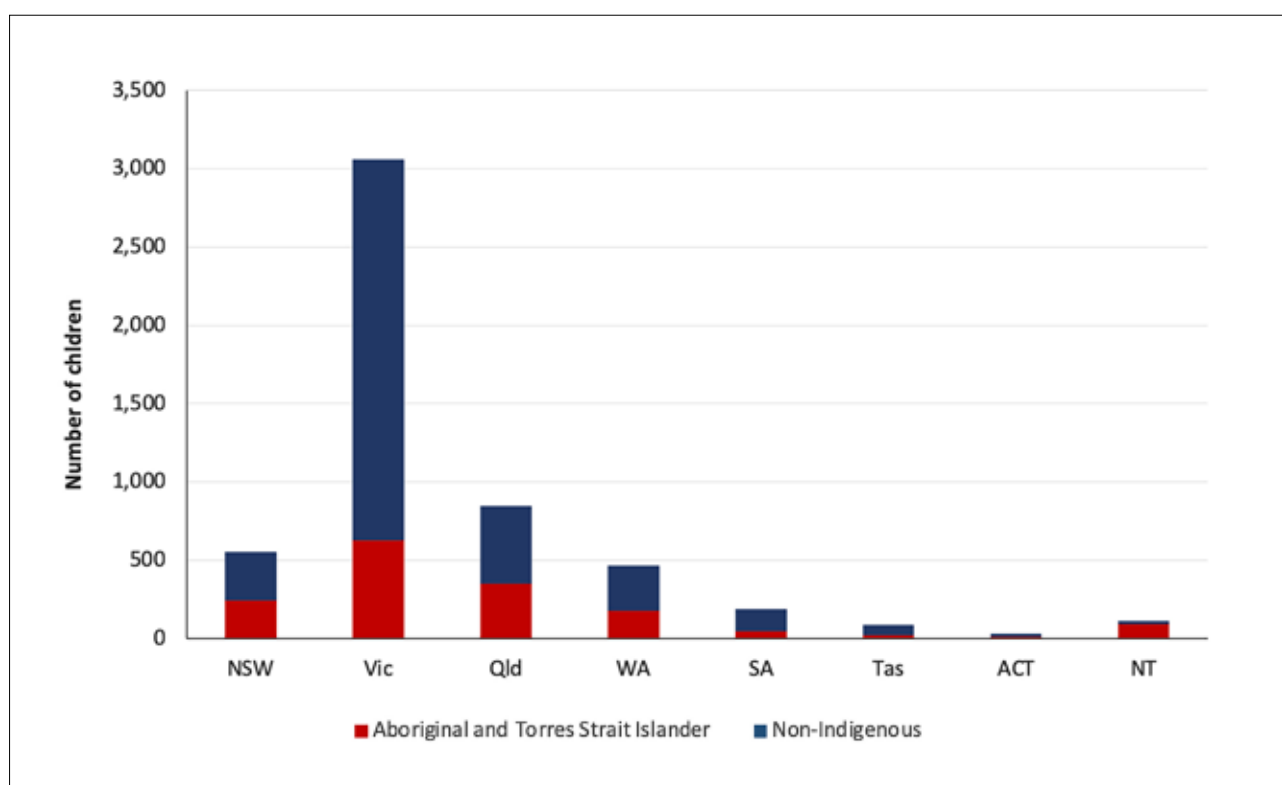
The number of children reunified with family from out-of-home care, by state and territory and Indigenous status, is also shown in **Figure 9**. With the exception of the Northern Territory, where over four times as many Aboriginal and Torres Strait Islander children were reunified compared to non-Indigenous children, all states and territories reunified more non-Indigenous children than Aboriginal and Torres Strait Islander children.

**TABLE 1** Children reunified from out-of-home care, by Indigenous status, state and territory 2019–20

| Jurisdiction | Aboriginal and Torres Strait Islander children |               | Non-Indigenous children |               | Indigenous status unknown |               |
|--------------|--|---------------|-------------------------|---------------|---------------------------|---------------|
|              | Reunified                                      | Not reunified | Reunified               | Not reunified | Reunified                 | Not reunified |
| NSW          | 244  | 2,540         | 308                     | 4,113         | 1                         | 3             |
| Vic          | 629  | 1,383         | 2,429                   | 4,475         | 0                         | 0             |
| Qld          | 352  | 2,552         | 481                     | 3,321         | 13                        | 7             |
| WA           | 179  | 1,291         | 286                     | 1,083         | 0                         | 1             |
| SA           | 44   | 584           | 142                     | 922           | 0                         | 14            |
| Tasmania     | 22   | 195           | 54                      | 300           | 10                        | 34            |
| ACT          | 8  | 65            | 25                      | 137           | 0                         | 7             |
| NT           | 89   | 435           | 22                      | 51            | 0                         | 1             |
| Total        | 1,567  | 9,045         | 3,747                   | 14,402        | 24                        | 67            |

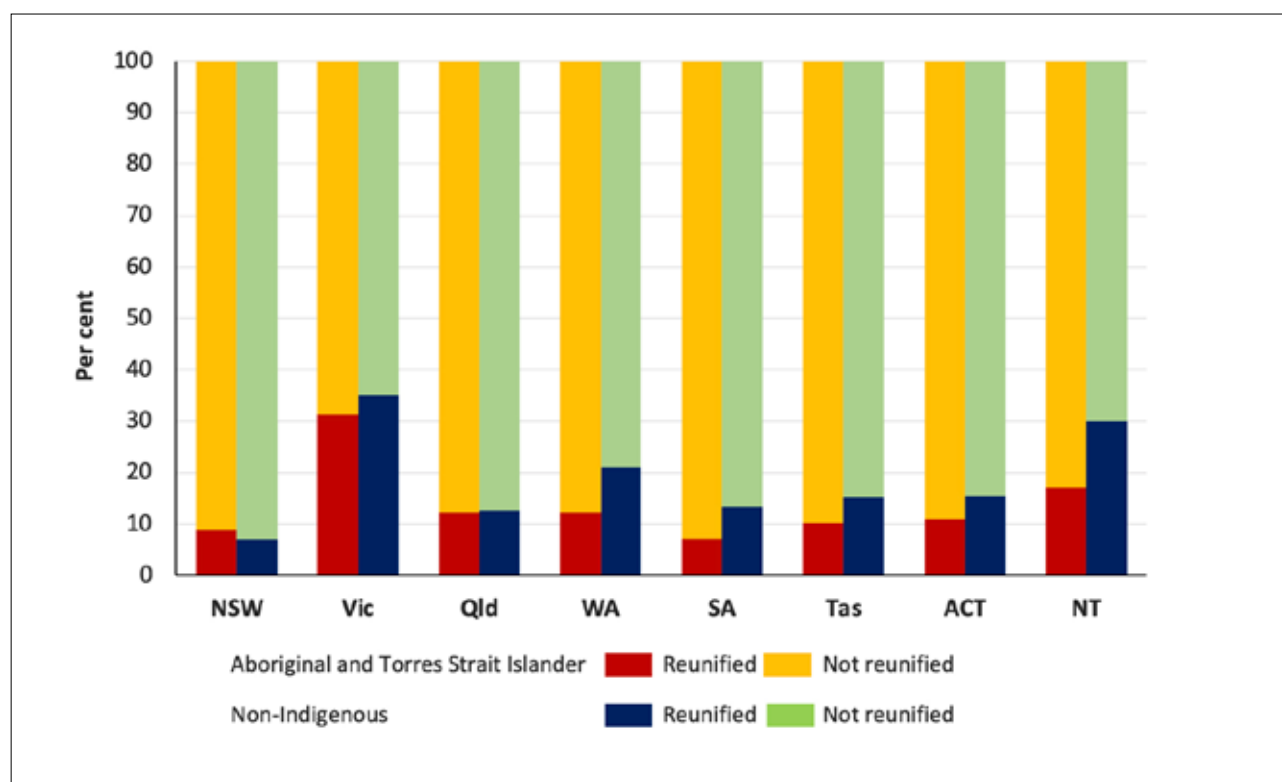
Data source: AIHW (2021m), Table S2.3a.

**FIGURE 9** Children reunified with family from out-of-home care, by Indigenous status, state and territory, by number 2019–20



Data source: AIHW (2021m), Table S2.3a.

**FIGURE 10** Percentage 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, 2019–20



Data source: AIHW (2021m), Table S2.3a.

The difference was particularly pronounced in Victoria; while the total number of children reunified (3,058) dwarfed that of any other state or territory, almost four times as many non-Indigenous children were reunified compared to Aboriginal and Torres Strait Islander children.

However, the ratios seen in **Figure 9** are also affected by the initial proportions of children residing in out-of-home care in each state or territory. For example, Table 1 shows that the Northern Territory reported a very high proportion of all children in out-of-home care as being Aboriginal and Torres Strait Islander children (524, or 88%, out of a total 798 children in care). **Figure 10** therefore shows the percentages of Aboriginal and Torres Strait Islander and non-Indigenous children who were reunified from out-of-home care in 2019–20, based on the data presented in Table 1.

The percentages of children reunified were in fact weighted in the opposite direction to that suggested by the raw numbers cited above, with only 17% of Aboriginal and Torres Strait Islander children reunified in the Northern Territory, compared to 30% of non-Indigenous children. Similarly, in Victoria, 31% of Aboriginal and Torres Strait Islander children were reunified from out-of-home care in 2019–20, compared to 35% for non-Indigenous children. Figure 10 indicates that all states and territories, except New South Wales, reunified a higher percentage of non-Indigenous children compared to Aboriginal and Torres Strait Islander children in 2019–20. After the Northern Territory, the difference was most pronounced in Western Australia, which reunified 12% of Aboriginal and Torres Strait Islander children compared to 21% of non-Indigenous children. Nationally, reunification rates for Aboriginal and Torres Strait Islander children ranged from 7% in South Australia to 31% in Victoria; the range for non-Indigenous children was slightly broader, from 7% in New South Wales to 35% in Victoria. 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. To support policy and practice aimed at maintaining Aboriginal and Torres Strait Islander children's connection to culture, future reporting should address this data gap.

### REUNIFICATION, LENGTH OF TIME IN CARE, AND AGE

While state- and territory-level reunification data do not disaggregate reunification numbers by the length of time that children have spent in out-of-home care or by the age of children, national data published by the AIHW suggest that these factors are correlated to the likelihood of reunification being achieved. Of all children who were reunified with family from out-of-home care in 2018–19 (the preceding year), more than half (58%) had been living in care for less than 12 months, and 74% had been living in care for less than two years (AIHW 2021b). Unfortunately, the Indigenous status of these children is not reported.

Rates of reunification for children from out-of-home care by age were similar for Aboriginal and Torres Strait Islander and non-Indigenous children. Most children (58.6%) who were reunified with family from out-of-home care in 2019–20 were aged between one and nine years, with children aged 9–14 years also making up a significant proportion (24.1%) of reunifications. Very young infants and older children and young people were less likely to be reunified, with children aged under 12 months making up 8.2%, and young people aged over 15 years making up only 6.3%, of Aboriginal and Torres Strait Islander reunifications in 2018–19. These rates were similar for non-Indigenous children, although children aged over 15 years made up a slightly higher proportion (9.6%) of non-Indigenous reunifications in 2018–19 (AIHW 2021b).

### REUNIFICATION AND RETURN TO CARE

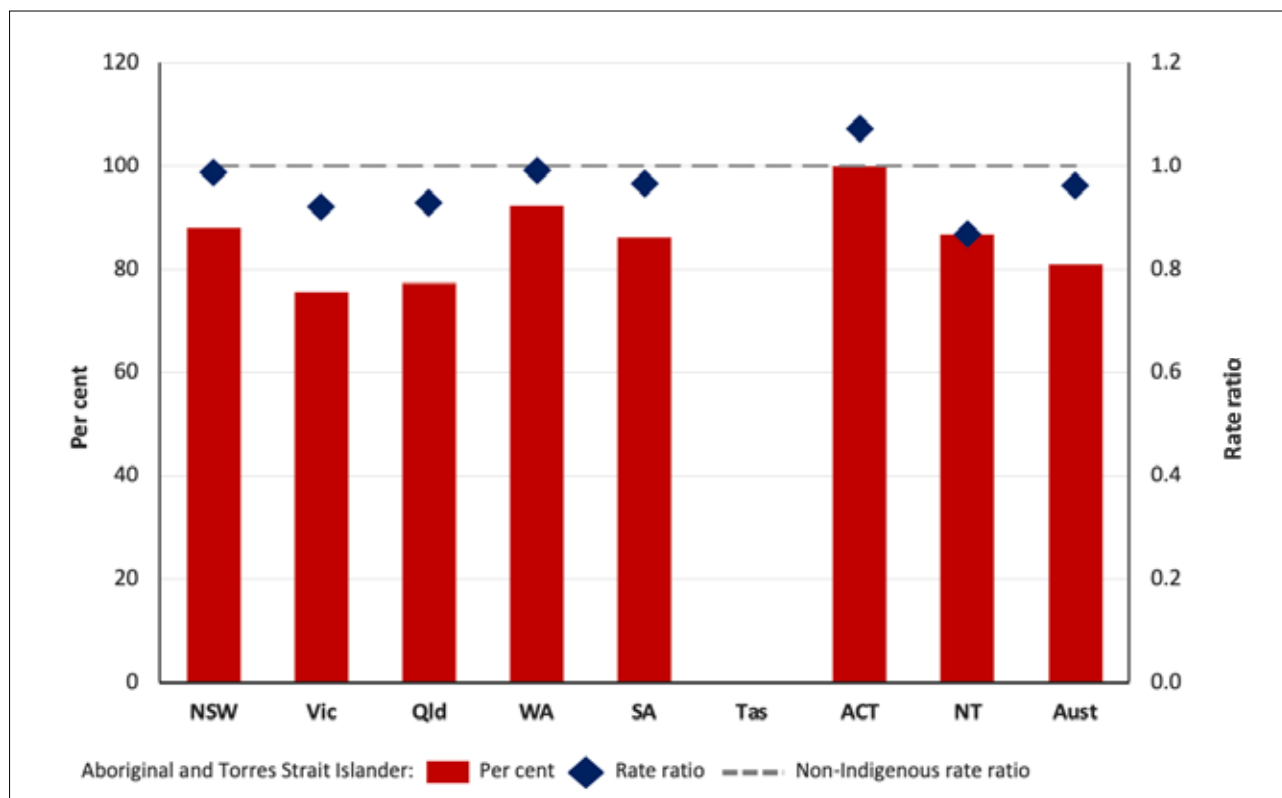
Children who are reunified with their families from out-of-home care do, at times, return to care, though this is not the case for most children. AIHW national aggregate data indicate that 83% of children who were reunified with their families in 2018–19 did not return to care within the next 12 months. Of the 17% of children who did return to out-of-home care after having been exited to reunification in 2018–19, 33% were Aboriginal and Torres Strait Islander children, while 67% were non-Indigenous. Infants who initially reunified with family at younger than 12 months of age were more likely to return to care than any other age group (with 22% of reunified infants returning to care within 12 months of reunification, compared to 16% of children aged 1–17 years) (AIHW 2021b).

**Figure 11** depicts the proportion of Aboriginal and Torres Strait Islander children who were reunified with their families in 2019–19 and did *not* return to out-of-home care within 12 months of reunification, as well as the rate ratio comparing Aboriginal and Torres Strait Islander children to non-Indigenous children, on a state-by-state basis. The proportion of Aboriginal and Torres Strait Islander children who did not return to care within 12 months of reunification was not significantly lower than the national average for all children (83.3%) in any state or territory. The national average for Aboriginal and Torres Strait Islander children (80.8%) was in fact extremely close to that of all children, evidenced by a rate ratio of 0.96.

The lowest proportions were seen in Victoria (75.6%) and Queensland (77.4%), with the highest proportions occurring in the Australian Capital Territory (100%; in other words, *no* children who were reunified in 2018–19 were then returned to out-of-home care within 12 months) and Western Australia (92.3%). Rate ratios of Aboriginal and Torres Strait Islander children's frequency of returning to care after reunification, compared to non-Indigenous children, ranged from 0.87 in the Northern Territory, to 0.92 in Victoria, 0.99 in Western Australia, and 1.2 in the Australian Capital Territory. While smaller numbers of reunifications make it difficult to draw strong conclusions based on a single



**FIGURE 11** Aboriginal and Torres Strait Islander children who were reunified in 2018–19 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



Data source: AIHW (2021m), Table S2.4a.

year of data, these results from the Australian Capital Territory are very favourable, and the Community Services Directorate and local ACCOs in the child and family sector are to be commended for successfully reunifying this cohort of Aboriginal and Torres Strait Islander children with their families.

### WHAT INFLUENCES THE SUCCESS OF A REUNIFICATION?

The reasons why some children return to care within 12 months following reunification with their families are unknown, with only children's ages and the length of time spent in out-of-home care publicly reported (factors such as previous placements in out-of-home care or family breakdown are likely to engender confidentiality concerns). Further, little is known about the factors that enabled successful reunifications, and most research concerning reunification *barriers* (for example, Delfabbro *et al.*, 2015) has not focused specifically on Aboriginal and Torres Strait Islander children and their families.

Considering that increased reunification is paramount to achieving Closing the Gap Target 12 – to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care – the lack of robust evidence in this specific area is of some concern.

What is known from SNAICC's consultations on the second *National Framework for Protecting Australia's Children* is that many stakeholders highlighted a lack of reunification focused support services – particularly strengths-based services operated by ACCOs – as a key barrier to keeping Aboriginal and Torres Strait Islander families safe and connected. This concern is borne out in the data regarding expenditure on family support services generally (with only 15.9% of all child protection expenditure directed towards measures to support and reunify families: part 3.9), and in the low number of jurisdictions that specifically fund family preservation and reunification services through investment in ACCO-led family support and intensive family support services (Table 3, part 4.2).

Previous research has found that reunification is most likely to be achieved within the six months immediately following a child's initial entry into out-of-home care, and that the likelihood of reunification occurring after one year in care decreases rapidly (Delfabbro, Barber and Cooper 2003; Barber, Delfabbro and Gilbertson 2004; Farmer *et al.* 2009; Fernandez and Lee 2011, 2013). However, limited data exists as to the underlying factors that affect the likelihood of a successful reunification occurring after two years post-entry into care (notwithstanding the impact of permanency

planning reforms that aim to exit most children from out-of-home care within two years). 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) – given that Aboriginal and Torres Strait Islander families experience both poverty and homelessness at higher rates compared to non-Indigenous families (part 3.2; part 3.8), this is an area worth exploring further in terms of policy implications.

Going forward, the impact of COVID-19 on reunification practices in 2020 and 2021 is likely to become another key variable in research concerning reunification, since public health restrictions in some jurisdictions have severely limited contact between Aboriginal and Torres Strait Islander children, their families, and caseworkers (SNAICC 2020).

## 1.5 CHILDREN IN OUT-OF-HOME CARE BY 2029: AN ALARMING PROJECTION OF GROWING OVER-REPRESENTATION

Now that the first truly co-designed *National Agreement on Closing the Gap* has been in place for a full year, attention among governments and Aboriginal and Torres Strait Islander community-controlled organisations alike has turned to how policymaking and service systems need to be overhauled to enable progress against the four Priority Reforms and the 17 target Outcome Areas, including Target 12 – to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% within a decade. Alongside the release of the first Closing the Gap Implementation Plans by the Commonwealth, state and territory governments, we are also seeing the commencement of the second *National Framework for Protecting Australia's Children* (2021–2031), which marks a fundamental shift in national child protection policy by recognising Aboriginal and Torres Strait Islander peoples' right to self determination, and will be complemented by a standalone Aboriginal and Torres Strait Islander Action Plan (to be developed by mid-2022).

The *National Aboriginal and Torres Strait Islander Early Childhood Strategy* provides promise for transformational changes to our children's early years, targeting a coordinated approach across governments, non-government sectors and communities in order to ensure children grow up healthy, engaged with education, connected to family and community, and strong in culture (part 2.2 provides more detail). However, policy commitments are just the beginning – against the backdrop of these new and refreshed frameworks, the future projection of Aboriginal and Torres Strait Islander children in care remains deeply concerning and highlights just how much needs to

change. The number of our children living in out-of-home care is projected to increase by 54% by 2030 (**Figure 12**) if the current trajectory is not interrupted by profound and wholesale change to legislation, policy and practice.

The projection shown in Figure 12 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 out-of-home care population over the next 9 years, while the light blue line represents the mean projected growth of non-Indigenous children in out-of-home care.

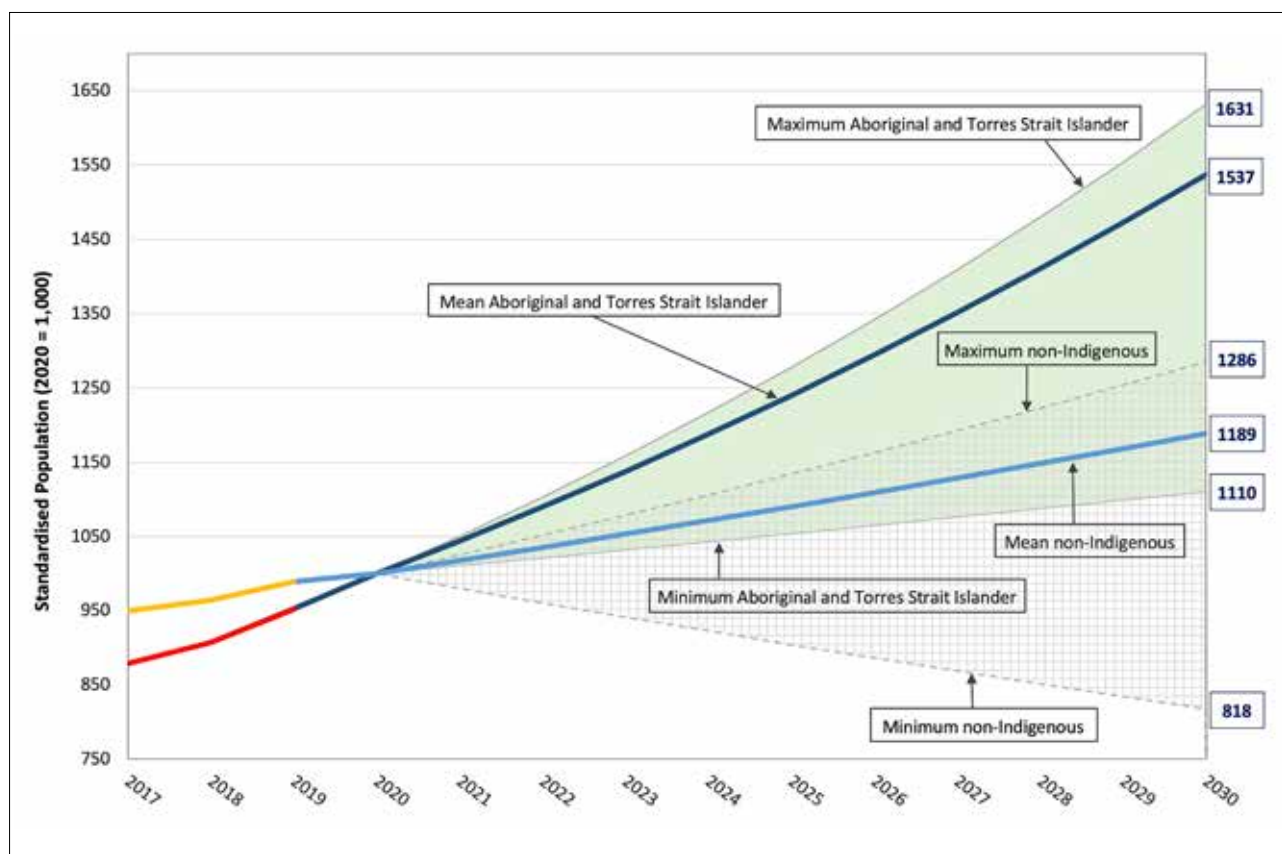
(Note that the mean projected increase is significantly lower than that estimated in The Family Matters Report 2020, which projected that the number of Aboriginal and Torres Strait Islander children in care would double by 2029. The difference is unfortunately not due to falling numbers of children in care, but instead a matter of baseline data revision, due to changes in definitions and counting rules applied retrospectively by the AIHW. Accordingly, this set of projections cannot be compared to those published in previous Family Matters reports. Appendix 1 provides more detail of these changes and their effects on the projection scenarios.)

While 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 (and, further, that our children are projected to make up a majority of all children in out-of-home care by 2030), there remains hope that, with increased efforts to support families and address the drivers of child protection intervention, this trajectory can be altered. By applying a more advanced model of population dynamics (currently being refined), University of Melbourne academics have shown that if early intervention and prevention efforts could reduce the rate of entry to out-of-home care for Aboriginal and Torres Strait Islander children by just 5% per year, the Closing the Gap target to cut over-representation by 45% before 2031 can be met (Tan 2020).

If efforts can also be applied to support increasing numbers of Aboriginal and Torres Strait Islander children in out-of-home care to reunify with their parents and family members, the target can be exceeded. With such a sobering projection of growth for Aboriginal and Torres Strait Islander children in out-of-home care before us, the Family Matters campaign 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, doubling and tripling their efforts 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 play out.

In line with the National Agreement, to be successful, these changes must be driven by resourcing Aboriginal and Torres Strait Islander community-controlled organisations to provide family preservation,

**FIGURE 12** Population growth trajectories of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care in Australia, 2019–20 to 2029–30



Data source: University of Melbourne modelling using Child Protection Australia data (AIHW 2021b).

reunification, and other prevention and early intervention 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 mainstream service providers to operate in ways that are genuinely culturally safe, responsive, and accountable to Aboriginal and Torres Strait Islander communities.







## PART 2

# RECENT EFFORTS TO ADDRESS THE OVER-REPRESENTATION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN IN OUT-OF-HOME CARE

### 2.1 AUSTRALIAN, STATE AND TERRITORY GOVERNMENTS

The Australian, 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. This year, all governments provided input. Data provided is addressed throughout this report, and the responses from governments on their efforts to address over-representation are provided below. Governments were requested to provide a 500-word response. Where this was significantly exceeded, responses have been published in part. Full responses and data are available from the Family Matters website.

Family Matters jurisdictional working groups and Aboriginal and Torres Strait Islander community-controlled peak bodies and organisations play a key role in leading the campaign and 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.

Input was not able to be collected from all states and territories, particularly those without a sector peak or a Family Matters jurisdictional working group, given that ACCOs in the child and family sector already face enormous workloads. Family Matters strongly advocates that Aboriginal and Torres Strait Islander peak bodies supporting children and families need to be resourced and supported in each jurisdiction to enable representative community voices to participate in policy design, sector development, and oversight of government commitments to improve outcomes for Aboriginal and Torres Strait Islander children.

Commentary on progress to address over-representation was also sought from the specialist commissioners (or similar roles) for Aboriginal and Torres Strait Islander children in the four States that have established such a role (New South Wales, Queensland, South Australia and Victoria).





## AUSTRALIAN CAPITAL TERRITORY

### GOVERNMENT INPUT – PROVIDED BY THE COMMUNITY SERVICES DIRECTORATE

The Community Services Directorate (CSD) remains committed to becoming a First Nations First organisation that enables self-determination.

The *Our Booris, Our Way* (OBOW) review demonstrates this commitment. The Community Services Directorate engages regularly with the OBOW Implementation Oversight Committee (OBOW IOC), which guides and monitors progress against OBOW recommendations. These seek to reduce over-representation of Aboriginal and Torres Strait Islander children in out-of-home care, improve experiences while in care, and support safe restoration. CSD is working with the OBOW IOC to establish a model for one or more ACCO(s) to fulfil the role of advocacy and support, service design, policy setting and service delivery — with the ultimate goal to increase respect for, and preservation of, the rights of Aboriginal and Torres Strait Islander children and families.

The ACT Government is developing an approach to establish an Aboriginal and Torres Strait Islander children and families' commissioner, in consultation with the OBOW IOC. Work on a co-design process to inform a model for the commissioner commenced in mid-2021.

CSD is seeking to embed the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle (Child Placement Principle) in the *Children and Young People Act 2008*. CSD intends to engage a consultant to conduct culturally appropriate forums for the Australian Capital Territory Aboriginal and Torres Strait Islander community – including Wreck Bay – and Aboriginal and Torres Strait Islander Child and Youth Protection Services (CYPS) staff. CYPS also continues to engage SNAICC to deliver Child Placement Principle implementation training (in March and October 2021). This is required training for staff working with Aboriginal and Torres Strait Islander families.

CYPS is strengthening staff cultural proficiency through the Cultural Development Program and considers staff's cultural proficiency when allocating families to case managers. CYPS established a cultural panel of Aboriginal and Torres Strait Islander professionals to inform, develop and implement cultural plans. This is a priority of cultural services leadership, with terms of reference that reflect the Child Placement Principle.

CYPS is updating operational modules to reflect the Child Placement Principle, with oversight from the Ngura Naraganabang Advisory Group. Review of the Case Management Module will strengthen guidance about restoration. CYPS has engaged with the Advisory Group and the Aboriginal and Torres Strait Islander Co-Design Network to embed family-led decision-making in case planning and restoration. CYPS has

also engaged Curijo (an Aboriginal consulting firm) to develop a staff Child Placement Principle Practice Guide.

In 2018–19, the Australian Capital Territory committed \$1.44m to family group conferencing (FGC), supporting family-led decision-making. Now a fully funded program, 50 families have participated since November 2017, resulting in 74 Aboriginal and Torres Strait Islander children not subsequently entering care. Curijo delivers mandatory FGC training for CYPS staff.

The ACT Government has also invested \$5.7m over five years for Functional Family Therapy – Child Welfare (FFT CW), through a partnership between OzChild and Gugan Gulwan Youth Aboriginal Corporation. And in January 2021, CYPS engaged OzChild for a six-month pilot, delivering Functional Family Therapy – Youth Justice (FFT YJ) to 20 young people aged 11–17 and their families. FFT YJ seeks to prevent young people from entering or becoming further involved in the justice system.

## NEW SOUTH WALES

### COMMUNITY VOICE – PROVIDED BY ABSEC (NSW CHILD, FAMILY AND COMMUNITY PEAK ABORIGINAL CORPORATION)

Aboriginal communities have continued calling for community-led solutions to the failures of the child protection system and the challenges that too many children, young people and families face. The NSW Government has taken some positive steps, and communities will continue to engage government as they drive their own solutions. Improving forums for oversight and accountability will help to ensure that the system hears strong, independent community voices. Major investment must be made in implementing recommendations repeatedly called for by Aboriginal people to allow communities to drive their own solutions. Ongoing cycles of government-led reforms are not working.

New South Wales communities continue to be alarmed by the commitment to government-led permanency over community voices about the best interests of Aboriginal children and families. Aboriginal children and young people are significantly more likely to be subject to permanent care orders, with the government's permanency targets (enshrined as Premier's Priorities) driving the Department of Communities and Justice (DCJ) and non-Indigenous NGOs to move children and young people off their books without improving how the system works for Aboriginal people.

With data sharing identified as a Priority Reform in the *National Agreement on Closing the Gap*,



DCJ has taken a positive step toward accountability by providing a significant amount of data to the Family Matters campaign. We encourage DCJ to make this data publicly accessible on its data platforms. From communities and their organisations requesting data from government to support their work, to the *Family is Culture Review Report* and the National Agreement, it is clear that community ownership of data is a priority – and government needs to let communities determine what this looks like.

The *Family is Culture Review Report* (the independent review of Aboriginal children and young people in out-of-home care in New South Wales) called for the child protection system to be reformed at a structural level, guided by self-determination and accountability. Yet these calls have been sidelined, overlooked or watered down. Implementation has focused on limited, piecemeal adjustments to business-as-usual, with no additional funding allocated to enable change. Critically, the NSW Government has failed to adequately partner with Aboriginal people as key decision-makers. Our sector, communities and supporters throughout New South Wales continue to advocate for the full implementation of the recommendations in partnership with Aboriginal people.

The New South Wales Coalition of Peaks has been working with governments to put forward proposals for Closing the Gap funding in 2022–23, and to create the 2022–24 New South Wales Closing the Gap Implementation Plan. Proposals are focused on achieving self-determination by progressing Aboriginal-led child and family commissioning, holistic system co-design, and embedding the Aboriginal Case Management Policy in the child protection system, as well as a pilot for a state-wide advocacy service. However, there is no clarity from government on what new funding – if any – will be available, and without funding to back up the government’s commitment, the Closing the Gap targets will not be met.

Aboriginal families and communities are best placed to support their children and young people. Despite this, DCJ has continued to underinvest in Aboriginal families, and only a fraction of funding is directed to culturally embedded prevention and early intervention support for families. For example, DCJ has committed to delivering 30% of all Targeted Earlier Intervention program funding through ACCOs. Although Aboriginal children represent 43% of all children entering the system, this funding only increased by 0.66% over the past three years, bringing the total to just 14.71% – less than half of the goal. On top of this, only around one-quarter of Aboriginal children in out-of-home care received services from ACCOs in 2019–20.

DCJ also states that there are frameworks and protocols in place to promote adherence to the Child Placement Principle. However, the *Family is Culture* review highlighted that practice is not aligned to policies and procedures, and that broader structural

deficiencies impede good practice. This is evident in the continued over-representation of Aboriginal children at all stages of the child protection system, and in the fact that only 56% of Aboriginal children have a cultural support plan in 2019–20 despite these being mandatory. Inadequate resourcing continues to undermine implementation of initiatives that can change how the system works for Aboriginal people, such as the Aboriginal Case Management Policy and Aboriginal family led decision-making.

Overall, the message from New South Wales this year continues to be that self-determination is the way forward. Aboriginal communities are best placed to make the right decisions to support strong and thriving Aboriginal children and families, and government needs to allow communities to lead the drive for change.

### **ABORIGINAL DEPUTY CHILDREN’S GUARDIAN (OFFICE OF THE CHILDREN’S GUARDIAN) – RICHARD WESTON**

With over one-third of all Aboriginal children in out-of-home care in Australia living in New South Wales, the over-representation of our children remains a seemingly intractable problem. As the jurisdiction with the highest Aboriginal population in Australia, it is important to the success of major national policy initiatives like the *National Agreement on Closing the Gap* and the *National Framework for Protecting Australia’s Children* that New South Wales addresses this over-representation. But there are opportunities for change to the out-of-home care system in New South Wales and some glimmers of hope that we can arrest the upward trajectory of Aboriginal children in the out-of-home care system.

In my role as the deputy children’s guardian, I am providing a Special Report to the Minister in December on the progress of seven recent reforms the NSW Government has committed to, and which were highlighted in the *Family is Culture* review. I have also been asked to make recommendations where additional change should be considered. Within the Office of the Children’s Guardian, I oversee implementation of the child safe standards as well as the regulation and monitoring of the out-of-home care sector. I want to bring greater focus to quality outcomes for Aboriginal children and young people in out-of-home care through the Office of the Children’s Guardian’s regulatory functions, and to engage in a meaningful way with Aboriginal communities through their preferred governance mechanisms. Without community involvement in developing solutions and holding government to account, it is unlikely we will see any improvement.

The Indigenous affairs landscape has changed in the last three years. The new *National Agreement* is a major disruption to the relationship between governments and Aboriginal and Torres Strait Islander people – something not seen before. The original

Closing the Gap agreement, like many policy efforts to address disadvantage, was between governments – with no Aboriginal and Torres Strait Islander involvement beyond cheerleading. This *National Agreement on Closing the Gap* is different. It is not perfect, but it is a large stride in the right direction. An agreement that is underpinned by the United Nations Declaration on the Rights of Indigenous Peoples, and Aboriginal and Torres Strait Islander self-determination – with agreement by all parties to four key Priority Reforms and additional targets (including one to reduce the number of Aboriginal and Torres Strait Islander children in out-of-home care) – is no small feat.

The next question is: what are the rest of us going to do with the opportunity presented by this new agreement? The National Agreement will be with us for the next 10 years. In New South Wales there is a hive of activity, including a number of Closing the Gap budget proposals being put forward by AbSec through a key working group on Target 12 to tackle the over-representation of Aboriginal children in out-of-home care. These are positive developments, but committee meetings, proposals and advocacy will not in themselves turn the tide: improved outcomes will only come from intense and urgent action to implement reform. The leadership that exists in our communities must be enabled to participate in dialogue with service providers and government leaders to help re-shape the New South Wales child protection system to deliver better results for Aboriginal children and young people so that they remain in their family and in their culture. The National Agreement and National Framework present opportunities for meaningful change to occur over the next 10 years but will only have a chance of success if Aboriginal and Torres Strait Islander people participate constructively. Negotiating with government is always challenging, but the opportunity to deliver better outcomes for Aboriginal children in New South Wales cannot be ignored. Our mob must be at the table.

#### **GOVERNMENT INPUT – PROVIDED BY THE DEPARTMENT OF COMMUNITIES AND JUSTICE (DCJ)**

The NSW Government is committed to addressing the over-representation of Aboriginal children in child protection systems by working with Aboriginal families and communities. The 2021 *Report on Government Services* (RoGS) indicates that in 2019–20 New South Wales continued to have the lowest rate of children admitted into out-of-home care across Australia, and the third lowest rate of entries per 1,000 Aboriginal population (behind the Northern Territory and Tasmania). The DCJ Practice Framework supports the implementation of the Child Placement Principle, including through the framework principle “Culture is ever present”, which commits DCJ to partner with Aboriginal children, families and communities in ways that are driven by Aboriginal culture.

DCJ continues to act in response to Professor Megan Davis’s 2019 *Family is Culture* review recommendations, with the Minister and Secretary also receiving advice from the Aboriginal knowledge circle on strategies to achieve better outcomes for Aboriginal children in contact with the child protection system. Following a review in 2019–20 of DCJ’s service delivery to Aboriginal people, an Aboriginal Service Delivery Reform Team was established to implement new, data driven ways of working with Aboriginal people, including to address the over-representation of Aboriginal children in out-of-home care.

#### **Participation**

The Aboriginal Case Management Policy, developed with AbSec, was introduced in 2018 to promote the safety and wellbeing of Aboriginal children through supporting the continued involvement of their families and communities in case planning with child protection practitioners. Further, legislative reform to the *Children and Young Persons (Care and Protection) Act* means that all families must be offered alternative dispute resolution, preferably family group conferencing. These changes support Aboriginal self-determination through increased family participation in decision-making. In 2019–20, 47% of conferences (331) were for Aboriginal families.

#### **Prevention and partnership**

Under Targeted Earlier Intervention recommissioning, existing early intervention investment (for flexible support to children and families at risk of vulnerability) is redirected to ACCOs. The DCJ Aboriginal early intervention investment proportion progressed from 14.05% in 2017 to 14.71% in 2020 (including 6.8% in intensive family support), with the next goal being 30% by 30 June 2021. In total, 6.1% of child protection funding (\$149 million) is provided to Aboriginal organisations.

Aboriginal child and family centres (ACFCs) across New South Wales also support prevention by working to ensure parents and carers are actively involved in the education and care of their children, enabling them to develop their skills and address challenges through a range of supports, including with child protection matters.

#### **Placement and connection**

New South Wales legislation prioritises family preservation and restoration (where safe) in permanency planning for children in the child protection system, and agencies work to achieve permanent outcomes that keep Aboriginal children connected with family and culture. At 30 June 2020, 74% of out-of-home care placements were with a relative or Aboriginal authorised carer (51% placed with an Aboriginal relative or an Aboriginal authorised carer, and 23% with a non-Indigenous relative).

The Permanency Support Program helps children maintain connections with family and culture

(supported by their kin and community) and enables parents to participate in the care of their children when living apart. In 2019–20, Permanency Support Program providers delivered family preservation services to more than 16,000 children — around a third of whom were Aboriginal children, and almost 450 of whom were supported by Aboriginal-specific services, including Waminda Nabu and Intensive Family-Based Services teams. Currently, 55% of family preservation packages are provided by Aboriginal organisations or partnerships.

Under the Corrections Co-located Caseworker program, child protection caseworkers are co-located in women's correctional centres and work directly with mothers to maintain connections with their children, families, culture and communities, and to improve the experience of returning home. Since this program commenced in June 2020, 948 women have been referred.

## NORTHERN TERRITORY

### COMMUNITY VOICES – PROVIDED BY ABORIGINAL ORGANISATIONAL AND COMMUNITY LEADERS

ACCOs and community leaders in the Northern Territory remain deeply concerned by the continuing over-representation of Aboriginal children in care: in 2019–20, Aboriginal children were 11.1 times more likely to be in out-of-home care than non-Indigenous children (and made up 89% of all children in care). While this represents a decrease from last year's rate ratio (12.2), it remains higher than the Australian average (10.0).

#### Building block 1: Quality and culturally safe universal and targeted services

There is massive unmet need for support services to children and families. In family support, all our services are operating at or beyond capacity, and increases in funding are nowhere near sufficient to meet this demand. Overall, RoGS data indicate that recurrent expenditure on family support and intensive family support services decreased by 4.6% from 2018–19 to 2019–20. Access to the NDIS (there are few providers of culturally safe assessments, and less-populated regions see a severe lack of access to disability services) and public housing (investment is needed in supported accommodation, not just normal housing, for victims of family violence and young people transitioning from care into adulthood) also face huge unmet demand.

#### Building block 2: Participation, control and self-determination

Where services are funded, ACCOs are not often prioritised; recently there have been efforts to

specifically fund ACCOs to deliver services to Aboriginal children and families, but there is a long way to go. It is promising that three new ACCO-run Aboriginal child and family centres opened in 2019–20, but they represent a drop in the ocean of funding needed. *Aboriginal Carers Growing Up Aboriginal Children* is also a good initiative, but funding is too low to keep up with demand for kinship carers, evidenced by placements of our children with kin or other Aboriginal carers *decreasing* from 36.9% in 2018–19 to 34.1% in 2019–20, and remaining the lowest in the country. Further, ACCOs delivering the program have no authority in decisions about children's care and protection, so their work on identifying appropriate kinship carers can be – and is – over-ruled.

The focus on Multi-Agency Community and Child Safety Teams (MACCSTs) as the mechanism for community input into child protection decisions is problematic. We are concerned that there is no way for *families* to be involved in MACCSTs to articulate their needs (and the inclusion of community members is often minimal). We are also concerned that data-sharing provisions in the *Territory Families Legislation Amendment Bill 2021* will discourage families from engaging with ACCOs who sit on MACCSTs, due to fears that reaching out for help will see Territory Families removing their children. We are disappointed the Northern Territory Government's commitment to embed family-led decision-making in legislation has not progressed past consultation, and we urge this to be made a priority – including for conferences to be independently facilitated by Aboriginal people.

#### Building block 3: Culturally safe and responsive systems

Institutional racism continues to affect Aboriginal peoples in the Northern Territory. Many of our families are subjected to a culturally unsafe system that is not trauma-informed, with staff who fail to use interpreters or demonstrate awareness of the Stolen Generations' impacts on contemporary care proceedings. For example, many women are still reluctant to reach out for help when experiencing family violence, due to fears that this will cause their children to be removed (though it is hoped that the *Safe and Together* training will have a positive impact on social workers' practice in this area). The Northern Territory Government's efforts to recruit Aboriginal staff are not sufficient to change this landscape. The presence of Aboriginal staff does not mean that they are able to operate in a culturally safe and responsive way, given existing systemic racism in legislation and policy. Cultural safety cannot be achieved by individuals; it must be embedded structurally.

#### Building block 4: Accountability

The absence of a full-time children's commissioner urgently needs to be resolved if there is to be genuine accountability, and at least one of the children's commissioner or the anti-discrimination

commissioner should be designated as an Aboriginal role going forwards. Outside of Northern Territory Government, the absence of any plan for an Aboriginal children and families peak body under the *Northern Territory Closing the Gap Implementation Plan*, even while commitments were made to support peak bodies for education and justice, goes against all prior commitments to self-determination, genuine consultation, or community control.

### **GOVERNMENT INPUT – PROVIDED BY THE DEPARTMENT OF TERRITORY FAMILIES, HOUSING AND COMMUNITIES (DTFHC)**

The Northern Territory Government is committed to and proud of its strong partnerships, active leadership, innovative practices and cross-agency approach to creating generational change for children, young people and families experiencing vulnerability in the Northern Territory. The Northern Territory Government has made substantial progress in addressing the over-representation of Aboriginal people in our statutory systems. As at 30 June 2021, there were 972 children in care, which is the fourth consecutive year in which the total number of children in care has reduced. We have less Aboriginal children entering care, and more being reunified with their families.

#### **Building block 1: Universal and targeted services**

Aboriginal community-controlled child and family centres prevent child protection intervention by supporting families and communities to grow up their children and provide wrap-around services to those needing help. In 2020–21, DTFHC supported Aboriginal community-controlled organisations to establish a further three centres, expanding its network to 11 across the Northern Territory. DTFHC has also progressed consultation for legislative reforms that will confirm the primacy of family-led decision-making and culturally secure engagement and will embed the Child Placement Principle in its entirety. Proposed amendments to the *Care and Protection of Children Act 2007* will enable pre-birth family support services when an unborn child is assessed to be in need of care when born.

#### **Building block 2: Participation, control and self determination**

The Multi-Agency Community and Child Safety (MACCS) Framework demonstrates the Northern Territory Government's commitment to local decision-making by bringing together community members, local heads of government agencies, and non-government organisations through MACCS Teams to identify issues, create action plans for child, family and community safety, and carry out actions together. Teams will be established in 27 communities across the Territory to collaboratively address issues through locally built solutions.

DTFHC's \$4.2m *Aboriginal Carers Growing Up Aboriginal Children* Carer Grants fund six Aboriginal organisations to recruit, assess and support placement for Aboriginal children in care to keep them connected to culture, kin and Country. Carers are supported to share learnings, develop partnerships and identify opportunities to share resources through Community of Practice forums led by Aboriginal organisations.

#### **Building block 3: Culturally safe and responsive systems**

The Northern Territory Government recognises Aboriginal employment as a vital pillar to providing culturally safe services. The Northern Territory Public Sector Aboriginal Employment and Career Development Strategy, launched in 2021, highlights this Government's commitment to growing Aboriginal employment within our public sector. As at June 2021, 17.3% of DTFHC staff identified as Aboriginal, leading the way in employing a workforce reflective of the community we serve. Further, DTFHC continues to deliver the Remote Family Support Program in partnership with the Australian Government, which aims to recruit place-based Aboriginal support workers in 24 remote communities to deliver women's safe houses and family support programs.

DTFHC has appointed its first Elder in Residence, Dr Christine Fejo-King, to deliver high-level advice on building relationships with Aboriginal communities and families, provide strategic cultural policy and program advice, and support implementation of our Aboriginal Cultural Security Framework in all aspects of service delivery.

#### **Building block 4: Accountability**

The Children and Families Tripartite Forum is the multi-sectoral partnership between the Northern Territory and Australian Governments and the Aboriginal community sector. The Tripartite Forum is progressing the 10 Year Generational Strategy through extensive community consultation, with a focus on engaging Aboriginal communities, and is expected to be finalised by November 2021.

The Northern Territory Government, in partnership with Aboriginal Peak Organisations NT and the Local Government Association NT, has developed a Northern Territory Implementation Plan under the *National Agreement on Closing the Gap*. This first Implementation Plan is focused on giving effect to the four priority reform areas. DTFHC is a key contributor to efforts across a range of portfolios including child protection, family support, youth justice, domestic and family violence reduction, disability policy and social housing.



## QUEENSLAND

### COMMUNITY VOICE – PROVIDED BY THE QUEENSLAND FAMILY MATTERS WORKING GROUP

The *Our Way Strategy (2017–2037)*, co-designed by Family Matters and the Queensland Government to eliminate over-representation of Aboriginal and Torres Strait Islander children in the child protection system by 2037, has progressed to the second action plan, *Changing Tracks 2 (2020–2022)*. The First Nations-led First Children and Families Board has oversight of the *Our Way* strategy, and we are commencing co-design of the next action plan, *Breaking Cycles 2023–2025*, informed by baseline results of the *Our Way* evaluation.

While our legislation and policies strongly support self-determination and human rights, and as a state we have well-resourced ACCOs (compared across Australia), this year's data highlights significant impediments to realising the *Our Way* goal and Closing the Gap target for out-of-home care. Key initiatives the Queensland Family Matters leaders call for include:

1. Monitoring implementation of the Child Placement Principle to the level of active efforts.
2. Monitoring implementation of the placement hierarchy (to improve permanency outcomes that adhere to the Child Placement Principle with targeted data collection on preservation and reunification of children with parents and kin).
3. Developing local community-led solutions that provide early intervention support to pregnant women and eliminating unborn notifications that often lead to removal of babies at birth. This should be enabled through additional resourcing to ACCOs for family wellbeing services to provide the full range of services under the RoGS definition of intensive family support.
4. Improving the cross-sector application of the *Our Way* strategy, Child Placement Principle and Queensland Human Rights Act, particularly as regards health, housing, education and justice.
5. Achieve proportional investment in ACCOs to ensure that at-risk Aboriginal and Torres Strait Islander children receive genuinely Aboriginal and Torres Strait Islander-led support.

These add to our previous calls for a dedicated Aboriginal and Torres Strait Islander children's commissioner, with appropriate powers (including inquiry and investigation) to promote systemic change and accountability.

We celebrate improved implementation of the Child Placement Principle in some regions where collective decision-making mechanisms (such as HALT) have enhanced cultural integrity, planning and decision-making. This has been achieved through ACCOs and community leaders working with the Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) at the point of a child coming to the attention

of the child protection system. We recommend implementing similar localised models across the state, particularly to respond to concerns for unborn babies and for young people on dual orders and living in detention centres. We are also encouraged by the Queensland Government's commitment to state-wide implementation of Delegated Authority, though we believe success will require maintaining the existing strong partnership approach and ensuring equitable distribution of resources to collectively work towards full implementation.

We know from trials of the Family Matters Reflective Practice Tool that it assists organisations to reflect on, and improve, practice that upholds campaign principles (including upholding children's rights and addressing racism). Trial participants report that the tool promotes partnerships with Aboriginal and Torres Strait Islander communities that value cultural knowledge, expertise, leadership and solutions. We recommend use of this tool sector-wide and are encouraged by the Queensland Government's involvement in the phase two trial.

Other promising initiatives include the development of a *Family Caring for Family* kinship care model, and facilitation by ACCOS of family-led decision-making in child protection and youth justice. QATSICPP uses an action research approach to trial implementation, which generates learnings for Queensland's Investment Strategy in order to ensure sufficient resourcing to expand these initiatives state-wide. Such reform requires transition planning, and support for ACCO workforce and governance development, to ensure culturally safe care and support in accordance with Aboriginal child rearing practices and Torres Strait Island custom.

### COMMISSIONER, QUEENSLAND FAMILY AND CHILD COMMISSION – NATALIE LEWIS

The disproportionate representation of Aboriginal and Torres Strait Islander children in out-of-home care is perhaps our greatest challenge and contemporary injustice. However, it is clear from the *Our Way Strategy*, and the significant reform agenda pursued under subsequent *Changing Tracks* action plans, that the Queensland Government is firmly committed to reducing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care.

Queensland remains the first and only jurisdiction to enshrine all five elements of the Child Placement Principle in its child protection legislation and to commit to a whole-of-government, generational strategy to eliminate over-representation.

As a commissioner in the Queensland Family and Child Commission (QFCC), I am fiercely committed to raising awareness of issues that disproportionately impact on the rights of First Nations children and young people, advocating for systemic improvement and promoting accountability within the systems that

interact in the lives of our families. As a statutory body, the QFCC is well positioned to contribute to ongoing oversight in relation to the equitable access to – and enjoyment of – the rights of First Nations children, young people and families in Queensland. The QFCC will ensure that its focus and effort are commensurate with the significance of this issue and will advocate for changes required across a range of social policy areas to contribute to a reduction in our children's over-representation within the statutory child protection system.

The QFCC is undertaking a comprehensive program of work to examine the dynamics and drivers of the over-representation of Aboriginal and Torres Strait Islander children across Queensland's child protection system to understand the causes and situational influences. This will involve an in-depth, rights-based analysis of the Child Placement Principle's implementation across the system, which will provide an opportunity to evaluate the efficacy of Child Placement Principle implementation as the means to address over-representation. By focussing on Queensland-specific data at a state, regional and local level, the QFCC will be able to better identify iterative improvements as well as establish a more nuanced picture of both the drivers and dynamics of over-representation in different parts of Queensland.

In August 2021, the QFCC released *Principle Focus: A child-rights approach to systemic accountability for the safety and wellbeing of Queensland's First Nations children*. I hope that this focussed program of oversight work makes a significant contribution as we all work collectively to eliminate the disproportionate representation of Aboriginal and Torres Strait Islander children in the child protection system across the country.

## **GOVERNMENT INPUT – PROVIDED BY THE DEPARTMENT OF CHILDREN, YOUTH JUSTICE AND MULTICULTURAL AFFAIRS**

The Queensland Government continues its long-term commitment to eliminate the over-representation of Aboriginal and Torres Strait Islander children and families in the child protection system. Whilst Queensland's proportion of Aboriginal and Torres Strait Islander children in care (43.6%) is one of the lowest nationally, concerted effort is still needed to reduce this rate and ensure Aboriginal and Torres Strait Islander children grow up safe, loved and cared for in family, community and culture. The *Strengthening Families, Protecting Children Framework for Practice* is achieving better outcomes for children and families in the child protection system, with increasing numbers of children reunified and not returning to care. Further, the *Changing Tracks Action Plan 2020–2022* continues this government's commitment to set the foundations for change across the child protection system to achieve the *Our Way* target. An independent evaluation of the *Our Way Strategy* and *Changing Tracks Action*

*Plans* is underway, informed by engagement with Family Matters Queensland, Aboriginal and Torres Strait Islander communities across Queensland, the broader child protection sector and government partners.

## **Implementing the Child Placement Principle**

Queensland child safety officers are required to apply the five elements of the Child Placement Principle, and the department is working with staff to ensure their application of these elements reflects Active Efforts. Further, in 2019, DCYJMA commenced work to replace the Integrated Client Management System. The new system, Unify, aims to enable improved capability for frontline staff, government agencies and partners to share information and integrate service delivery. Unify has culture at the centre of its design, development and implementation and supports a change in practice to enable active efforts in the application of the Child Placement Principle.

In partnership with QATSICPP and Family Participation Program providers, DCYJMA is reviewing intake systems for children entering care (with a focus on decision-making and assessment tools impacting Aboriginal and Torres Strait Islander children and families) and permanency orders for children under three. Another partnership with QATSICPP and other ACCOs has been established to co-design a kinship care program to provide more culturally responsive family care placements, ensuring that Aboriginal and Torres Strait Islander children in family-based care are placed with family/kin and linked to community and culture. Additionally, DCYJMA has implemented a Finding Kin Outcome-Based Payment, which at 30 June 2021 had already seen 17 Aboriginal and Torres Strait Islander children transferred from residential care to placements with family.

## **Prevention (Aboriginal and Torres Strait Islander family support)**

In 2019–20, the Queensland Government invested \$42m in community-controlled Aboriginal and Torres Strait Islander Family Wellbeing Services (FWS) to support families to care for their children. An implementation and outcomes evaluation of the FWS program has so far observed a high level of success in de-escalating risks and addressing family needs, with 93% of children and families that completed a FWS requiring no further investigation by child protection in the following six months. \$14m was also allocated to the Family Participation Program to support Aboriginal and Torres Strait Islander families to participate in key decisions across the child protection system. This has seen many positive outcomes for children remaining safely with their families, with strengthened safety and support networks. And DCYJMA is currently undertaking work in partnership with QATSICPP and Queensland Health to ensure Aboriginal and Torres Strait Islander pregnant women can receive support in culturally safe environments.

## Partnership

Queensland leads nationally in the proportion of expenditure provided to ACCOs for family support and intensive family support services (21.82% overall in 2019–20). Consultation with the First Children and Families Board guides continued investment in ACCOs for culturally responsive child protection services. In partnership with QATSCIPP, DCYJMA has commenced implementation of delegated authority to ACCOs (Refocus and CQID) in early adopter sites on the Sunshine Coast and Rockhampton. As at 30 June 2021, nine instruments of delegation had been approved, enabling reunification of four children with their parent in safe and stable placements, and work continuing to reunify the other five children. DCYJMA and QATSCIPP will next develop a strategic blueprint for scaling up the statewide implementation of delegated authority.

## SOUTH AUSTRALIA

### COMMUNITY VOICES – PROVIDED BY THE SOUTH AUSTRALIAN FAMILY MATTERS CAMPAIGN WORKING GROUP

*“We know we cannot live in the past –  
but the past continues to live with us”*

(Uncle Charles Perkins)

In South Australia, Family Matters campaign efforts are led by grassroots Elders and community members, who champion change and provide Aboriginal community voice in government-driven child protection system reform, whilst pursuing evidence-based advocacy asks that are grounded in the Family Matters campaign principles and supported by Aboriginal community capacity-building strategies.

The campaign continues to advocate that Aboriginal peoples are responsible for the safety and wellbeing of Aboriginal children and families, being best placed to understand matters affecting our children, families and communities. *The Family Matters Roadmap* is clear that the strengths to address child wellbeing and safety concerns lie within Aboriginal families and communities. Research cited in the *Roadmap* describes the value of unique Aboriginal child-rearing practices, alongside the critical importance of continuity of cultural identity to the wellbeing of Aboriginal children. Yet, these strengths continue to be undermined by an ever-deepening crisis of child removal that breaks families apart and disrupts the social fabric of our communities.

The number of Aboriginal children in statutory care in South Australia continues to rise – from 1,184 in 2018–19 to 1,519 in 2019–20. These numbers will continue to rise whilst the Department for Child Protection (DCP)

continues to maintain decision-making power over South Australian Aboriginal children and families as well as Aboriginal service infrastructures, rather than embedding genuine localised self-determination into their policies and expenditure practices. An obvious question for DCP is: what investment has gone into research and policy development, which has then followed through with implementation of programs and practices that strengthen Aboriginal child-rearing practices and reduce over-representation through strengthening Aboriginal families and communities?

South Australia now has the second-highest reliance on residential care in Australia (following Queensland). This over-reliance is especially apparent when examining South Australia’s expenditure on care services, which accounted for \$458.8m (or 79.9%) of child protection services spending. Of expenditure on care services, 58.2% (or \$267.5m) was spent on residential care services. The high cost of out-of-home care erodes South Australia’s ability to achieve a thriving society across both human and fiscal domains and would be better invested in support services that prevent intergenerational family disruption.

The South Australian child protection system remains grounded in non-Indigenous perspectives about children and families and continues to impose non-Indigenous views of what is best for Aboriginal children. These same flawed assumptions have underpinned government intervention in Aboriginal families since the earliest days of the colony. DCP currently appears to lack any mechanisms that allow genuine, localised Aboriginal input into departmental decision-making regarding Aboriginal children and families. As a community we need to be empowered and heard; we need true self-determination; and we call upon the Government of South Australia to engage local Elders and community leaders as decision makers rather than just the department’s principal Aboriginal consultants (who appear, from the outside, to generally uphold the department’s decision-making rather than advocating for our children and families). This would demonstrate compliance with “genuine participation” and a much-needed higher level of Aboriginal accountability and involvement in decision-making.

If the Government of South Australia is genuinely committed to addressing the over-representation of Aboriginal children in out-of-home care, they must put decisions in the hands of local Aboriginal communities and invest in our solutions. Aboriginal families and communities must determine the futures of our children; we must design and deliver the localised supports needed to heal our families to ensure our children can thrive. Until these gaps are addressed through transformative structural change, the South Australian child protection system will continue to fail the Aboriginal children and families of South Australia.

## COMMISSIONER FOR ABORIGINAL CHILDREN AND YOUNG PEOPLE – APRIL LAWRIE

The Department for Child Protection's (DCP) focus on fully embedding the Child Placement Principle in legislation has unfortunately been thwarted, as the Bill amending the *Children and Young People (Safety) Act 2017* has not passed in the Parliament and will lapse. DCP has now committed to a full review of that Act, as the legislation requires, in 2022–23. This review will present an opportunity for DCP to focus on compliance with all five pillars of the Child Placement Principle (not just the placement hierarchy, as is currently the case). Reform should mean that it is mandatory for the Child Placement Principle to apply to all decisions made about an Aboriginal child, from early intervention to post-removal. Focus on the Child Placement Principle will also provide the impetus to properly embed family-led decision-making as a lynchpin reform, and opportunities for meaningful investment in early intervention. Without this impetus, the policy effort to implement all five pillars of the Child Placement Principle is progressing, but with only incremental effect.

In the sphere of early intervention, there is a funding commitment to pre-guardianship-order family group conferences, which has now evolved from a pilot. Whilst this is encouraging, and has a focus on Aboriginal families, it has only served 146 families so far (and there are no data on how many of these are Aboriginal families or what their outcomes were). This does present an opportunity for family-led decision-making – but it needs to be properly structured, with detailed attention to the Child Placement Principle, to ensure family and others with cultural responsibilities for a child are present. Meanwhile, expenditure on family group conferences has reached only \$3.7m over four years. It is generic and inadequate funding – some (unspecified) will go to an ACCO, but it is not clear how many Aboriginal children and families will benefit.

DCP has committed to intensive family support services and other services being provided by ACCOs, which is commendable. However, most of this funding to ACCOs focuses on reunification or kinship carer support, and this represents only 7.9% of overall expenditure in 2020–21 (up from 6.7% in 2019–20), while significant new funding commitments continue to be allocated to non-Indigenous organisations. For example, \$18m has just been committed to Uniting Communities' Newpin reunification service; while any investment in reunification is welcome, it is not clear how this service will specifically help Aboriginal families. Greater consideration must also be given to bolstering ACCOs in early intervention services. Recent years have seen no marked increase in expenditure for early intervention to prevent the removal of Aboriginal children. DCP's commitment to a prevention pilot is a good start, but this program is only funded to \$750,000 (the same level as two years ago) and as such was

able to support just 12 families in 2020–21. The time for pilots has passed: ongoing, substantial funding is needed to reduce the numbers of Aboriginal children removed.

Numbers of Aboriginal children in out-of-home care continue to rise at concerning speeds – up from 1,184 in 2018–19 to 1,519 in 2019–20 – and this trend has not shown any marked change. The proportion of Aboriginal children as a percentage of children on 12-month orders has decreased, which is concerning, as this is where reunification is attempted. By contrast, the percentage of Aboriginal children admitted to a guardianship order (to age 18) has increased, from 35.5% in 2019–20 to 36% in 2020–21, and only 50% of these children are placed with Aboriginal kin. Despite DCP reporting that 65.2% of Aboriginal children were placed in accordance with the Child Placement Principle in 2020–21 (compared to 63.7% in 2019–20), there are no disaggregated data on how the placement hierarchy is complied with where children are not placed with Aboriginal kin.

It is also concerning that reunification rates are low (with only 44 out of 584 Aboriginal children reunified in 2019–20), and there are still far too many Aboriginal children in residential care (where South Australia records the equal-highest rate of placements in the nation) – both of these statistics reflect poor active efforts to comply with the Child Placement Principle. Despite the requirement to consult with recognised Aboriginal organisations about compliance with the placement hierarchy, only one such organisation has been gazetted, resulting in poor departmental reach into community intelligence about placements. In light of these considerations, DCP's future policy and expenditure commitments are just tinkering at the margins.

Allied to the issue of placement are deep concerns that decisions about contact/visitation are now made by DCP's chief executive officer rather than the courts, and are only reviewable by the Contact Assessment Review Panel (with no ultimate review by the Civil and Administrative Tribunal). As contact with family and community is an element of the Child Placement Principle, these decisions deserve to be rights-based and transparent so that compliance with the Child Placement Principle is ensured.

Of significant concern is the absence of a detailed plan to drive a coherent approach to turning the tide on the number of Aboriginal child removals. More specifically, there is no strategic effort to promote and fund family-led decision-making from the earliest possible point, and no clearly defined mechanism that diverts children and families away to therapeutic family support services. I have advocated for a structured community mechanism as an enabler. Developed through extensive consultations with Aboriginal children, families and communities in 2019 and 2021, this straightforward model involves the establishment of community-based Aboriginal family care panels



through local level ACCOs (which must be gazetted as recognised organisations, mandating DCP officers to consult them regarding Aboriginal children). Without this mechanism and proper funding, family group conferences and ACCO-led prevention will not be as effective. In line with its Closing the Gap commitments, DCP needs to start a policy and legislative reform conversation with Aboriginal children, families and communities.

Notwithstanding the above, DCP have also misplaced their role with regard to the formation of an Aboriginal child protection peak and have utilised the offer of funding for the Peak, albeit minimal, to ignore the Aboriginal community voice and work already undertaken on this proposal — including choosing to ignore the independent advice from this commissioner. If this is not addressed, any reform conversations involving the proposed peak, or the commissioner's role, will be marred.

### GOVERNMENT INPUT – PROVIDED BY THE DEPARTMENT OF CHILD PROTECTION (DCP)

South Australia is committed to implementing active efforts – across government and in partnership with Aboriginal communities – to reduce the over-representation of Aboriginal children in the child protection system and to embed the core elements of the Child Placement Principle across the system. The South Australian Government has introduced amendments to fully articulate the Child Placement Principle in child protection legislation, positioning it as the paramount consideration in child protection decision-making. The South Australian Government has announced its intention to consult with the Aboriginal community on further amendments as part of the full review in 2022–23, with a view to enabling delegated decision-making in respect of case management.

Following sustained advocacy from Aboriginal community leaders, the Department for Child Protection (DCP) has provided funding to facilitate an Aboriginal-led process for the design and implementation of a peak body for Aboriginal children and families, to be operational from 2022–23. The peak body will: privilege the voices of Aboriginal children and young people; work with government to reduce the over-representation of Aboriginal children and young people in the child protection system; and support the Aboriginal community-controlled sector.

The South Australian Government continues to work closely with the Expert Aboriginal Child Protection Advisory Committee and other Aboriginal representative groups, including through the *Buthera Agreement* and funding provision for the Family Matters SA Working Group and Reconciliation SA. Legislative amendments have been introduced to elevate the powers of the commissioner for Aboriginal children and young people. The position of Aboriginal clinical lead has also been created for government intensive family services.

Recognising that ACCOs are best-placed to deliver services for Aboriginal children and families, the South Australian Government is prioritising investment in ACCO-led services, including:

- working towards 30% of funding for contracted intensive family support services (IFSS) to be provided to ACCOs (and engaging two ACCOs to deliver IFSS)
- development of the *Yaitya Mingkamingka Purrutipinthe* (Aboriginal Trauma Healing) training package, which ACCOs are being funded to deliver to the IFSS workforce. Additional grants were provided to contracted IFSS providers for practitioners to participate in this training
- implementing a \$3m kinship carer support program led by three ACCOs
- committing \$3.7m over four years for family group conferencing, including funding for an ACCO-led program which includes unborn children, and a dedicated out-of-home care prevention pilot
- implementing strategies to increase procurement from ACCOs (DCP increased from 6.35% in 2019–20 to 7.59% in 2020–21), invest in capacity-building, and require providers to describe how they will implement Aboriginal design criteria.

DCP also has a strong focus on the implementation of the connection element of the Child Placement Principle and works to improve practice in this area, including through implementation of the Aboriginal Cultural Identity Support Tool. As a result of this work, the proportion of Aboriginal children and young people in care with a completed support tool increased from 20.2% in 2018–19 to 92.7% in 2020–21.

Recognising the importance of multilateral efforts, South Australia has signed up to the *National Agreement on Closing the Gap*, and will implement a cross-government approach to the delivery of all targets. A range of activities under Target 12 will be implemented in collaboration with the South Australian Aboriginal community-controlled network and the peak body (once established). Other key activities at the state level to support Aboriginal children and young people and families include:

- the implementation of the *Aboriginal Action Plan 2020–21*
- the establishment of the Aboriginal Affairs Executive Committee
- *Safe and well: supporting families, protecting children* (government-wide child protection framework)
- the *Youth Justice State Plan 2020–23*, which seeks to address the overrepresentation of Aboriginal young people in the criminal justice system
- the *Aboriginal Education Strategy 2019–29*
- investment in targeted research and training development, including grants to local universities.

## TASMANIA

### GOVERNMENT INPUT – PROVIDED BY THE DEPARTMENT OF COMMUNITIES

The Tasmanian Government shares the Family Matters campaign's commitment to eliminating the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 2040. Initiatives that aim to improve outcomes for Aboriginal and Torres Strait Islander children in the Tasmanian child protection system include:

- the Children, Youth and Families (CYF) division's partnership with the Tasmanian Aboriginal Centre (TAC) which continues to provide Intensive Family Engagement Services (IFES) to Aboriginal families. IFES supports families to develop parenting skills where there are concerns for the safety and wellbeing of children or young people.
- direct funding to the Circular Head Aboriginal Corporation (North-West) and the TAC (North and South) to recruit and manage Aboriginal liaison officers in each region. These positions enhance the Advice and Referral Line's ability to provide culturally appropriate coordination, advice and assistance to Aboriginal families in need of this support and to better support and work more closely with the Aboriginal community. The three Aboriginal liaison officers, who began in 2020, also facilitate increased participation of Aboriginal people in child safety decision-making. A fourth Aboriginal liaison officer will commence in 2021-2022.
- a continual focus on the identification of Aboriginal and Torres Strait Islander children involved with the Child Safety Service (CSS). This has resulted in a significant decrease from 30% of children and young people for whom Aboriginal and Torres Strait Islander status is unknown to below 2%. This will support and enable targeting of culturally responsive practices.
- a partnership with the TAC to continue delivering cultural training (*tipara waranta kani nina-tu*) to CYF staff and carers.
- support for Youth Change Makers – a forum for young people with care experience between 12 and 25 years old, who are supported by the Tasmanian Child Advocate, to contribute their views and wisdom to policy and practice reform in the CSS. Members have representation across the state; are a mix of male, female and non-binary people and include Aboriginal people and people with disability; and represent a mix of care experiences across foster, kinship, residential care, and independent living arrangements. A consultation session with a group of Aboriginal Youth Change Makers and an Elder has provided CYF with valuable insight into their experiences in out-of-home care.
- the Permanency and Stability Framework, which has a hierarchy of preferred placement options recognising that an Aboriginal child should remain within the Aboriginal community where possible.

The framework also identifies the importance of ensuring Aboriginal and Torres Strait Islander children are supported to have lasting connections to family, community, culture and Country.

- development and implementation of a new care teams and care planning procedure and practice advice for the Child Safety Service in December 2020. The new processes support the inclusion of Aboriginal family and kin to be part of the care team that contributes to cultural safety planning in the care plan.

In the future, the Tasmanian Government will work with Aboriginal community organisations to:

- develop an Aboriginal-led case management service model for Aboriginal children placed in out-of-home care
- identify and build capacity for Aboriginal family group conference facilitators to oversee those conferences that relate to Aboriginal children and young people.

The CYF division have commenced discussions with Aboriginal community organisations to develop a series of actions for fully realising the guiding aims of the Child Placement Principle, including the above two initiatives.

## VICTORIA

### COMMUNITY VOICES – PROVIDED BY THE VICTORIAN ABORIGINAL CHILD CARE AGENCY (VACCA) AND VICTORIAN ABORIGINAL CHILDREN AND YOUNG PEOPLE'S ALLIANCE (THE ALLIANCE)

#### Key successes

The success of the *Aboriginal Children in Aboriginal Care* program continues — as of 30 June 2021, 181 Aboriginal children and young people were authorised to an ACCO, and the program has expanded to ACCOs in three new locations, with six agencies authorised under the *Children, Youth and Families Act 2005* now undertaking specified functions and powers in relation to a protection order for an Aboriginal child. This success extends to transitioning the case-management of children to ACCOs, with 50% (at June 2021) of Aboriginal children in care case-managed by an ACCO; however, this also represents a failure to meet the target for transitioning *all* of our children to Aboriginal case management by the end of 2021. We require continued commitment to strong partnerships among ACCOs and mainstream partners, with the transfer of funding and services to ACCOs being a key enabler.

Whilst there is hesitancy in the sector and lacklustre government policy regarding foster care transition, we have seen an increase in ACCO kinship placements and reunification rates. Our children were reunified

with families in 15.6% of cases when case-managed by an ACCO, compared to 12.9% when case-managed by the Department of Families, Fairness and Housing (DFFH). The co-design and implementation of the Aboriginal Family Preservation and Reunification Response, which uses evidence-informed, culturally-led approaches to keep families together and support reunification, has seen an increase in resources to ACCOs (although this does not match demand) and the integration into practice of Aboriginal cultural elements known to support our families.

ACCOs are having greater influence in legislative change, with recent amendments to the *Children, Youth and Families Act 2005* updating compliance with the Child Placement Principle. We are also progressing further amendments, including a Statement of Recognition (to recognise historic and ongoing injustices for Aboriginal people in Victoria, both in written acknowledgment and in practice for all decision makers) and legally binding principles (to enact Aboriginal self-determination and provide the tools our communities need to reduce overrepresentation).

### Key challenges

VACCA and the Alliance remain deeply concerned that the over-representation of Aboriginal children in care in Victoria continues to escalate year after year, despite the Closing the Gap target to reduce the rate of Aboriginal children in out-of-home care by 45% within a decade. Government investment in early years services is lacking, with only 7% of overall investment going to ACCOs, and a siloed approach exists to universal, early, and targeted services to families. Despite the policy commitment of proportionate funding and expansion of child and family services run by ACCOs, we still face challenges with the Victorian Government procurement, particularly for early intervention. This is also a key challenge in other sectors for the Aboriginal community in Victoria: most existing and new resources lie with mainstream health and social services. We know that long-term investment in ACCOs, particularly in early intervention, will promote sustained and lasting change.

Aboriginal identification and de-identification have increasingly become a challenge in child protection, with a recent audit showing that identification errors were most common at the intake phase. There is a need to improve the timing, frequency, and quality of conversations between practitioners, ACCOs and families in order to prevent the inaccurate status recordings that will risk children growing up uncertain of their culture. And whilst it is legislated that 100% of Aboriginal children in care must have a cultural plan, only 58% of our children had an endorsed plan in June 2021. The quality of plans remains a challenge; however, two trials are in place to improve cultural planning. Cultural plans are important to ensuring our young people leave care with the best chances for their adulthood, and while leaving care remains a challenge, we have sought funding to enhance Aboriginal models

of service delivery to strengthen the existing Better Futures program and improve the trajectories of our young people leaving the care system.

COVID-19 has exposed the digital poverty our families face and the limitations this puts on children's education. We are yet to see the full implications of COVID-19 on our children and their return to school, but we know there will be school refusal and a corresponding increase in child protection notifications, with poorer educational outcomes overall. Young people's mental health is also a significant issue for our communities – Victoria's most vulnerable children have fallen through the gaps of siloed mental health and child protection systems, and in some cases, this has led to the tragic suicides of young people who felt they had nowhere left to go. And finally, we cannot address our challenges without a strong Aboriginal workforce. As service demand increases, recruitment and retention of qualified Aboriginal staff remain our biggest challenges, and several critical workforce objectives under *Wungurilwil Gapgapduir* have failed to progress.

### Opportunities

Despite the many challenges we face in Victoria, there are several promising initiatives underway. At Bendigo and District Aboriginal Co-operative (BDAC) and VACCA, we are embarking on trials of Aboriginal-led child protection investigations (which will provide tailored cultural approaches to investigations in conjunction with DFFH officers) and child protection diversion pathways (which allow us to test new and innovative ways of diverting our children away from the child protection system at the earliest stages of their involvement). The ACCO-led design and implementation of evidence-based, culturally informed practice has contributed to the provision of earlier help for our families and higher reunification rates. To build the evidence base further, ACCOs are leading scoping work on the design of an Aboriginal knowledge and practice centre, which will facilitate strong links with DFFH to support partnerships with agencies that provide services for Aboriginal children and families.

The past 20 months has seen dramatic shifts in our service-user needs and ways of working, and priorities for Alliance members and VACCA in pandemic recovery accordingly include mental health, family violence, youth engagement, housing and homelessness, returning to school and educational progress. Continuing to invest in Aboriginal-led solutions will only lead to better outcomes for Aboriginal children, families, and communities. It is imperative that the distribution of investment is determined by us at a local level in order to respond directly to the needs of our communities. We hope that with the Victorian Government enabling true Aboriginal self-determination, we will continue to overcome the long-term impacts of intergenerational trauma and support our children and families through community, care, health, and cultural services.

## COMMISSIONER FOR ABORIGINAL CHILDREN AND YOUNG PEOPLE – JUSTIN MOHAMED

Despite the success of self-determination reforms in Victoria, including the transferring of statutory responsibility to ACCOs under the *Wungurilwil Gapgapduir Aboriginal Children and Families Agreement*, Victoria continues to admit Aboriginal children into out-of-home care at unreasonably high rates – the highest proportion, by population share, in the country. Further, approximately one-third of Aboriginal children under five years of age in Victoria have had contact with the child protection system. That is a third of the next generation of children commencing primary school.

In 2020, the new *National Agreement on Closing the Gap* set a new target to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031. Achieving this target will require significant investment in effective early intervention and prevention approaches that are co-designed with the Aboriginal community.

Not only is the rate of Aboriginal children being admitted to out-of-home care in Victoria higher than any other state or territory, it is increasing. More children are being taken today than during the Stolen Generations period. It is imperative that significant action be taken, in partnership with the Victorian Aboriginal community, to reduce the over-representation of Aboriginal children in care and improve outcomes for them and their families.

## GOVERNMENT INPUT – PROVIDED BY THE DEPARTMENT OF FAMILIES, FAIRNESS AND HOUSING

The Victorian Government's commitment to self-determination and self-management for Aboriginal people underpins the Aboriginal policy framework in Victoria. During the period of this report, the Victorian Government commenced the first of three phases in the development of a treaty with Victorian Aboriginal people. The first phase of Victoria's treaty process focused on community engagement and the design and establishment of the First Peoples' Assembly of Victoria, the first democratically elected representative body for Traditional Owners of Country and Aboriginal Victorians in the state's history.

Victoria's commitment is embedded in the Victorian Government's work to address the over-representation of Aboriginal children and young people in child protection and care.

The Aboriginal Children's Forum (ACF), a quarterly meeting of ACCOs, government and community service organisation representatives, co-chaired by the Minister for Child Protection and the CEO of a rotating ACCO, continues to provide shared governance to the design and delivery of services for Aboriginal children and families. The ACF oversees the implementation of *Wungurilwil Gapgapduir*, a Victorian tripartite

agreement that outlines a strategic direction to reduce the number of Aboriginal children in care by building their connection to culture, Country and community. During the term of this report, the ACF progressed the second year of a three-year strategic action plan that supports the aims of *Wungurilwil Gapgapduir*. Highlights include:

- the expansion of *Aboriginal Children in Aboriginal Care*, a Victorian-first initiative through which ACCOs assume full statutory responsibility for children on Children's Court protection orders through authorisation under section 18 of the *Children, Youth and Families Act 2005* (Vic). In 2019, that Act was amended to allow non-Indigenous siblings of Aboriginal children authorised to an ACCO to also be authorised to the ACCO. Funding was provided to the Victorian Aboriginal Child Care Agency (VACCA) and the Bendigo and District Aboriginal Cooperative (BDAC) for 142 children to be authorised to those ACCOs. Funding was also provided to Njernda Aboriginal Corporation and Ballarat and District Aboriginal Cooperative to prepare for the delivery of *Aboriginal Children in Aboriginal Care*, supporting 18 clients per ACCO.
- continued growth in the proportion of Victorian Aboriginal children in care who are case-managed by ACCOs. At June 2020, 49% of Aboriginal children in care on contractible orders were case-managed by an ACCO.
- the commitment of \$46 million over two years for family and placement prevention services, as part of the Victorian Government's support for families during the coronavirus pandemic. This included the new Family Preservation and Reunification Response to provide an agile, integrated and intensive service response to support vulnerable children to remain safely at home and in their community.
- the establishment of a new Aboriginal kinship-finding service to assist in locating family members of Aboriginal children who, following child protection intervention, are unable to live with their parents. The new service is delivered by VACCA in partnership with First Nations Legal and Research Services and the Koorie Heritage Trust.

During the period of this report, some initiatives were delayed due to reprioritisation of government resources in response to the COVID-19 pandemic. The Victorian Government held regular forums with ACCOs to ensure the continuation of essential service delivery for the most vulnerable members of the community, reflecting the need to continuously develop policy and program responses in a rapidly changing environment.



## WESTERN AUSTRALIA

### COMMUNITY VOICES – PROVIDED BY THE NOONGAR FAMILY SAFETY AND WELLBEING COUNCIL

Western Australia has the second-highest over-representation of Aboriginal children in care in the country, with 18 Aboriginal children in care for every one non-Indigenous child, and Aboriginal children comprising 56% of all children in care at 30 June 2020 (up from 55% in 2019). However, despite a \$1.7b budget surplus for the financial year, the Department of Communities' (DoC) 2019–20 Annual Report indicates that recurrent expenditure on earlier intervention and family support services *fell* by 2% between 2018–19 and 2019–20, despite a 3% *increase* in corresponding funding allocations from Treasury. This meant the proportion of total income directed towards recurrent expenditure on early intervention also decreased from 6% to 5%.

*Wungening Moort*, which provides intensive supports to keep children safely at home or reunify children with their parents and is delivered by four ACCOs, is still the only early intervention service exclusively for Aboriginal families. Its effectiveness is limited by the fact that families can only be referred by DoC (they are not able to self-refer), and once a case is closed by DoC, families can no longer access the service or obtain follow-up supports. Moreover, it only operates in the Perth metropolitan area. Whilst other support services are mandated to prioritise Aboriginal families, Western Australia invests a disproportionately low share of funding in ACCOs to provide these services. Yorganop Association is the only ACCO providing out-of-home care in Western Australia and is currently funded to provide foster care arrangements for 123 children in Perth. In 2020, Yorganop's service area was extended across most of Noongar country, but no additional placements were funded. Because there are no ACCOs providing care services beyond Noongar country, placements with Yorganop comprised only 4% of the 3,082 Aboriginal children in care as at 30 June 2020.

In 2019, DoC had worked with the Western Australian Council of Social Services to establish an Independent Reference Group (IRG) for Out-of-home Care, including Aboriginal and non-Indigenous representatives from across the community sector. The IRG collaborated with DoC's out-of-home care reform team to co-design solutions to long standing and complex problems in the child protection system. However, a DoC restructure saw the IRG ceased, the care reform team defunded, and the board governing the reforms disbanded. Whilst a Specialist Child Protection Unit was later established following the COVID-19 pandemic, this would not have been necessary had there remained an independent Department of Child Protection and Family Support. The dissolution of the IRG and out-of-home care reform team resulted in a significant loss of knowledge, time, and progress in commissioning reformed care services, and

the remaining timeframe in which services can be recommissioned (and lack of dedicated resources) is unlikely to allow for place-based co-design.

In relation to Western Australia's Closing the Gap Implementation Plan, the strategies under Target 12 require further development, in collaboration with ACCOs, for meaningful change to be realised.

This includes:

1. Setting incremental, achievable targets across the 10-year time frame with commensurate funding allocated to earlier intervention, particularly services provided by ACCOs.
2. Developing an implementation plan to extend Aboriginal family-led decision-making across the state. The current pilot is a positive step but has only been funded for \$715,000 (a minimal and tokenistic share of expenditure) and means that Western Australia is several years behind other jurisdictions.
3. Working with ACCOs to develop more effective models for reunifying Aboriginal children with their families. Presently, the Western Australian Government's third strategy for achieving Target 12, whereby an Aboriginal senior practice development officer is involved in facilitating pre-birth planning processes with Aboriginal families, is also tokenistic at best and does not empower community-driven reform.

It is hoped that a new financial year will result in changes of magnitude being realised. These must include increased funding for earlier intervention and Aboriginal child placement services; decision-making about Aboriginal children in care being led by their families/communities; case-management of Aboriginal children by ACCOs; and more Aboriginal children being reunified with their parents through collaboration between DoC and ACCOs. We hope next year's report will show the Western Australian Government moving towards aligning the child protection system with self-determination principles and strengthening compliance with the Child Placement Principle, independent of amendments to the *Children and Community Services Act 2004*.

### GOVERNMENT INPUT – PROVIDED BY THE DEPARTMENT OF COMMUNITIES

The Department of Communities (DoC) is committed to a broad range of initiatives to combat the over-representation of Aboriginal children in the child protection system. DoC is engaging with SNAICC to develop a 10-year roadmap to reduce the number of Aboriginal children in care. This will provide a long-term vision and reform actions to reduce the rate of Aboriginal children and families in contact with the child protection system, in line with Target 12 of the *National Agreement on Closing the Gap*.

In August 2020, the Minister for Child Protection announced funding of \$715,000 for two years to pilot Aboriginal family-led decision-making. The pilot will support self-determination by empowering Aboriginal

families to make decisions about their children, in a culturally safe way, to keep their children safe and connected to community. Led and co-designed by Aboriginal people, the pilot will complement changes to the *Children and Community Services Act 2004*. An Aboriginal Implementation Group was established in February 2021 to guide and make decisions on the design of the pilot, which will commence in late 2021 in Mirrabooka and the Midwest-Gascoyne region. Cultural safety workshops have been delivered for staff in both locations and a provider has been appointed to deliver family group conferencing training. Procurement for ACCOs as convenors in each location, and for an external evaluator, is almost complete.

An *Aboriginal Family Safety Strategy* is under development to address the impact of family violence on Aboriginal women, children, families and communities in Western Australia. In July 2021, an Aboriginal consultant was selected to develop the Strategy in partnership with DoC, local communities and stakeholders. DoC is currently conducting on-Country engagement with Aboriginal communities to develop a shared understanding of family violence and family safety in the Aboriginal community, and the principles that should be used to guide the Strategy. The Strategy is due to be completed in the first half of 2022 and will be developed in close alignment with broader government priorities and commitments, such as the *National Agreement on Closing the Gap* and *Aboriginal Empowerment Strategy 2021–2029*.

DoC is working to improve cultural competency through an Aboriginal Cultural Capability Reform Program. An agency-wide *Aboriginal Cultural Framework*, designed to embed cultural safety and ongoing cultural learning within DoC's ways of working, is being developed to target reforms supporting the Western Australia Government's commitments under the National Agreement and aligned with the *Aboriginal Empowerment Strategy*. Key reform areas include leadership and accountability, engagement and partnerships, service delivery, valuing culture, workforce cultural capability, and Aboriginal workforce development.

DoC has also commenced co-design of an ACCO strategy, including establishing a Project Working Group with representatives from 11 ACCOs across the state. The ACCO Capability-Building Grants Program enables ACCOs to access grant funding to build their capability and competitiveness. Guided by Western Australia's *Aboriginal Procurement Policy*, DoC awarded 14% of all contracts to Aboriginal businesses in 2019–20.

In June 2021, the Western Australian Government introduced the *Children and Community Services Amendment Bill* to build stronger connections to family, culture, and Country for Aboriginal children in care through improved Child Placement Principle implementation and closer collaboration with Aboriginal people and ACCOs. Amendments include:

- changes to the Child Placement Principle to prioritise placements in closer proximity to the child's community if placement with family or an Aboriginal person in the child's community is not achieved.
- stronger consultation requirements before deciding placements: as well as family members and relevant Aboriginal DoC staff, consultation must occur with an Aboriginal representative organisation, including on the preparation and review of cultural support plans.
- requirements for the provision of cultural support plans in proposals to Children's Court (including if DoC is seeking a special guardianship order for an Aboriginal child), as well as information on placing the child in accordance with the Child Placement Principle and details of consultations on placement.
- stipulations that the Children's Court must not make special guardianship orders if no Aboriginal person is to be the guardian, unless it first considers input from an Aboriginal agency or person.

Broader overarching Western Australian Government reforms include the development of the *Aboriginal Empowerment Strategy 2021–2029*, to guide work with Aboriginal people towards better social, economic, health and cultural outcomes, and the first Western Australian Implementation Plan for Closing the Gap.

## NATIONAL INDIGENOUS AUSTRALIANS AGENCY (NIAA)

In collaboration with other Australian Government departments and with state and territory governments, the NIAA works in partnership with Aboriginal and Torres Strait Islander people to improve the safety and wellbeing of Aboriginal and Torres Strait Islander children and young people and to address their over-representation in child protection systems.

The second *National Framework for Protecting Australia's Children* is the key mechanism for the Government to address Target 12 of the National Agreement on Closing the Gap by 2031, and reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45%.

The NIAA, in partnership with SNAICC, has developed a *National Aboriginal and Torres Strait Islander Early Childhood Strategy* to support children to thrive in their early years across a range of priority areas including safety, family support, education, health and connection to culture.

The National Framework, in particular, will include specific actions to address the over-representation of Aboriginal and Torres Strait Islander children and young people in child protection systems.

The NIAA is also working collaboratively with other Australian Government departments and Aboriginal and Torres Strait Islander leaders and experts on several other initiatives to improve child safety and wellbeing. These include the next *National Plan to End Violence against Women and Children* (which includes goals to specifically improve safety outcomes for Aboriginal and Torres Strait Islander women and girls) and the *National Strategy to Prevent and Respond to Child Sexual Abuse*, led by the National Office for Child Safety (which focuses on encouraging cultural change, supporting victims and survivors of child sexual abuse, and developing initiatives targeted at adult offenders).

Under the first Commonwealth Closing the Gap Implementation Plan, the Australian Government is delivering a package of four new measures to support progress against Target 12:

- Funding over five years to improve multidisciplinary responses to Aboriginal and Torres Strait Islander families with multiple and complex needs (the quantum of funding is currently subject to intergovernmental negotiations).
- \$7.7m over three years to develop the cultural competency and trauma responsiveness of the Aboriginal and Torres Strait Islander and non-Indigenous child and family sector workforce.
- \$3.2m over two years to assess the needs of, increase the involvement of, and strengthen Aboriginal and Torres Strait Islander community-controlled organisations in the child and family sector.
- \$38.6m over three years for an Outcomes and Evidence Fund to support the commissioning and implementation of outcome-based funding.

Actions on other targets in the *National Agreement on Closing the Gap* – including strengthening families to ensure parents and children are safe, ensuring young people are engaged meaningfully in education, adults are employed, and all people have good health and wellbeing – will also support outcomes under Target 12.

The Indigenous Advancement Strategy (IAS) funds activities that enable children to thrive, strengthen families and support healing. The IAS Children and Schooling program provides around \$230m each year to support families to give children a good start in life through improved early childhood development, school attendance and achievement, and successful transition to further education and work. In 2021–22, over \$261m has been committed to the IAS Safety and Wellbeing program, including activities that support communities to be safe, reduce violence (including family violence), address alcohol and substance misuse, and support the social and emotional wellbeing of Aboriginal and Torres Strait Islander people.

The Australian Government is also investing an additional \$23m to improve the safety of Aboriginal and Torres Strait Islander women seeking support and legal

assistance by expanding the Family Violence Prevention Legal Services program, improving the quality and capability of Aboriginal and Torres Strait Islander family safety organisations, and enhancing the cultural safety of non-Indigenous family safety organisations.

## AUSTRALIAN GOVERNMENT DEPARTMENT OF SOCIAL SERVICES (DSS)

Protecting the safety and wellbeing of children and young people is one of the most important responsibilities of all levels of government.

### THE NEW NATIONAL FRAMEWORK FOR PROTECTING AUSTRALIA'S CHILDREN

While recognising that statutory child protection is a state and territory responsibility, all governments are working together to develop the new *National Framework for Protecting Australia's Children 2021–2031*. The new National Framework will be Australia's framework to reduce child abuse and neglect and its intergenerational impacts.

Disadvantaged and/or vulnerable Aboriginal and Torres Strait Islander children and young people are one of the priority groups for the new National Framework. One of the key aims of the new National Framework is to support the achievement of Target 12 under the *National Agreement on Closing the Gap*, which seeks to, by 2031, reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45%. DSS is working closely with SNAICC, and with the Aboriginal and Torres Strait Islander Leadership Group (established under the previous National Framework), on a co-design and engagement process underpinning the development of the new National Framework and its first five-year implementation plan. Developing strategies to achieve Target 12 is a key focus of this process.

### FAMILIES AND CHILDREN'S PROGRAMS

Currently, the Australian Government invests more than \$290m annually in 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:

- intensive family support services (IFSS) – an intensive home and community-based family support service, including practical parenting education and support, offered to highly vulnerable families. Whilst IFSS is a mainstream program, a majority of providers are ACCOs.
- family and relationship services – to provide early intervention and prevention services and focus on at-risk families.

- 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 communities in which the program is targeted towards Aboriginal and Torres Strait Islander families and/or delivered by ACCOs.
- children and parenting support 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.
- Reconnect Program – a community based early intervention and prevention program for young people aged 12–18 years (or 12–21 years in the case of newly arrived youth) who are homeless or at risk of homelessness, and their families.

From 2018–2020, DSS funded a trial and evaluation of the Towards Independent Adulthood program, which aimed to improve outcomes for young people transitioning from out-of-home care to adulthood by providing intensive support, mentoring and wraparound services linking to education, health and housing. Wanslea Family Services and Yorgum Aboriginal Corporation delivered the trial across four southern regions of Western Australia. DSS has also funded the Transition to Independent Living Allowance, a nationally available one-off payment of \$1,500 to help young people leaving formal out-of-home care transition to independence.

Closely related to DSS's work with Aboriginal and Torres Strait Islander families, the Attorney-General's Department provided \$178m in funding in 2020–21 under the Family Relationships Services Program to fund Family Law Services, which support families dealing with separation and aims to assist them to resolve post-separation family disputes without going to court. 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.





## 2.2 NEW NATIONAL POLICY FRAMEWORKS TO DRIVE CHANGE

As implementation has begun on the new *National Agreement on Closing the Gap*, a range of new national policy frameworks for children and families have been, or are being, developed in partnership with Aboriginal and Torres Strait Islander peoples. These high-level strategies, frameworks and plans are an important first step towards transformational change to the systems and services that impact children and families. However, policy commitments are just the beginning, and full resourcing and implementation of strategies and ongoing accountability to Aboriginal and Torres Strait Islander people will be critical to success.

**Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031** (the National Framework) was released in November 2021 (DSS, 2021). The National Framework marks a fundamental shift in national policy related to child protection. It recognises the right to self-determination of Aboriginal and Torres Strait Islander peoples and was developed through a co-design process with SNAICC and a national Leadership Group of Aboriginal and Torres Strait Islander experts, involving extensive consultations with Aboriginal and Torres Strait Islander people and organisations across the country. Under this new National Framework, for the first time Aboriginal and Torres Strait Islander peoples will have our own specific Action Plan (due to be developed by mid-2022) across all aspects of the framework. The National Framework supports achievement of Target 12 under the *National Agreement on Closing the Gap*, to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031 and aligns to the four priority reforms in the National Agreement. It has four key focus areas:

1. a national approach to early 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 (DSS 2021).

Within Focus Area 2, the National Framework commits all Australian Governments to:

“... progressive systems transformation that has Aboriginal and Torres Strait Islander self-determination at its centre. This includes taking active steps towards families, communities and Aboriginal and Torres Strait Islander community-controlled organisations partnering in child protection system design and administration. It also includes a commitment to undertake reform through each jurisdiction’s next review of relevant legislation and policy, with the view to:

- fully embedding the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle
- supporting delegation of authority in child protection to families, communities and Aboriginal and Torres Strait Islander community-controlled organisations
- supporting the principle of self-determination” (DSS 2021).

In line with key calls of the Family Matters campaign and the National Agreement, the National Framework recognises that Aboriginal and Torres Strait Islander community-controlled services are better for Aboriginal and Torres Strait Islander people, and commits to building the community-controlled sector (DSS 2021). The National Framework also commits to important aspects of Family Matters building block 4 (*Governments and services are accountable to Aboriginal and Torres Strait Islander peoples*), noting that governments “will establish a formal partnership to support each five-year action plan, with national Aboriginal and Torres Strait Islander leaders” (DSS 2021). An outcomes framework will be developed with Aboriginal and Torres Strait Islander representatives, aligning to the Child Placement Principle and the Closing the Gap Priority Reforms and targets, supporting the government commitment to maintain “a strong focus on monitoring implementation and measuring progress of the National Framework” (DSS 2021).

Released in December 2021, the **National Aboriginal and Torres Strait Islander Early Childhood Strategy** (the Early Childhood Strategy) targets a coordinated approach across governments, non-government sectors and communities to improve outcomes for Aboriginal and Torres Strait Islander children aged 0–5 years. It aims to ensure children grow up healthy, engaged with education, connected to family and community, and strong in culture (NIAA 2021). This strategy was developed in partnership between SNAICC and the National Indigenous Australians Agency (NIAA). It was shaped through a review of the evidence base of what works from a culturally-informed and trauma-informed perspective (NIAA 2021) and a national consultation process with Aboriginal and Torres Strait Islander children, families, communities and organisations in early 2021. The National Strategy focuses on five goals:

1. Aboriginal and Torres Strait Islander children are born healthy and remain strong.
2. Aboriginal and Torres Strait Islander children are supported to thrive in their early years.
3. Aboriginal and Torres Strait Islander children are supported to establish and maintain strong connections to culture, Country and language.
4. Aboriginal and Torres Strait Islander children grow up in safe nurturing homes, supported by strong families and communities.
5. Aboriginal and Torres Strait Islander children, families and communities are active partners in building a better service system. (NIAA 2021)

In alignment with Family Matters building block 1, the Early Childhood Strategy's fourth goal takes a strong focus on prevention and seeks to build protective factors and address systemic drivers that lead to child protection intervention. The strategy reinforces many of the commitments in the National Framework, including a focus on opportunities to "support culturally safe, community-led prevention, early intervention and child and family support initiatives" (NIAA 2021). The Early Childhood Strategy also identifies the critical role of Aboriginal and Torres Strait Islander community-controlled early years services, being "uniquely positioned to provide vital integrated child development and family supports beyond mainstream child care and early learning programs" (NIAA 2021), and identifies opportunities to "boost support to ... community-controlled integrated early years' services ... to support their sustainability" (NIAA 2021).

Another key site of policy development in support of the goals of the Family Matters Campaign has been the development of *Closing the Gap Implementation Plans* by Commonwealth, state, territory and local governments. Each plan describes government actions aligned to the Priority Reforms and Closing the Gap outcomes, including the target to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. The Australian Government Implementation Plan specifies a range of significant new commitments, including to "improve multi-disciplinary responses to Aboriginal and Torres Strait Islander families with multiple and complex needs" and to invest \$38.3m in an Outcomes and Evidence Fund, which will support outcomes-based commissioning and funding of proposals co-designed by ACCOs and governments (Australian Government 2021, p. 55).

SNAICC is also working with governments and the Aboriginal and Torres Strait Islander community-controlled sectors to develop a national *Early Childhood Care and Development Sector Strengthening Plan* that targets initiatives to build the community-controlled sectors delivering child protection, family support and early childhood education and care services. Due for agreement in December 2021, the Plan will outline a range of initiatives targeting community-controlled sector needs across areas of workforce, service delivery, capital infrastructure, governance, consistent funding models, and peak bodies. The plan will aim to increase the coverage, capacity and quality of Aboriginal and Torres Strait Islander community-controlled organisations in partnership between the sector and governments.

Other national policy frameworks currently in development or recently completed that will significantly impact the goals of the Family Matters campaign include the next *National Plan to End Violence Against Women and Their Children*, which will also have a dedicated action plan for Aboriginal and Torres Strait Islander people (Knowles, 2021), and the *National Strategy to Prevent Child Sexual Abuse*. In regard to

the latter strategy, many Family Matters campaign members, including leading sector ACCOs and peaks, have identified that they were either not consulted on, or had very limited input into, this strategy. The strategy includes few priorities for Aboriginal and Torres Strait Islander children and demonstrates poor alignment with the priority reforms in the *National Agreement on Closing the Gap*. It was not agreed with, or significantly informed by, Aboriginal and Torres Strait Islander peaks. Extensive remedial work and further engagement is required if the strategy is to have any impact in preventing sexual abuse for Aboriginal and Torres Strait Islander children or responding to the needs of Aboriginal and Torres Strait Islander survivors of abuse.













## PART 3

# STRUCTURAL DRIVERS AND SERVICE INADEQUACIES THAT CONTRIBUTE TO ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN ENCOUNTERING THE CHILD PROTECTION SYSTEM

### 3.1 OVERVIEW

Aboriginal and Torres Strait Islander families and communities have successfully provided love and care for their children, growing them up strong and safe in culture for thousands of generations. Despite the adversity of post-colonisation history for Aboriginal and Torres Strait Islander communities, these traditions have endured and remain the dominant paradigm in community and cultural care for our children. It is well recognised in the literature that Aboriginal and Torres Strait Islander child-rearing practices, including kinship and community systems, contribute to creating safe and nurturing environments for the holistic care of children (Kennedy, Lohoar and Butera 2014). However, despite these strengths and the committed effort of the vast majority of Aboriginal and Torres Strait Islander people to care for children, some of our communities find themselves under a level of strain that is impacting negatively on children, requiring a whole of society response to redress these challenges (SNAICC 2015).

The challenges facing our communities across Australia can be traced directly back to the systemic racism that has persisted since colonisation and the intergenerational traumas that it has wrought. Aboriginal and Torres Strait Islander people experience racial prejudice at least twice as frequently as non-Indigenous people in Australia, not only during interpersonal interactions with individuals but on an institutional scale (Reconciliation Australia 2020). The child protection system itself is rife with systemic racism and first-hand examples are provided in this report to demonstrate the negative impact that this has on children and families. Not only does systemic racism cause Aboriginal and Torres Strait Islander people long lasting physical and mental harm (Thurber *et al.* 2021), it renders services ineffective and culturally unsafe, results in unfair and unjust outcomes, and hampers the development of decision-making structures that include and respect Aboriginal and Torres Strait Islander people, communities and organisations.

Along with the damage brought about by interpersonal and systemic racism in the present day, Aboriginal and Torres Strait Islander families and children are also forced to reckon with the harmful intergenerational impacts of colonisation and the ensuing 233 years of disempowerment by colonial authorities. The concept of intergenerational (or transgenerational) trauma, which can be defined as “historical trauma and unresolved grief passed over generations through different channels, resulting in poorer physical, psychological and social outcomes” (Roy 2019), is widely accepted in academic literature. There is clear evidence that if not healed, trauma negatively affects neurological development (Van der Kolk 2014), which can be passed on biologically and psychosocially to future generations.

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 *Bringing Them Home: the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (HREOC 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 three reports on the Aboriginal and Torres Strait Islander Stolen Generations and their descendants, the Australian Institute of Health and Welfare (AIHW) and The Healing Foundation have established clear links between this mass child removal and long-term challenges for individuals. 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 2021b).

These reports highlight that, compared to Aboriginal and Torres Strait Islander people who were not removed from their families, Stolen Generation descendants are: twice as likely to have experienced discrimination in the preceding 12 months; 1.9 times as likely to have experienced violence; 1.6 times as likely to be in poor health; 1.5 times as likely to have been arrested by police in the past five years; 1.4 times as likely to have low levels of trust in the general community, and 1.4 times as likely to report poor mental health. The reports also examined the health and wellbeing outcomes for Aboriginal and Torres Strait Islander children aged under 15 who live in households with members of the Stolen Generations. The data indicate that those children are 4.5 times as likely to have missed school without permission in the last 12 months; 1.8 times as likely to have poor self-assessed health; and 1.6 times as likely to live in a household with cash-flow problems in the last 12 months (AIHW 2019c). 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.

Early investment in strengthening families provides long-term social and economic benefits by interrupting the intergenerational trajectories that lead from experiences of trauma to health problems, criminalisation, and child protection interventions. Therefore, in response to intergenerational trauma, we must invest in establishing a higher standard of cultural safety, competency and accountability across all frontline human service sectors, particularly those that deal with vulnerable and marginalised children and families in crisis. Aboriginal and Torres Strait Islander communities and leaders have been calling for such investments for decades – including through the Royal Commission into Aboriginal Deaths in Custody (Johnston 1998) and the *Bringing Them Home* report. Yet overall, successive governments have been reticent to heed these recommendations. Many Aboriginal and Torres Strait Islander children and families report experiences of systemic racism when accessing public services, which further exacerbates underlying and deep-seated intergenerational trauma. We must ensure that service systems do not reinforce trauma in the way that they deliver services to their clients but rather focus on the delivery of safe, culturally responsive and tailored supports to achieve better outcomes in the long term.

Part 3 of this report focuses on the structural drivers and barriers to service access that contribute to children and families encountering the child protection system. For Aboriginal and Torres Strait Islander children, adverse experiences in childhood are often shaped through their connection to adults and communities who are dealing with intergenerational trauma as described above, as well as directly through exposure to violence, abuse and neglect that occur

more commonly in communities experiencing poverty and disadvantage (Atkinson 2013). By feeding into many facets of a family's life, socioeconomic disadvantage can severely stifle the family's ability to provide a safe and nurturing environment in which children can thrive in their early and developmental years. From a lack of access to affordable and safe housing to a higher incidence of drug- and alcohol-related issues and chronic untreated mental health issues, Aboriginal and Torres Strait Islander families, on average, are more frequently exposed to a wide range of interrelated structural drivers that increase their likelihood of encountering the child protection system. Aboriginal and Torres Strait Islander people facing these challenges and receiving social safety net payments are also disproportionately subjected to punitive income management policies that further stigmatise our families and yet have not been shown to improve outcomes for children (see, for example, Cobb-Clark *et al.* 2021).

Combatting these insidious challenges requires high quality and widely available public services that can provide all Aboriginal and Torres Strait Islander children with the opportunity to thrive on an equal basis as others by progressing the holistic realisation of their rights, including rights to safety, family, housing, nutrition, health, education, culture and participation. Aboriginal and Torres Strait Islander families have unique needs for healing supports to address the impacts of intergenerational trauma that have resulted from experiences of colonisation, the Stolen Generations and other discriminatory government policies.

Unfortunately, the evidence presented in part 3 indicates that many Aboriginal and Torres Strait Islander families still face significant barriers to accessing and engaging with service sectors that have been identified as the most active and critical in responding to issues impacting on a child's development, wellbeing and safety. These sectors include maternal and child health, early childhood education and care, and intensive family support services. The service barriers must be addressed to ensure that Aboriginal and Torres Strait Islander families have access to a full range of culturally safe universal and targeted early childhood, education, health, housing, legal and other social services, which can be sustainably resourced in the long term. We also need to see a shift in government expenditure away from the tertiary end of the child protection system and towards a focus on early intervention and prevention supports, in order to reinforce strong, healthy and safe families and, in turn, reduce Aboriginal and Torres Strait Islander over-representation in the child protection system. Ensuring families and communities are equipped to safely care for their children will protect future generations from the devastating effects of removal from family, community, culture and Country.

### 3.2 SOCIOECONOMIC DISADVANTAGE (POVERTY)

#### THE RELATIONSHIP BETWEEN POVERTY AND CHILD PROTECTION INVOLVEMENT

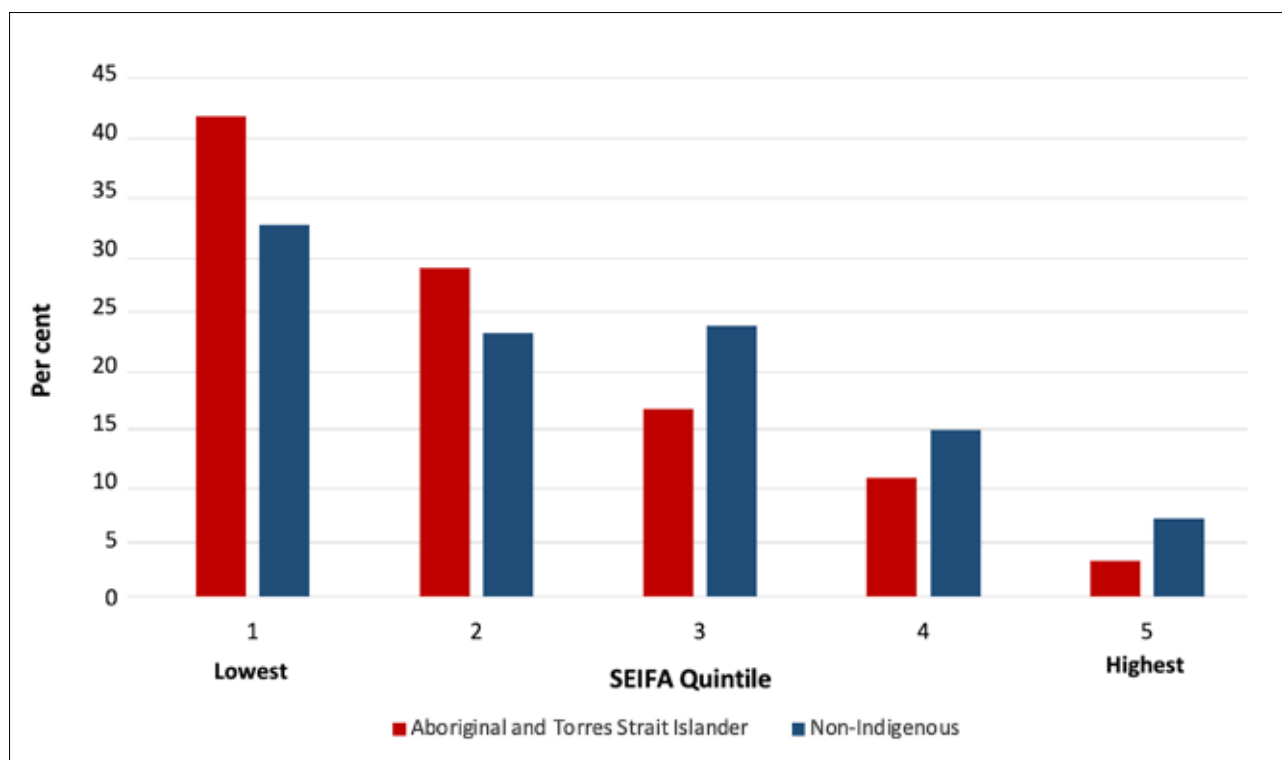
There is a growing body of Australian and international evidence demonstrating a connection between household socioeconomic disadvantage (poverty) and being subject to child protection intervention (Morris *et al.* 2018; Ainsworth 2020). It is well established that children growing up in poverty are more likely to experience adverse circumstances linked to child welfare involvement (Hughes and Tucker 2018), and that their families are less able to recover from adverse events due to a lack of economic resources (as well as, for many, a lack of psychosocial supports arising from social exclusion) (Bywaters *et al.* 2016).

For example, Australian research shows that children of families living in poverty experience higher rates of maternal distress, family violence, and corporal punishment, along with reduced parental responsiveness. When the statistical relationship between poverty and lower levels of education and/or literacy is taken into account, this indicates that a child's quality of care, the availability of learning opportunities, and the degree of exposure to a wide range of stressors are all affected by experiences of poverty (Moore *et al.* 2017). Both abuse and neglect

(the two overarching classifications of occurrences that support child protection substantiations) are therefore rendered more likely by family poverty (Bennett *et al.* 2020). Poverty is also linked, statistically, to a lower likelihood of reunification (Fernandez *et al.* 2019).

Figure 13 shows the proportions of children who were the subjects of child protection substantiations in 2019–20, disaggregated by the Socio-Economic Index for Areas (SEIFA – a multidimensional indicator that ranks areas across Australia according to relative socioeconomic advantage and disadvantage). This figure demonstrates that families residing in the bottom quintile of socioeconomic areas made up a disproportionately high share of child protection substantiations across Australia in 2019–20. While this was the case for Aboriginal and Torres Strait Islander families and non-Indigenous families alike, the over-representation was more significant for Aboriginal and Torres Strait Islander families. The logical conclusion – that economic disadvantage is a significant driver of Aboriginal and Torres Strait Islander children's over-representation in child protection systems – is further bolstered by other evidence, such as that neglect is far more commonly the primary reason for substantiation of harm for Aboriginal and Torres Strait Islander children than for non-Indigenous children (AIHW 2021h), reflecting significant challenges for our families to access the resources and supports needed to provide their children with safe care and learning opportunities.

**FIGURE 13** Children who were the subjects of child protection substantiations, by socioeconomic area and Indigenous status, 2019–20



Data source: AIHW (2021i), Table S3.8.

## THE FACETS AND EXTENT OF SOCIOECONOMIC DISADVANTAGE

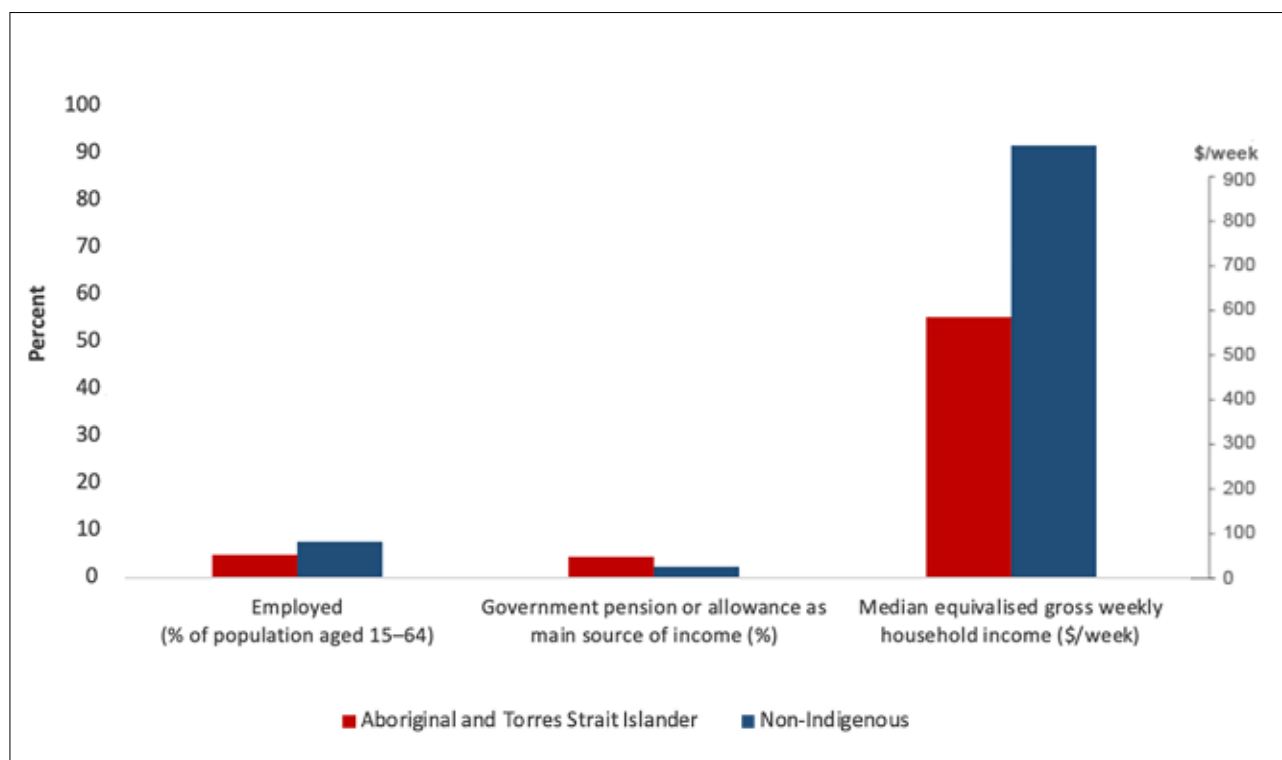
Aboriginal and Torres Strait Islander people face higher rates of socioeconomic disadvantage stemming from experiences of colonisation, dispossession of land, discrimination, forced child removal, and the intergenerational impacts of resulting trauma (The Healing Foundation 2013). As well as the consequences that these traumatic events have had on people's ability to accumulate human capital, many of these survivors also have had their ability to work heavily curtailed by state and territory governments or their wages stolen and never repaid (Anthony 2013). Further to this, settlement schemes operated by governments to provide reparations for these harms have in some cases only recently commenced, and in general have offered grossly inadequate compensation in comparison to the cumulative impacts on families (see, for example, SSCLCA 2006; Mawuli 2010). This disadvantage can be measured in many ways, including by income, employment, material deprivation or social exclusion (PC 2018).

Low incomes are associated with a range of disadvantages (including poor health, shorter life expectancy, poor education, reduced social participation, and increased rates of substance abuse,

crime and violence: AIHW 2017), and are significantly more common amongst Aboriginal and Torres Strait Islander people than non-Indigenous people. Income is closely linked to employment, as shown by **Figure 14**, which compares employment rates, proportions of people on a government allowance, and median equivalised household incomes for Aboriginal and Torres Strait Islander people and non-Indigenous people.

Figure 14 indicates that Aboriginal and Torres Strait Islander people have higher unemployment rates than non-Indigenous people, earn lower household incomes, and are more likely to rely on a government pension or allowance as their main source of income. This disparity is particularly stark for Aboriginal and Torres Strait Islander people living in regional and remote areas, as they are less likely to be employed and they earn lower incomes than Aboriginal and Torres Strait Islander people living in major cities (AIHW 2021f, AIHW 2021g). These higher unemployment rates are underpinned by a range of factors, including lower education levels, living in areas with fewer employment opportunities, higher levels of contact with criminal justice systems, experiences of discrimination, and lower levels of job retention (Gray, Hunter and Lohoar 2012; SSCFPA 2017; Venn and Biddle 2018). Remote areas often also face extremely high basic costs of living (SCIA 2020).

**FIGURE 14** Employment rates (15–64 years), proportions of people on a government pension / allowance and median equivalised gross weekly household income, by Indigenous status, 2018–19



Data sources: AIHW (2021h, 2021g).



As a consequence of lower average incomes, Aboriginal and Torres Strait Islander people are more likely than non-Indigenous people to experience income poverty (here, and most commonly, defined as having a household disposable income of less than half the population-wide household median: Davidson *et al.* 2018). Using data from the 2016 Census of Population and Housing (the Census) conducted by the Australian Bureau of Statistics, Markham and Biddle (2018) estimated an equivalised individual poverty line of \$404 per week before housing costs, and calculated that nearly one third (31.4%) of Aboriginal and Torres Strait Islander people were living below the poverty line in 2016.

Per the SEIFA, Aboriginal and Torres Strait Islander people are also more likely to live in multidimensionally disadvantaged geographic areas. While the non-Indigenous population is spread evenly across the SEIFA deciles, the 2016 Census indicated that 48% of Aboriginal and Torres Strait Islander people lived in the bottom quintile of areas, compared to only 5.4% living in the top quintile (ABS 2018b).

### 3.3 EXPOSURE TO FAMILY VIOLENCE

Family violence is characterised by patterns of abusive behaviour (including physical, emotional, sexual and financial behaviour) within family relationships where one person assumes a position of power over another and causes fear. Family violence often begins when women are pregnant or have recently given birth; where violence was previously occurring, it often escalates in frequency and severity during pregnancy and early motherhood (Clements *et al.* 2011). Aboriginal and Torres Strait Islander women, women aged 18–24 years old, and women with a disability all face a higher risk of experiencing severe violence from their partners during pregnancy (Mitra, Manning and Lu 2012; Campo 2015). The end of a relationship is also a dangerous time for women, with more than half of the women who were killed by a male intimate partner between 2010 and 2014 (55%) having been killed after separating or after an intent to separate had been expressed (AIHW 2019d).

For Aboriginal and Torres Strait Islander people, the social, cultural, spiritual, physical and economic impacts of family violence are devastating: it acts as both an effect and a continuing cause of social disadvantage and intergenerational trauma (Closing the Gap Clearinghouse 2016; AHRC 2020). Family violence can repeat throughout many generations, with people who have witnessed family violence as children being more likely to perpetrate or be victims of violence in adulthood (AIHW 2018).

The greatest direct impact of family violence is on Aboriginal and Torres Strait Islander women, which leads our children to be especially vulnerable to the direct and indirect impacts of family violence – for example, family violence is a leading cause of homelessness for Aboriginal and Torres Strait Islander

women and children (AHMAC 2017a). This causes deep and lasting harm and contributes significantly to Aboriginal and Torres Strait Islander children's over-representation in child protection systems (SNAICC, NFVPLS and NATSILS 2017), particularly given that child protection reporting rules categorise witnessing family violence as emotional abuse (in 2019–20, emotional abuse was the most common type of substantiated harm to children nationwide: AIHW 2021h). One Victorian report found that 88% of Aboriginal and Torres Strait Islander children in out-of-home care had been exposed to family violence (CCYP (Vic) 2016).

Family violence is understood to be significantly under-reported. Many Aboriginal and Torres Strait Islander women do not report their experiences of family violence for a range of complex reasons, including but not limited to: fear of reprisals or of having children taken away; a lack of confidence in police or community support; language and cultural barriers; and an absence of culturally safe support services (or low awareness of their availability) (Willis 2011; HSCSPLA 2021). Limited availability of supports for victim survivors of family violence (predominately mothers) to safely maintain care of their children can lead to the forced separation of children from victim survivors (SNAICC, NFVPLS and NATSILS 2017).

Under-reporting means it is not possible to establish the full prevalence of family violence among Aboriginal and Torres Strait Islander people or the entire Australian population (Phillips and Vandenbroek 2014). However, the available evidence indicates that family violence is perpetrated on Aboriginal and Torres Strait Islander people at much higher rates than on the non-Indigenous population. In 2016–17, Aboriginal and Torres Strait Islander women were 34 times as likely to be hospitalised for injuries caused by family violence as non-Indigenous women (AIHW 2019d). Previous research has also found that Aboriginal and Torres Strait Islander women were twice as likely to be killed by a current or former intimate partner (AIHW 2018).

This higher prevalence does not signify that family violence is inherently part of Aboriginal and Torres Strait Islander cultures (indeed, many Aboriginal and Torres Strait Islander women are in relationships with non-Indigenous intimate partners). In fact, the existence of family violence in Aboriginal and Torres Strait Islander communities today is closely linked to the violence and trauma of colonisation – including the attempted wholesale destruction of Aboriginal and Torres Strait Islander cultures – and evidence suggests that culture is a key *protective* factor that both supports families to be free of violence and helps victim survivors to heal from violence (SNAICC, NFVPLS and NATSILS 2017; The Healing Foundation and White Ribbon Foundation 2017). To ensure culturally safe and culturally adapted responses to Aboriginal and Torres Strait Islander family violence, particularly those responses which address intergenerational trauma and the complexities underlying violence in individual communities, it is

crucial that strategies to combat family violence are led by our communities (AHRC 2020; HSCSPLA 2021). Only healing-focused and trauma-informed responses can truly tackle the underlying factors that contribute to family violence as well as its immediate impacts (Carlson, Day and Farrelly 2021).

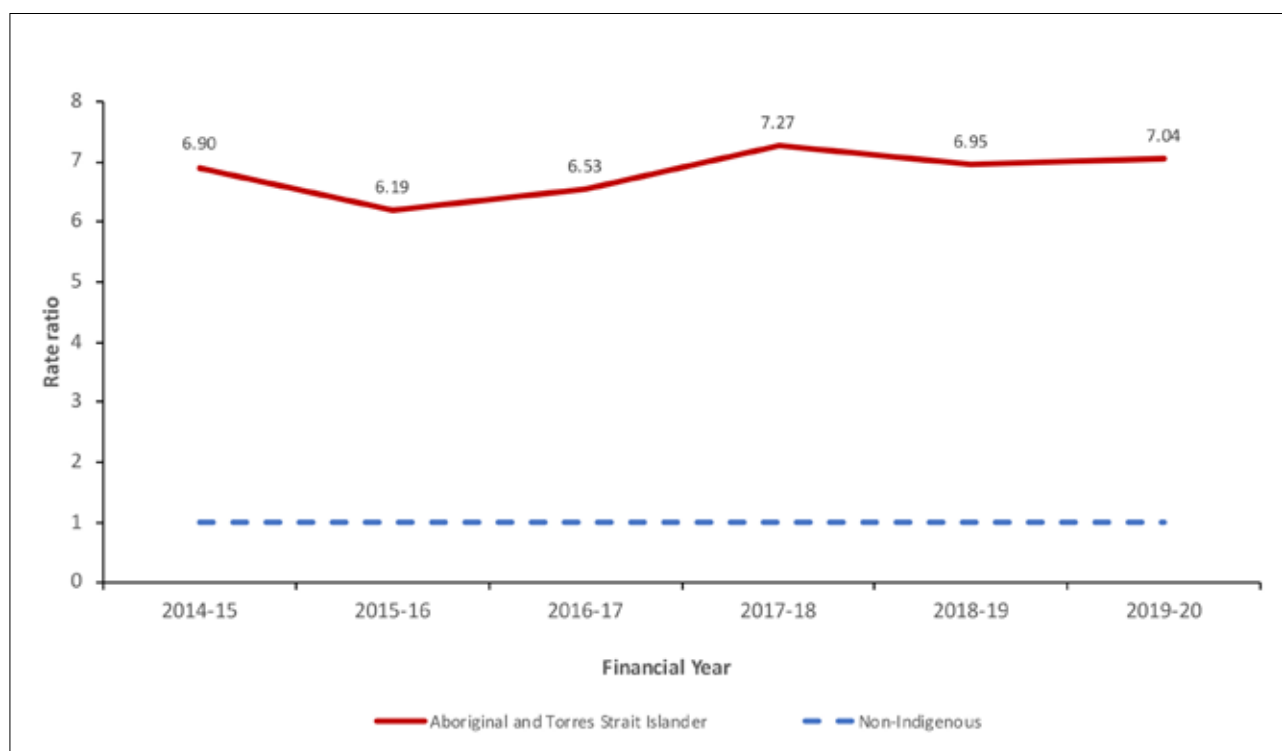
### 3.4 DRUG AND ALCOHOL MISUSE

Research demonstrates that parental substance misuse is one of the most significant risk factors for child abuse and neglect (Lamont and Price-Robertson 2013). The abuse of alcohol and illicit drugs can adversely impact a person's capacity for parenting while affected by substances, when experiencing withdrawal, and/or because of criminal behaviours associated with substance misuse (Child Welfare Information Gateway 2014). This can manifest in a range of ways, including as physical or emotional abuse, neglect of children due to impaired functioning, insufficient financial resources for essential supplies, and inconsistent parenting (Bromfield *et al.* 2010). And while substance misuse is often closely interlinked with other factors (including mental ill-health, socioeconomic disadvantage, and previous experiences of trauma: AIHW 2020b), a lack of access to treatment and rehabilitation services – particularly those that are culturally safe for Aboriginal and Torres Strait Islander people – means that these contributing factors, and their effects on children, often cannot be addressed.

Substance misuse can also present significant risks to children through conditions developed in utero, such as fetal alcohol spectrum disorders (FASD). Research has highlighted the limited availability and development of effective FASD interventions, especially for infants and young children, alongside the potential of supports that take a broader ecological approach by recognising the impacts of FASD across multiple domains of functioning (Reid *et al.* 2015). The lack of identification, diagnosis and provision of family supports specific to FASD is being increasingly recognised as a major driver of child protection intervention and placement breakdown due to parents and carers not being equipped with sufficient knowledge and strategies to manage the behaviours of children with FASD (Williams 2017).

The use of treatment services for addiction to alcohol and other drugs is therefore relevant to parental health and wellbeing and to addressing risk factors for children. **Figure 15** shows that Aboriginal and Torres Strait Islander people are significantly over represented in the use of treatment services, being on average around seven times more likely than non-Indigenous people to access these services. However, available data does not detail the quality and effectiveness of available services, nor the prevention and treatment strategies that work best for Aboriginal and Torres Strait Islander people (Snijder and Kershaw 2019). There is also a lack of information on how services seek to address safety for children, and more broadly, a lack of research evidence describing the extent of child-focused practice in addiction treatment services (Roche *et al.* 2014).

**FIGURE 15** Rate ratios of Aboriginal and Torres Strait Islander clients and non-Indigenous clients accessing alcohol and other drug treatment services, 2014–15 to 2019–20



Data sources: AIHW (2019a), Table SC.26; AIHW (2020a), Table SCR.26; AIHW (2021d), Table SCR.26.

### 3.5 MENTAL ILL-HEALTH

Undiagnosed, untreated, or poorly managed parental mental illness can adversely affect a parent's daily functioning and quality of life, and can therefore impact on the quality and consistency of care provided to children. Risks to children may include physical or emotional needs not being met, needing to assume a caring role for their unwell parent, and physical or emotional abuse (if a parent's mental illness manifests in very severe episodes) (Wade 2020). The social isolation more commonly experienced by people suffering mental illness is also a compounding risk factor to children's wellbeing (Bromfield *et al.* 2010).

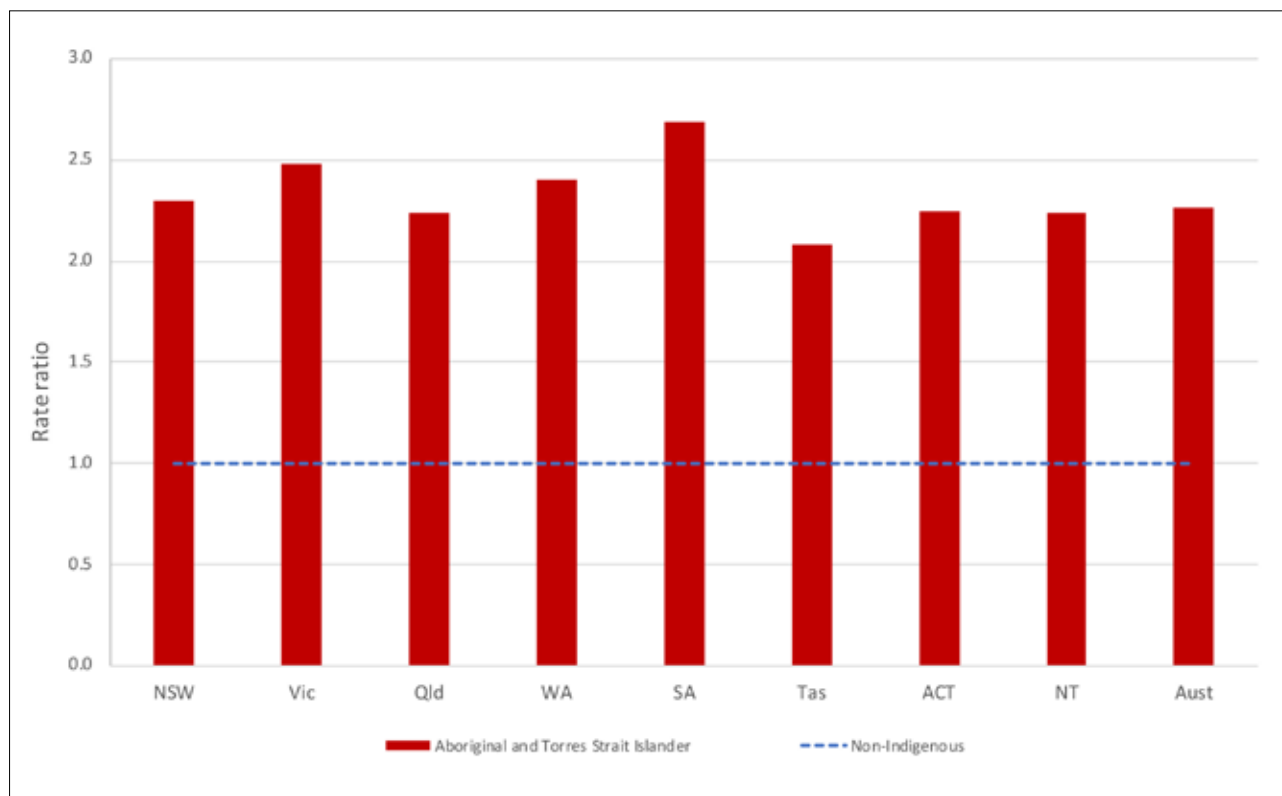
It is important to note that mental illness does not necessarily mean that parents' capacity to care for their child will be affected — with appropriate treatment and psychosocial supports, negative impacts on children are reduced (Reupert, Maybery and Kowalenko 2013). However, some mental illnesses suffered by pregnant women — including many Aboriginal and Torres Strait Islander women — have been categorised at the pre-birth stage as significant risks to the safety of children in at least one Australian jurisdiction. In turn, this is leading to newborn infants being removed from their mothers by child protection systems (O'Donnell *et al.* 2019).

### THE INCIDENCE OF MENTAL ILL-HEALTH

It is well known that Aboriginal and Torres Strait Islander people experience higher rates of mental illness than non-Indigenous Australians. Evidence indicates that this is linked to contemporary experiences of racism, socioeconomic disadvantage and social exclusion in Australian society, as well as the ongoing impacts of intergenerational trauma and colonisation, including disconnection from Country, culture, family and spirituality (Paradies and Cunningham 2012).

Figure 16 presents data from the 2018–19 *National Aboriginal and Torres Strait Islander Health Survey* (NATSIS), showing that 31% of Aboriginal and Torres Strait Islander respondents aged 18 years old and over reported experiencing “high or very high” levels of psychological distress in the four weeks prior to the Survey. This was more than double the rate in the non-Indigenous population (13%) (ABS 2019) as well as a significant increase on the 27% of Aboriginal and Torres Strait Islander people who reported experiencing psychological distress in 2004–05 (AIHW 2021k). Women reported experiencing psychological distress more frequently than men (35% and 26% respectively). Victoria and South Australia displayed the highest frequency of psychological distress (both 36%), and the Northern Territory displayed the lowest (26%), with psychological distress also being reported more frequently in non-remote areas (31%) than in remote areas (28%).

**FIGURE 16** Rate ratios of Aboriginal and Torres Strait Islander adults (2018–19) and non-Indigenous adults (2017–18) with high/very high levels of psychological distress



Data source: SCRGSP (2021b), Table 13A.48

The 2018–19 NATSIHS also indicated that 24% of Aboriginal and Torres Strait Islander respondents reported having a diagnosed mental and/or behavioural condition (the latter is defined to include alcohol and drug dependence). The difference between this and the proportion of respondents experiencing psychological distress gives rise to concerns that many Aboriginal and Torres Strait Islander people with mental ill health may not have sufficient access to support services, particularly considering that diagnosed conditions were far more likely to be reported by residents of non-remote areas (28%) than residents of remote areas (10%). This concern is underscored by an AIHW survey of organisations providing primary healthcare to Aboriginal and Torres Strait Islander people. In 2017–18, this survey indicated that more than two-thirds (68%) of surveyed organisations reported access to mental health and social and emotional wellbeing services as a gap faced by the community they served (an increase of 14% since 2013–14) (AIHW 2021l, AIHW 2021a).

### ACCESS TO MENTAL HEALTH SUPPORT SERVICES

The Australian Government (via Medicare and the Department of Veterans' Affairs (DVA)) covers many of the costs associated with individuals accessing mental health services through general practitioners, psychiatrists, psychologists and other allied health

professionals. Meanwhile, state and territory governments provide public specialised mental health services to treat severe mental illness, including acute inpatient psychiatric services and community-based services that provide assessment, treatment, care and rehabilitation (SCRGSP 2021a).

**Figure 17** shows the rate ratios for Aboriginal and Torres Strait Islander people and non-Indigenous people receiving clinical mental health services over the decade from 2008–09 to 2018–19. In 2018–19, as in previous years, Aboriginal and Torres Strait Islander people were over three times as likely as the non-Indigenous population to use state and territory governments' specialised public mental health services. This rate ratio has increased significantly over the period shown, and in every year except 2012–13.

The over-representation of Aboriginal and Torres Strait Islander people in acute mental health services suggests that individuals are accessing support in times of crisis. It is important to note that most of these services address the symptoms of mental ill health, not the underlying structural and individual factors that contribute to distress. Although rates of mental health service access are higher for Aboriginal and Torres Strait Islander people, it is difficult to assess whether rates of access meet needs.

**FIGURE 17** Rate ratios of Aboriginal and Torres Strait Islander people and non-Indigenous people receiving clinical mental health services, 2008–09 to 2018–19



Note: Medicare Benefits Schedule/Department of Veterans' Affairs data for 2018–19 not available by Indigenous status.  
Data source: SCRGSP (2021b), Table 13A.17.



Given the well-documented evidence of individual and collective trauma experienced by Aboriginal and Torres Strait Islander communities over many generations, it is unlikely that most current services are equipped to deliver trauma-informed healing approaches alongside clinical treatment, particularly those approaches that have been shown to promote holistic social and emotional wellbeing rather than simply targeting an absence of mental health crises (The Healing Foundation 2019). Referring to an ongoing process by which people come to a stronger sense of self-identity and connection and can use this to deal with the distress that they experience, healing is deeply rooted in culture and addresses physical, social, emotional, mental, environmental and spiritual wellbeing (The Healing Foundation and DFaCSHIA 2009). As such, healing programs must be both delivered by and designed around the needs of Aboriginal and Torres Strait Islander communities.

There are also a number of serious concerns over the appropriateness and cultural safety of non-Indigenous mental health services. Almost one-third of respondents (30%) to the 2018–19 NATSIHS reported that they had not accessed healthcare when they needed to in the 12 months preceding the survey. Of those respondents, 32% reported reasons related to cultural safety, including embarrassment and fear (23%), concern that the service would be inadequate (9%), and mistrust (7%) (AIHW and NIAA 2020). Systemic racism in healthcare settings is not only a major barrier for Aboriginal and Torres Strait Islander people in accessing healthcare — it is also associated with lower quality of care. Research has demonstrated that racism can lead to poorer self-reported health status, lower perceived quality of care, failure to follow recommendations, and interruptions of care (IAHA 2019; Watego, Singh and Macoun 2021).

The conclusions of the Productivity Commission's *Inquiry into Mental Health* accord with many of these concerns. The Commission highlighted that the *National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2017–2023* had not been fully implemented, to the detriment of the mental health of Aboriginal and Torres Strait Islander people, and recommended that the Australian Government immediately entrust the development of an implementation plan for the Framework to Gayaa Dhuwi (Proud Spirit) Australia and the Aboriginal and Torres Strait Islander Mental Health and Suicide Prevention Advisory Group (PC 2020). It was also recommended that commissioning processes be reformed to treat Aboriginal community-controlled health services as preferred providers of mental health services to Aboriginal and Torres Strait Islander people.

## THE MENTAL HEALTH IMPACTS OF THE CHILD PROTECTION SYSTEM

While parental experiences of mental ill health can be a risk factor for child protection involvement, there

are, in turn, significant risks to the mental health of children arising from involvement with child protection systems, particularly for children in out-of-home care. While the availability of population data regarding child mental health is very limited (there is currently no regular national data collection or reporting regarding children's overall mental health and wellbeing), it is estimated that children who have experienced the child protection system are twice as likely to experience mental illness, and children who have experienced out-of-home care are five times more likely to experience mental illness (Green *et al.* 2019; NHMC 2021).

These mental health risks are likely to be amplified for Aboriginal and Torres Strait Islander children and young people, who frequently suffer disconnection from their communities, culture, Country and languages when placed in out-of-home care. This is alongside the feelings of instability and disconnection from family experienced by other children in care (AIHW 2021j). Out-of-home care systems that are culturally unsafe or not trauma-informed risk further perpetuating intergenerational cycles of mental ill health, particularly given the importance of connection to cultures for healing (discussed above) and as a protective factor against psychological distress.

Children and young people in out-of-home care often also have limited access to mental health assessments and treatments (AIHW 2021j; NHMC 2021). Combined with the limited availability of mental health screening tools and treatment methods that are culturally appropriate for Aboriginal and Torres Strait Islander people (AHMAC 2017b), this places Aboriginal and Torres Strait Islander children and young people in care at particular risk of receiving inadequate, poorly targeted, and culturally inappropriate mental health services.

The first *National Children's Mental Health and Wellbeing Strategy*, released in October 2021, acknowledges these risks in recommending that children in out-of-home care (including Aboriginal and Torres Strait Islander children placed with kin and community networks, and more generally involved in child protection systems) need to be supported more frequently and with priority access to mental health services, and that mental health supports for Aboriginal and Torres Strait Islander communities should be delivered by Aboriginal community-controlled organisations wherever possible (NHMC 2021).

## 3.6 SUPPORTING CHILDREN WITH A DISABILITY

Children and young people with disability are disproportionately represented in out-of-home care, 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 (Vic) 2016; White and Gooda 2017; Davis 2019). 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).

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 out-of-home care and noted that 14% had a known disability (with intellectual disability accounting for 65% of the disabilities noted) (CCYP (Vic) 2016). 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). Most recently, 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 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 out-of-home care in 2016 had a disability (Davis 2019).

As the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability heard throughout 2020 and 2021, there are significant consequences to the poor recognition of disabilities affecting Aboriginal and Torres Strait Islander children involved in child protection systems (and more generally). Statutory intervention often occurs due to systemic failures to enable families to understand and support their children's complex needs. 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 additional supports needed to keep children safely with their families, and by child protection workers who lack the skills and training to identify culturally appropriate responses (Sackville, Mason and Galbally 2021).

Further, failure to identify and diagnose the disability of an Aboriginal or Torres Strait Islander child in out-of-home care 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 out-of-home care 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, Mason and Galbally 2021).

Finally, the lack of accurate and available data – as described above – makes it impossible for Aboriginal community-controlled organisations 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 co-design 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.

### 3.7 MATERNAL AND CHILD HEALTH INEQUITIES

Inequity trajectories start early for children – in many cases, well before birth. Pregnancy, birth and early childhood are critical transition periods for families, especially mothers and infants, and present opportunities for healthy growth and development, and to reduce vulnerabilities associated with child protection notifications (Holland 2015). While most Aboriginal and Torres Strait Islander mothers and infants enjoy good health – and children thrive as a result – there remain significant proportions who experience poor maternal and perinatal health and/or poor early childhood development outcomes.

#### ANTENATAL CARE

For expectant mothers, experiences of economic disadvantage and social exclusion are closely linked to a range of factors that can impede the healthy development of children during pregnancy and in early childhood, including family violence, psychological stress, substance misuse and poor nutrition (Moore *et al.* 2017; Gibberd *et al.* 2019). Despite these heightened risks, women from the most economically disadvantaged geographic areas, particularly those living in outer regional and remote areas, are also the least likely to access critical 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).

Regular antenatal care that commences early in pregnancy and offers continuity of care has been found to have a positive effect on health outcomes for both mothers and infants (Arabena *et al.* 2015; Department of Health 2020). This care is also an important step in establishing trusted relationships between families and healthcare professionals, and can be a critical pivot in the trajectory of an infant's life as this care

opens the door to many other services on referral, not just maternity services. Access to antenatal care is particularly crucial for Aboriginal and Torres Strait Islander women given that, on average, they have greater exposure to risk factors such as poor nutrition, smoking, chronic illness and high levels of psychosocial stress. In turn this puts them at higher risk of pregnancy complications, including anaemia, hypertension, premature labour, and giving birth to low-birthweight babies (Clarke and Boyle 2014; Department of Health 2020).

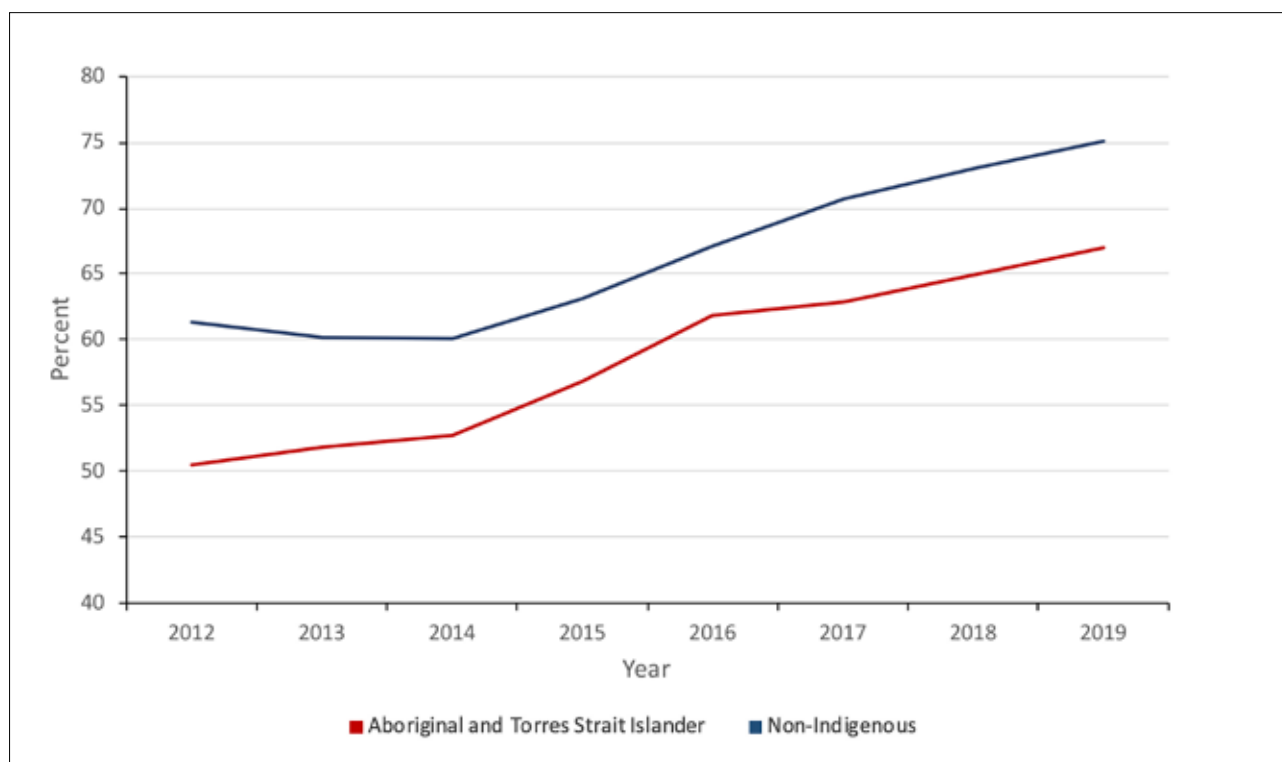
Initiating antenatal care in the first trimester is a significant indicator for future service engagement. Sadly, Aboriginal and Torres Strait Islander women are less likely to access antenatal care in their first trimester than non-Indigenous women (as shown by Figure 18 below) and, overall, access less antenatal care visits than non-Indigenous women (AIHW 2021e). While **Figure 18** shows a promising upward trend in the proportion (age standardised) of Aboriginal and Torres Strait Islander mothers attending at least one antenatal care session in the first trimester of pregnancy – from 50.5% in 2012 to 67% in 2019 – this proportion is still lower than that of non-Indigenous mothers, and the current gap (8.1 percentage points) has increased again since it fell to a low of 5.2 percentage points in 2016.

As part 1.2 noted, antenatal care offers a pivotal opportunity to engage vulnerable families during

pregnancy and address risk factors that place them at risk of child protection involvement. However, the fear that antenatal care providers may report the woman's pregnancy to child protection systems (ultimately leading to removal of the newborn child) may lead some pregnant women to avoid the very health services that they urgently need. There is also evidence to suggest that mothers who have previously experienced child removal are at particular risk of inadequate or no prenatal care during subsequent pregnancies. This is because the fear of involvement of child protection services is intensified, resulting in disengagement from formal support services (Wall-Wieler *et al.* 2019). Even for women who have no history of child removal, the history of the Stolen Generations may be cause for suspicion of non-Indigenous service systems.

The consequences of this are likely to be more severe for Aboriginal and Torres Strait Islander mothers, due to their higher likelihood of pre-existing health conditions (Davis 2019). Culturally safe healthcare and early intervention family support services, which aim to prevent pre-birth notifications and removals of newborns at birth, are imperative to ensuring adequate prenatal care, minimising the reporting of unborn children, and reducing the fear of child removal that may limit mothers' and families' access to services designed to support vulnerable families.

**FIGURE 18** Age-standardised percentage of Aboriginal and Torres Strait Islander mothers and non-Indigenous mothers who attended at least one antenatal care session during the first trimester of pregnancy, from 2012 to 2019



Data source: AIHW (2021f), Table 2.1.

## BIRTHWEIGHT

Birthweight is a key indicator of infant health. With the health of a baby at birth being a determinant of their lifetime health and wellbeing, a baby's likelihood of survival past infancy and health later in life is significantly affected by whether they were born at a healthy weight (AIHW 2021e).

**Figure 19** shows that Aboriginal and Torres Strait Islander babies are nearly twice as likely to have low birthweights than non-Indigenous babies. To address this disparity and highlight its importance, one of the target outcomes in the *National Agreement on Closing the Gap* is for 91% of babies born to Aboriginal and Torres Strait Islander mothers to have a healthy birthweight by 2031 (JCOCTG 2020).

## INFANT AND CHILD MORTALITY RATES

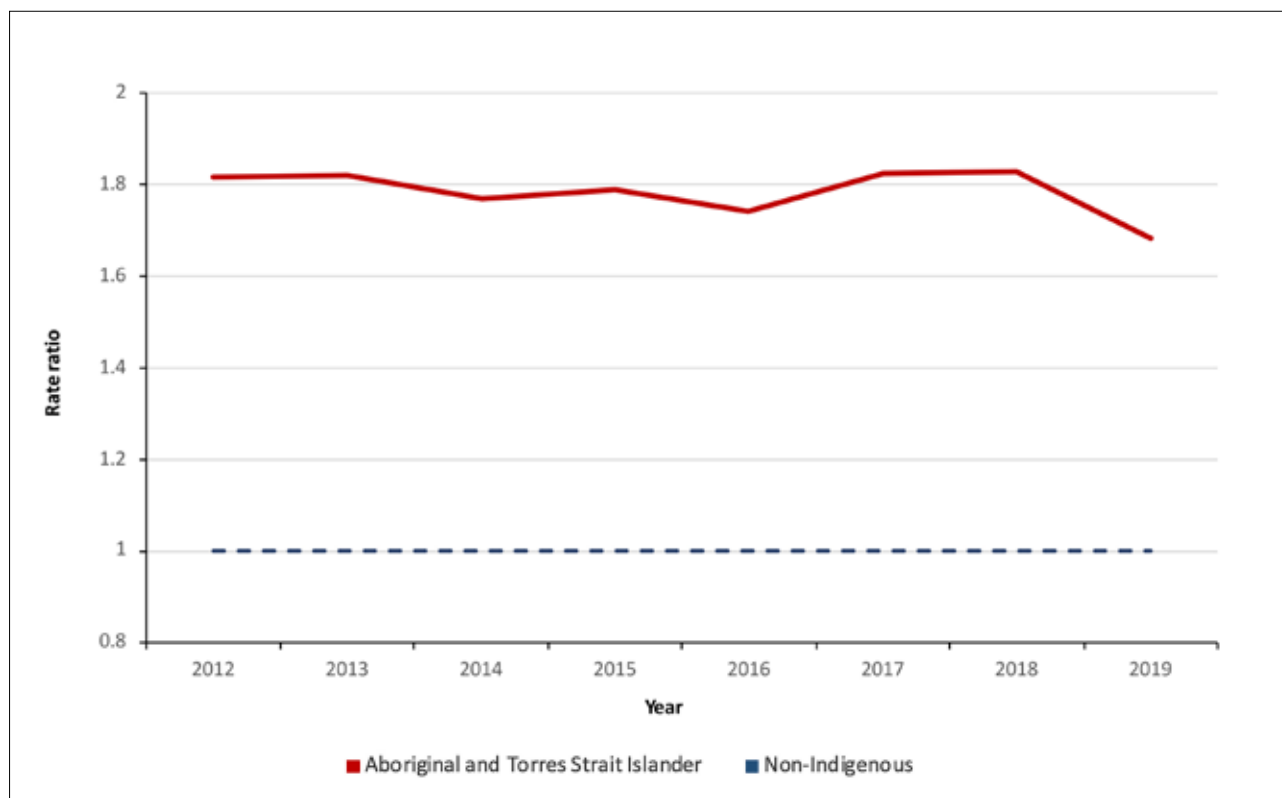
**Figure 20** indicates that deaths of Aboriginal and Torres Strait Islander infants, both perinatal (22 weeks gestation to one week post birth) and neonatal (four weeks post birth), decreased slightly in recent years.

Child mortality rates (up to four years old) have also improved for Aboriginal and Torres Strait Islander children. However, non-Indigenous child mortality

has improved at a significantly faster rate over most years since the first iteration of Closing the Gap began measuring the difference between Aboriginal and Torres Strait Islander child mortality in 2009, with the aim of eradicating that gap by 2018 (DPMC 2020).

As **Figure 21** shows, that aim has not been met, and the gap remains unacceptably high – with child mortality rates for children aged 0 to 4 years old more than twice as high for Aboriginal and Torres Strait Islander children as for non-Indigenous children since 2013, despite a significant decrease in 2018. This illustrates that Aboriginal and Torres Strait Islander families are not benefiting equally from improvements in overarching maternal and child health support systems and highlights the need for dedicated efforts centred on improving outcomes for Aboriginal and Torres Strait Islander women and children. It is important that these efforts include mothers' early engagement in culturally appropriate antenatal care, with a focus on continuity of their care beyond the perinatal period (Sivertsen *et al.* 2020). Results from evaluations of innovative care models, such as Early Assessment Referral Links (Austin and Arabena 2021) and Birthing in Our Community (Kildea *et al.* 2021), should be considered for their potential application in other Aboriginal and Torres Strait Islander communities around Australia.

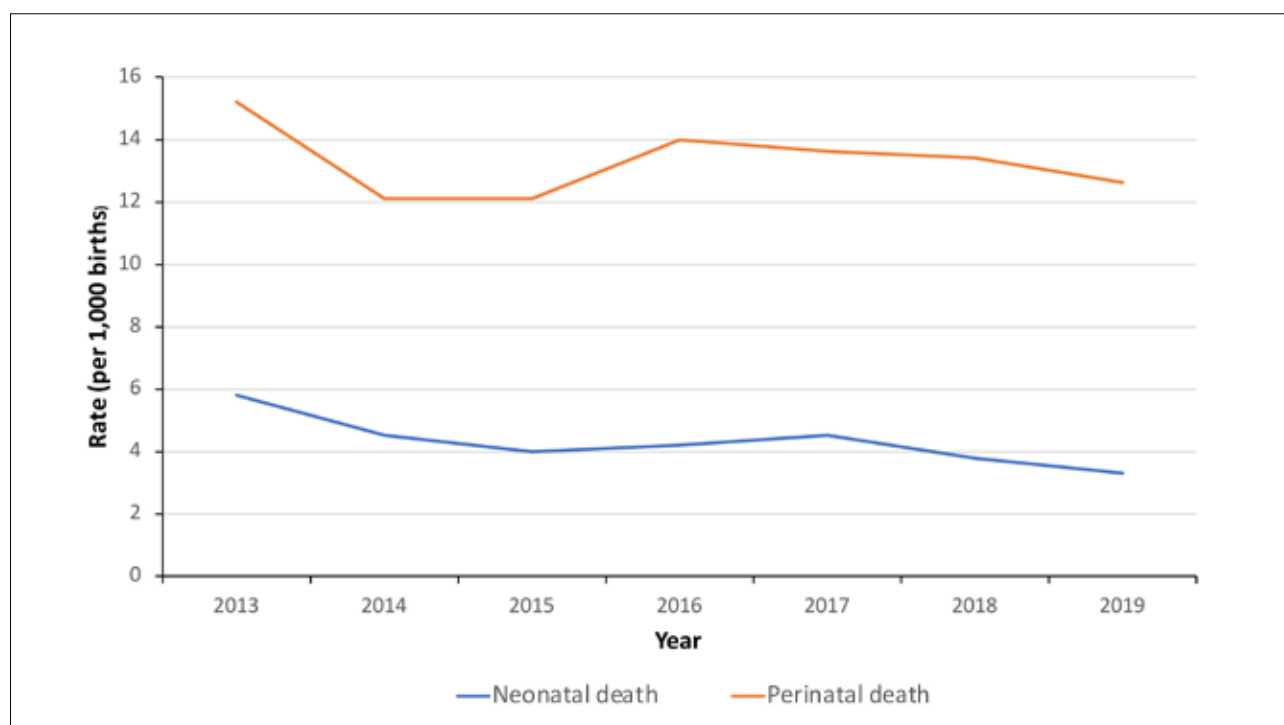
**FIGURE 19** Rate ratios of Aboriginal and Torres Strait Islander babies and non-Indigenous babies born with low birthweights, from 2012 to 2019



Data source: AIHW (2021f), Table 4.2.



**FIGURE 20** Aboriginal and Torres Strait Islander infant deaths (perinatal and neonatal) per 1000 births, from 2013 to 2019



Data source: AIHW (2021f), Table 5.1.

**FIGURE 21** Mortality rates for Aboriginal and Torres Strait Islander and non-Indigenous children aged 0 to 4 years old (deaths per 100,000 persons and rate ratios), from 1998 to 2018



Data sources: AIHW (2016); DPMC (2018, 2019, 2020).

The universal provision of high quality, culturally safe prenatal care should be complemented by reforms to legislation and/or policy that embed a *prevention first* approach by child protection systems to vulnerable Aboriginal and Torres Strait Islander pregnant women. The Victorian Department of Families, Fairness and Housing (DFFH) currently demonstrates leading practice in this field. Although Victoria cannot begin a child protection investigation prior to a child's birth, the *Wungurilwil Gapgapduir Children and Families Agreement* includes a target to refer all unborn child reports for Aboriginal and Torres Strait Islander mothers to ACCOs, who can provide support to prevent unnecessary child removals at birth (VACYPA 2019). Currently, when the unborn child is believed or known to be Aboriginal or Torres Strait Islander, an Aboriginal and child specialist advice service must be consulted for advice on all aspects of a child's safety, including cultural safety, the right to grow up with family, and to remain within one's community when safely remaining with family is not an option (VACCA 2019).

### 3.8 POOR ACCESS TO SAFE, AFFORDABLE AND QUALITY HOUSING

Access to safe and healthy housing environments has a substantial impact on families' capacities to provide care for their children. Disparities between Aboriginal and Torres Strait Islander people and non-Indigenous people exist across a range of housing measures – the 2018–19 NATSIHS indicated that Aboriginal and Torres Strait Islander people are less than half as likely to own their own home, 11 times more likely to live in social housing, and almost four times as likely to live in overcrowded dwellings (AIHW and NIAA 2020). Aboriginal and Torres Strait Islander people accounted for over one-fifth (22%) of the homeless population in the 2016 Census (ABS 2018a), and almost one-third of Aboriginal and Torres Strait Islander respondents to the 2014–15 NATSISS (aged 15 and over) had been homeless at some time in their life (ABS 2016).

Housing quality, affordability, location and appropriateness are all important determinants of health and wellbeing. Environmental health (the physical, chemical and biological factors external to a person that potentially affect their health: WHO 2020) can affect life expectancy, child mortality, disability, chronic disease, and family and community violence (SCRGSP 2020). The financial burden and insecurity associated with a lack of access to affordable housing can also have significant negative effects on individual and family wellbeing, and can stifle social inclusion and equality of opportunity (OECD 2020).

Problems with housing – including homelessness, mortgage and rental stress, and unstable tenure – are indicative of the types of vulnerabilities and risks that can hinder children's development and wellbeing, and lead to children coming to the attention of child protection authorities. Indeed, research has demonstrated that overcrowding, insecure tenure

and homelessness have adverse effects on school attendance and attainment (Biddle 2014; Brackertz 2016), and that housing insecurity places children at increased risk of abuse and neglect (Warren and Font 2015; Marcal 2018). Furthermore, housing problems make it more difficult for children to be reunified with their family once they are removed.

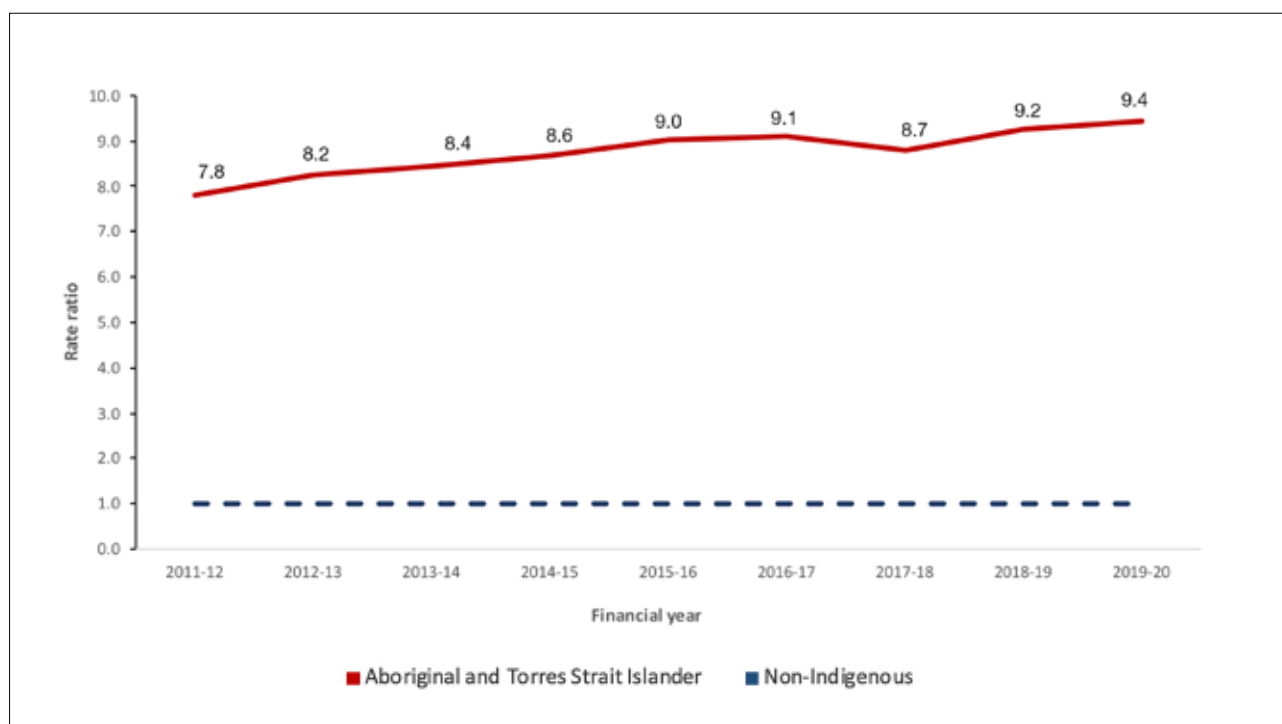
The burden of housing instability on Aboriginal and Torres Strait Islander people is further reflected in their usage of specialist homelessness services across Australia. In 2019–20, 27% of individuals who accessed specialist homelessness services (71,600 people) identified as Aboriginal and/or Torres Strait Islander (AIHW 2020c). **Figure 22** shows that Aboriginal and Torres Strait Islander people were 9.4 times more likely to access specialist homelessness services than non-Indigenous people in 2019–20, up from a rate ratio of 7.8 in 2011–12. This gap has increased by 12% over the period shown.

However, the true extent of Aboriginal and Torres Strait Islander people requiring such assistance is likely to be substantially more profound than what these figures indicate, due to accessibility barriers and a reluctance of some communities to engage with much needed supports. In particular, many remote communities have trouble accessing support due to diminished levels of support service infrastructure. As **Figure 23** shows, the disparity between the rates of Aboriginal and Torres Strait Islander and non-Indigenous clients accessing homelessness services in remote areas of Australia continues to increase rapidly over time. In 2018–19, Aboriginal and Torres Strait Islander families living in remote/very remote areas were 23.2 times more likely than non-Indigenous people (and 3.4 times more likely than Aboriginal and Torres Strait Islander people living in regional areas) to access specialist homelessness services, despite poor levels of service accessibility in some geographical areas.

### HEAVY RELIANCE UPON SOCIAL HOUSING

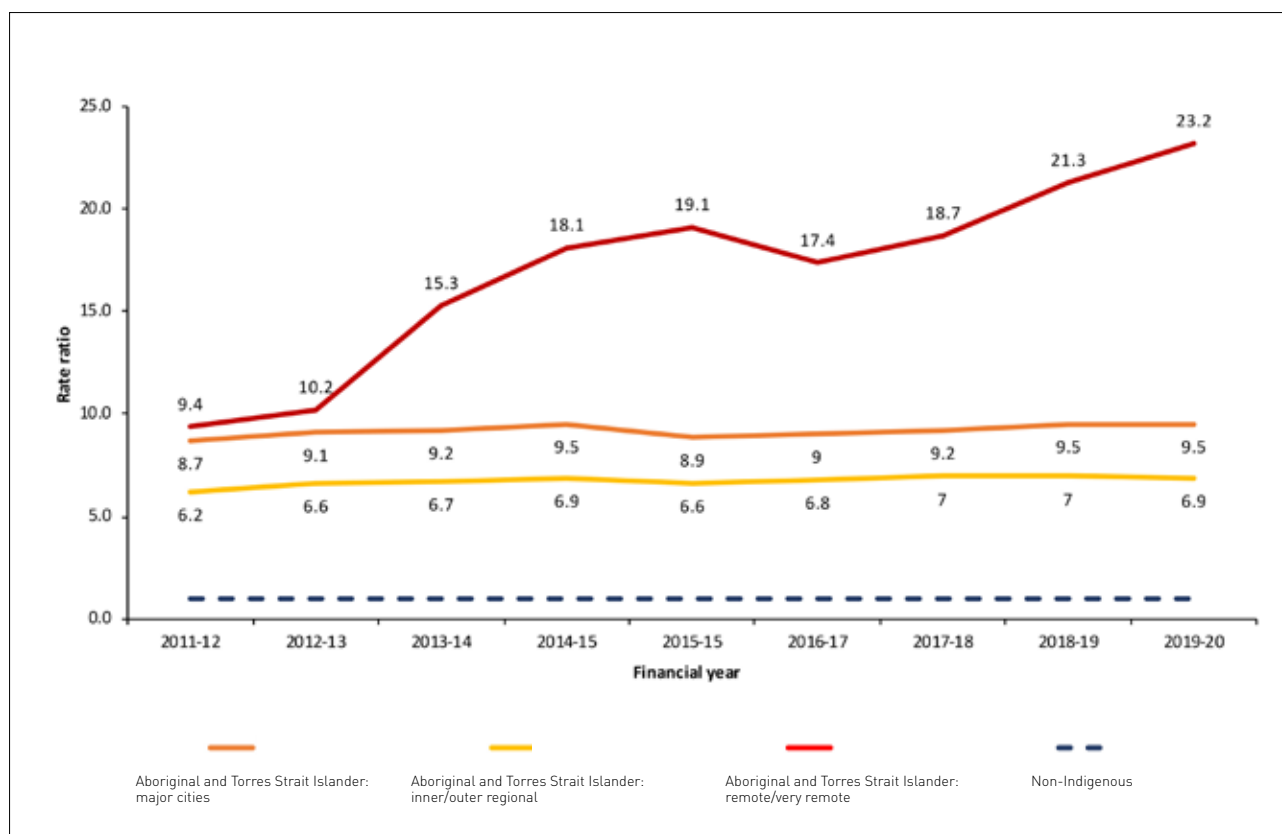
Social housing is rental housing provided by state and territory governments and community sectors at below market rents, designed to assist people who are unable to access suitable accommodation in the private rental market. Social housing includes public housing, state-owned and managed Aboriginal and Torres Strait Islander housing, community housing, and Aboriginal and Torres Strait Islander community housing (AIHW 2019b). As at 30 June 2020, around one in seven (14%) households living in social housing included an Aboriginal and Torres Strait Islander household member (AIHW 2021i). While this proportion has been consistent over the past few years (AIHW 2019b), a much higher proportion (25%) of newly allocated social housing tenancies in 2019–20 were to households that included an Aboriginal and Torres Strait Islander household member (AIHW 2021i). This is likely to represent only a small proportion of Aboriginal and Torres Strait Islander people in urgent need of

**FIGURE 22** Rate ratios of Aboriginal and Torres Strait Islander people and non-Indigenous people accessing specialist homelessness services in Australia, 2011–12 to 2019–20



Data sources: AIHW (2015, 2019f, 2019g, 2020d).

**FIGURE 23** Rate ratios of Aboriginal and Torres Strait Islander and non-Indigenous clients accessing specialist homelessness services, by remoteness, 2011–12 to 2019–20



Data sources: AIHW (2015, 2019f, 2019g, 2020d).

stable and affordable housing, as demand for social housing consistently exceeds supply – as at 30 June 2020, almost 63,000 households were classified as being in *greatest need* on social housing waitlists across Australia (AIHW 2021c).

### POOR QUALITY HOUSING

Housing quality is closely related to environmental health and affects a range of health indicators – for example, poor air quality, inadequate heating and cooling systems, lack of power and safe drinking water, and inadequate waste and sanitation facilities all contribute to poorer health and welfare (SCRGSP 2020). The 2018–19 NATSIHS indicated that:

- 20% of Aboriginal and Torres Strait Islander households were living in dwellings that did not meet an acceptable standard (that is, at least one basic household facility was unavailable or there were more than two major structural problems).
- 33% of Aboriginal and Torres Strait Islander households were living in dwellings with at least one major structural problem (including rising damp, major cracks to walls/floors, and major plumbing problems). Major structural problems were more common in remote areas than non-remote areas (occurring in 46% and 31% of dwellings respectively).
- nine per cent of Aboriginal and Torres Strait Islander households had no access to working facilities for food preparation, 4.5% had no access to working facilities to wash clothes and bedding, and 2.8% had no access to working facilities to wash household residents – all of these basic facilities are considered important for a healthy living environment (AIHW and NIAA 2020).

It is very challenging for Aboriginal and Torres Strait Islander families to raise healthy, thriving children in these inferior and often unsafe living environments.

### 3.9 BARRIERS TO PARTICIPATION IN EARLY CHILDHOOD EDUCATION AND CARE

From birth to three years old is the most critical time in a child's development, setting the foundation for future outcomes in education, employment, health and wellbeing. 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 are at a disadvantage to non-Indigenous children by the time they start school, as they are not getting the supports that they need to thrive. With an early childhood education and care system that is largely set up to support working families, many Aboriginal and Torres Strait Islander children miss out on accessing

quality early years education. This puts Aboriginal and Torres Strait Islander children at a higher risk of developing problems that will impact on their long-term health, education outcomes, and social wellbeing. The ability to participate in culturally responsive early years education and care is crucial for strengthening Aboriginal and Torres Strait Islander children's cultural pride, identity and sense of self (Saffigna *et al.* 2011; SNAICC 2012b).

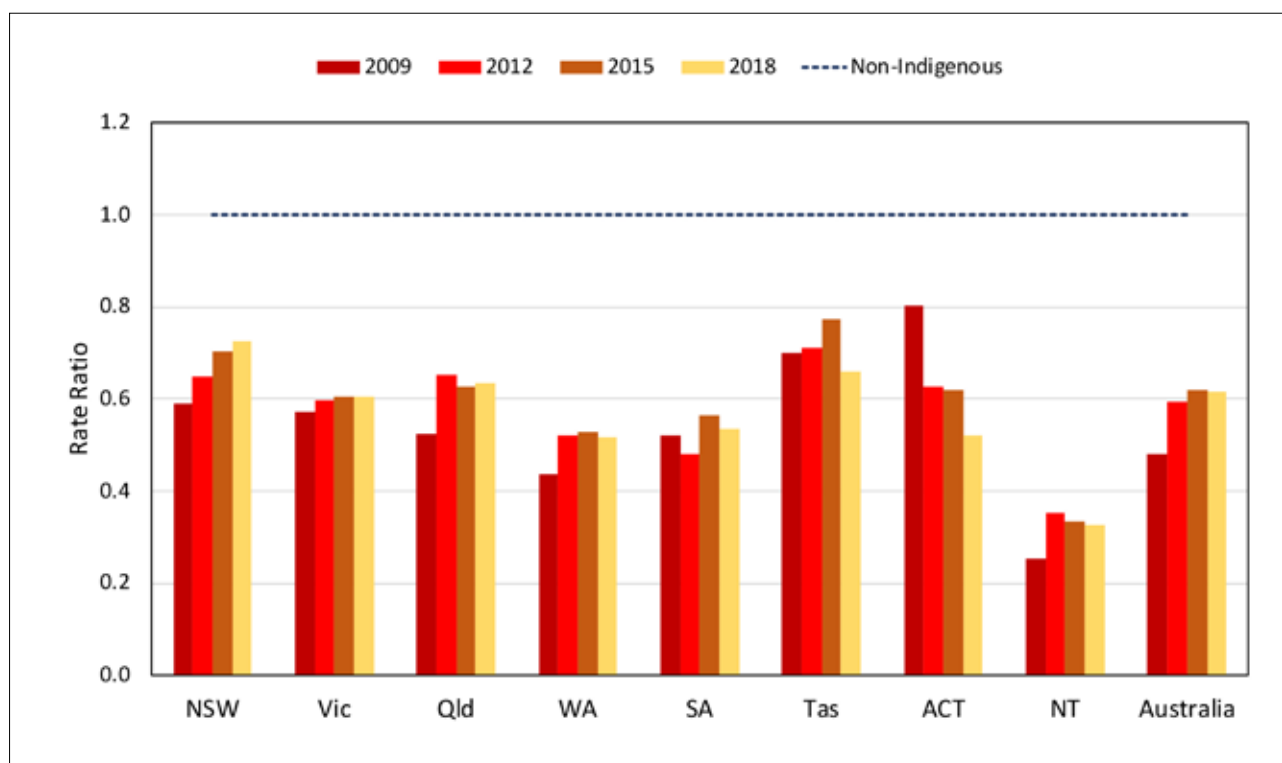
A large majority of Aboriginal and Torres Strait Islander children are falling behind in their developmental milestones when compared to non-Indigenous children as they reach five years old (noting, however, that most developmental assessment tools are designed from a Western paradigm and, as such, may not demonstrate Aboriginal and Torres Strait Islander children's strengths). 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. Aboriginal and Torres Strait Islander children continue to show poor developmental outcomes across measured developmental areas compared to non-Indigenous children. The latest AEDC figures, in 2018, indicate that Aboriginal and Torres Strait Islander children were twice as likely as non-Indigenous children to be developmentally vulnerable in one or more domains, and two-and-a-half times more likely to be developmentally vulnerable in two or more domains (AEDC 2019). This trend has shown little change over the past 10 years, and this disadvantage is shown to increase with remoteness (AEDC 2019).

In 2018, only 35.2% of Aboriginal and Torres Strait Islander children were developmentally on track against all five AEDC domains compared to an average of 77.3% of non-Indigenous children (AEDC 2019). In July 2020, the new *National Agreement on Closing the Gap* adopted a target to increase this percentage to 55% by 2031. **Figure 24** shows that some positive gains were made towards closing the gap between the 2009 and 2015 AEDC, with Aboriginal and Torres Strait Islander children increasing from 0.48 to 0.62 times as likely as non-Indigenous children to be on track against all five domains. However, this positive trajectory was not sustained in the 2018 AEDC, with the rate ratio dropping slightly to 0.61 (AEDC 2019). The proportion of Aboriginal and Torres Strait Islander children *on track* also significantly decreases in all domains as remoteness increases (AEDC 2019).

On a state-by-state basis, New South Wales shows consistent improvement, with the highest rate of Aboriginal and Torres Strait Islander children on track against all five domains (42%) and the lowest gap between Aboriginal and Torres Strait Islander and non-Indigenous children with a rate ratio of 0.72 in 2018. The Northern Territory, by contrast, has the lowest rate of Aboriginal and Torres Strait Islander children on track in all five domains, sitting at just 18% in 2018.

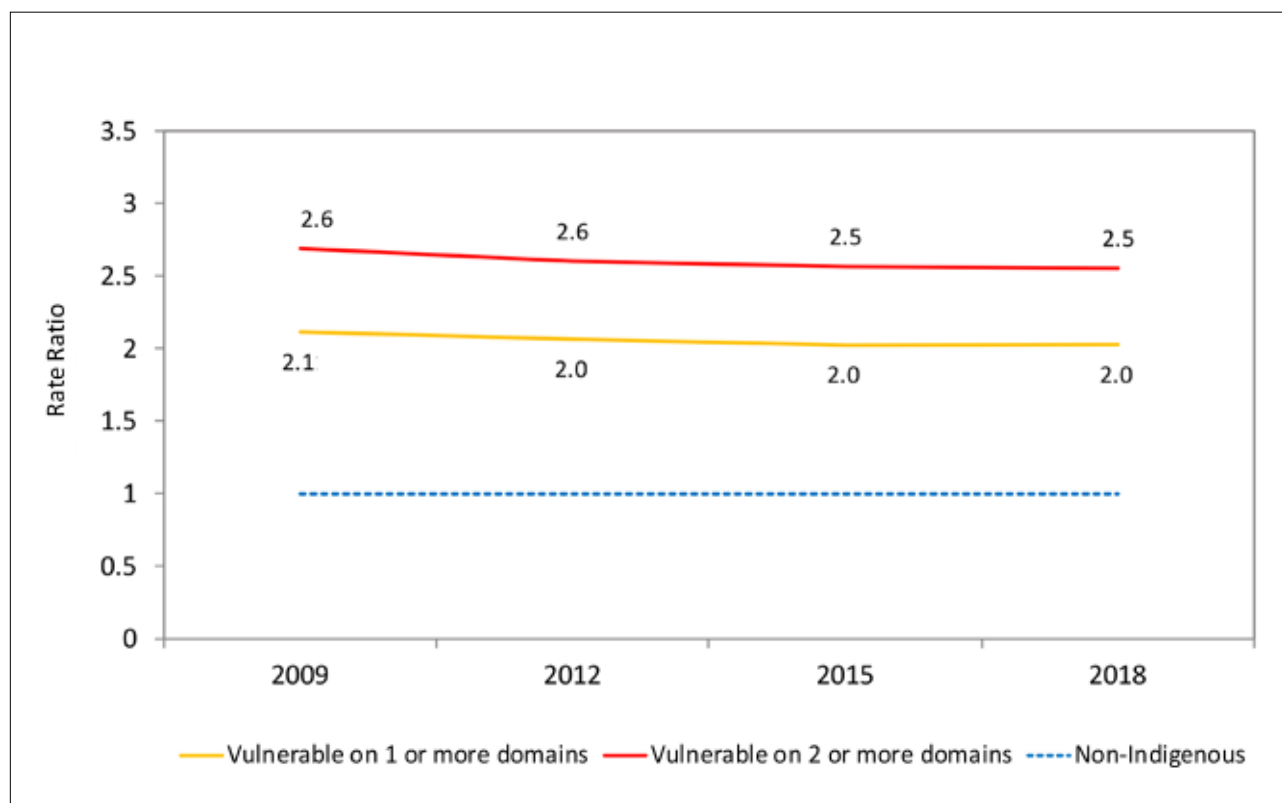


**FIGURE 24** Rate ratio of Aboriginal and Torres Strait Islander children and non-Indigenous children on track in all five domains of the Australian Early Development Census, 2009 to 2018



Data sources: CCCH and TICHR (2011); Department of Education (2013); AEDC (2016, 2019).

**FIGURE 25** Rate ratios comparing developmentally vulnerable Aboriginal and Torres Strait Islander and non-Indigenous children, 2009 to 2018



Data sources: AEDC (2016, 2019).

While the Closing the Gap target focuses on increasing the number of children developmentally on track in all five domains, it is important to consider Aboriginal and Torres Strait Islander children who show greater developmental vulnerability and are falling furthest behind. Notably, **Figure 25** shows that the gains made in the proportions of Aboriginal and Torres Strait Islander children developmentally on track in all five domains between 2009 and 2018 were not reflected in the rates of children experiencing developmental vulnerability (CCCH and TICHR 2011; Department of Education 2013; AEDC 2016, AEDC 2019).

For the proportion of children who are vulnerable in two or more domains, there has been no significant improvement, showing only a slight decline over the decade. In the Northern Territory, Aboriginal and Torres Strait Islander children are 4.4 times more likely to be developmentally vulnerable in two or more domains – the highest rate in the country, followed by Western Australia (3.3 times more likely). Even in the states with the lowest rate ratios – Queensland, New South Wales and Tasmania – Aboriginal and Torres Strait Islander children are over twice as likely to be vulnerable in two or more domains (**Figure 26**).

## PRESCHOOL ATTENDANCE

Aboriginal and Torres Strait Islander children benefit from access to quality and culturally safe preschool programs that support their learning and development to ensure that they can start school with a strong foundation. The new *National Agreement on Closing the Gap* includes a target for 95% enrolment of four-year-olds in preschool, a repeated target from the last agreement. Nationally, in 2019–20, this was on track to be met, with 93.1% of Aboriginal and Torres Strait Islander children in the year before full-time schooling enrolled in a preschool program (PC 2021). However, enrolment data is inadequate in being able to reflect levels of actual attendance and engagement of Aboriginal and Torres Strait Islander children in preschool programs. For this reason, this report also considers data on the extent to which Aboriginal and Torres Strait Islander children attend 600 hours of preschool per year, or 15 hours per week, which has been identified as the minimum number of hours required to deliver quality outcomes, noting that additional hours are needed for children experiencing vulnerability (Pascoc and Brennan 2017). National data on preschool attendance is not reported for 2019–20 as the impacts of extended lockdowns during the COVID-19 pandemic meant that data from Victoria was not available, impacting data comparability to previous years (ABS 2021).

As **Figure 27** shows, there are substantial variations between jurisdictions in levels of preschool attendance. Attendance rates in the year before school for children in the Northern Territory remain consistently low, with Aboriginal and Torres Strait Islander children only 40% as likely as their non-Indigenous peers to attend

600 hours of preschool. Significant gaps are also evident in South Australia and Western Australia, where Aboriginal and Torres Strait Islander children are only around 80% as likely as non-Indigenous children to attend preschool for 600 hours (ABS 2021).

## ENGAGEMENT IN EARLY CHILDHOOD EDUCATION AND CARE

One of the major reasons why Aboriginal and Torres Strait Islander children are developmentally behind their peers when commencing school is because of their lower engagement in early childhood education and care services. Despite a higher proportion of 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 early childhood education and care services, such as long day care, family day care and out-of-school-hours care. In 2019–20, Aboriginal and Torres Strait Islander children aged 0 to 5 years old across Australia were attending Australian Government Child Care Subsidy-approved childcare services at 65% the rate of non-Indigenous children, a very slight increase from 64% in 2018–19 (SCRGSP 2021). As **Figure 28** shows, there are clear differences between attendance rates for Aboriginal and Torres Strait Islander children in each jurisdiction, with attendance rates varying from a low of 28% of the rate for non-Indigenous children in the Northern Territory to a high of 77% in the Australian Capital Territory and Victoria.

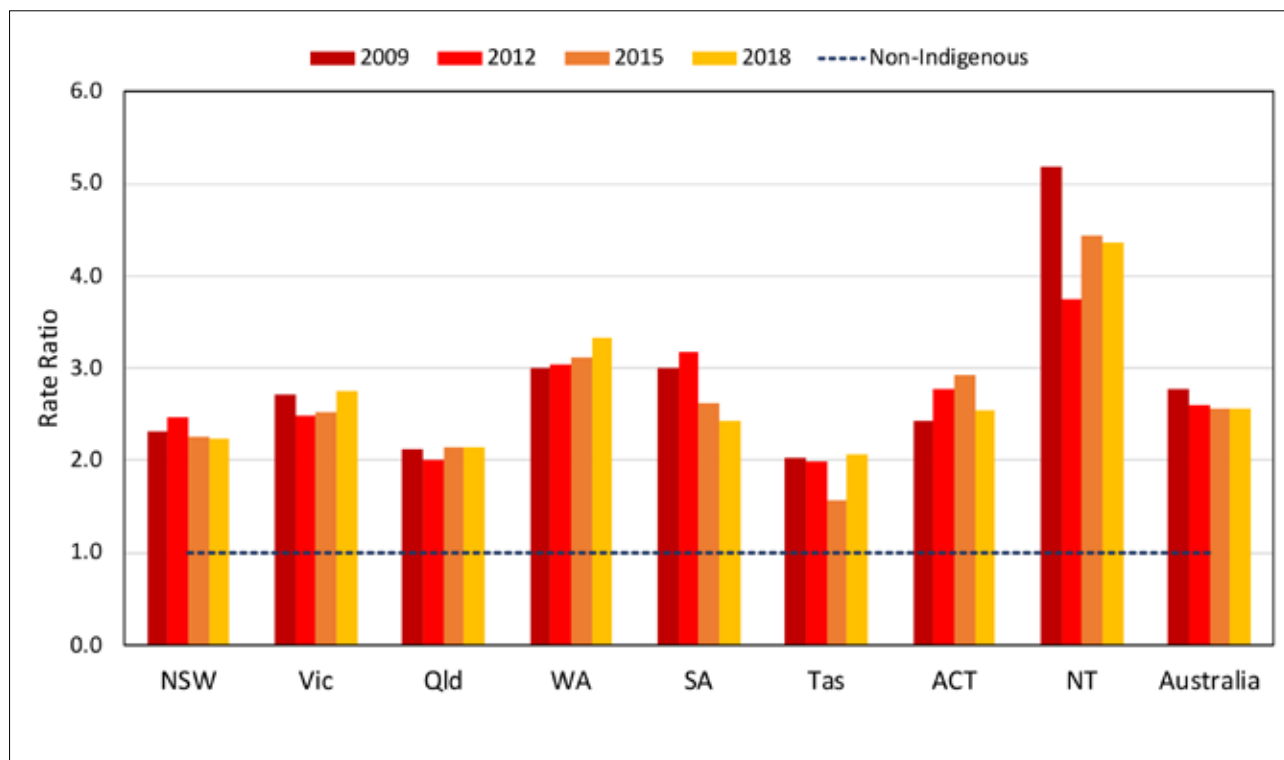
## THE ROLE OF ABORIGINAL-LED EARLY YEARS SERVICES

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 early education and care services – services that are crucial in setting a strong foundation for the entire education journey. These barriers cross over four domains: individual, service, system and cultural (SNAICC and ECA 2019).

**Individual-level barriers** include family stress and challenges such as housing instability, unemployment, financial hardship, discrimination and preventable health conditions that stem from histories of colonisation, child removal and long-term impacts of intergenerational trauma.

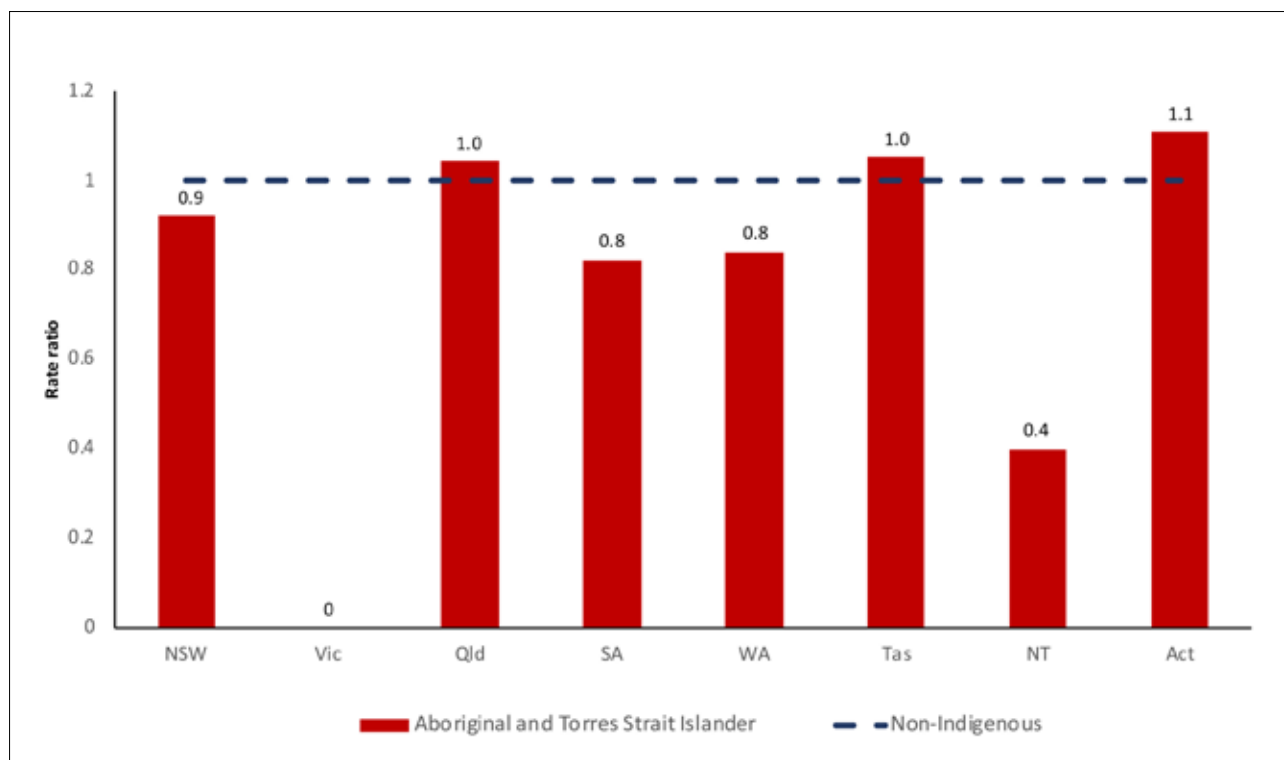
**Service-level barriers** refer to service delivery systems, programs, processes and style, as well as service staffing and practice.

**FIGURE 26** Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children developmentally vulnerable on two or more domains, 2009 to 2018



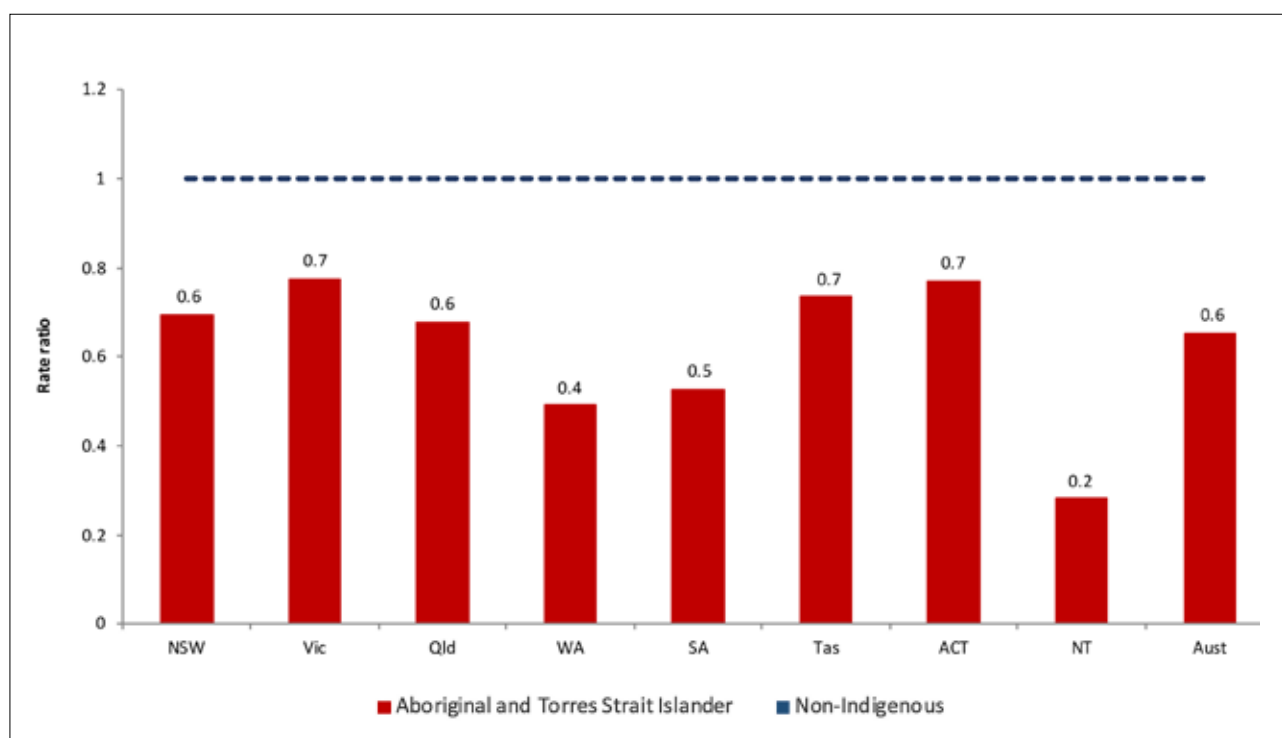
Data sources: AEDC (2019); Torrens University (2020).

**FIGURE 27** Rate ratios comparing Aboriginal and Torres Strait Islander children and non-Indigenous children attending 600 hours of preschool in the year before schooling, 2019–20, by state and territory



Notes: These data need to be interpreted with caution given the impacts of extended lockdowns due to COVID 19 during the census period (August 2020), particularly in Victoria. National data on this indicator are not published.  
Data sources: ABS (2021), Table 28, Table A5.

**FIGURE 28** Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children aged 0 to 5 years old attending Child Care Subsidy-approved childcare services in 2019–20, by state and territory



Data sources: SCRGSP (2021a), Table 3A.11.

### A FOCUS ON THREE-YEAR-OLDS

Financial returns on investments in early education have been found to be highest for children aged 0 to 3 years old, and diminish progressively as children become older, with interventions for disadvantaged children having the highest economic returns (Heckman 2008). While Australia has had success in increasing the four-year-old preschool attendance rate of Aboriginal and Torres Strait Islander children, this has not translated into significantly improved developmental outcomes (AEDC 2016, 2019). Early education for our most vulnerable children must start earlier in life to close the gap in AEDC outcomes.

The *Lifting Our Game* report states that Australian governments should expand universal access to early childhood education to three-year-old children and recommends that Australian governments progressively implement universal access to 15 hours per week of a quality early childhood education program for all three-year-olds, with access prioritised for disadvantaged children, families and communities during rollout (Pascoe and Brennan 2017). Although national and international research clearly demonstrates the benefits of early childhood education, almost all other developed nations invest more than Australia does into this sector and provide at least two years of early childhood education (Pascoe and Brennan 2017).

The availability of preschool to three-year-olds differs across Australian jurisdictions. Aboriginal and Torres Strait Islander three-year-olds are entitled to 15 hours of free preschool per week in Victoria and the Australian Capital Territory, and a total of 400 hours per year in Tasmania. In New South Wales and South Australia, Aboriginal and Torres Strait Islander three-year-olds have access to subsidised preschool. Western Australia, Queensland and the Northern Territory do not provide or subsidise universal preschool access for Aboriginal and Torres Strait Islander three-year-olds, but do enable access for children living in specific locations:

- Western Australia's KindiLink program, which operates in 38 primary schools (primarily in regional and remote locations), enables Aboriginal and Torres Strait Islander three-year-olds to attend six hours of free *play-and-learn* sessions per week if accompanied by a parent or caregiver.
- Queensland's KindyLinQ program is very similar – three-year-olds accompanied by a parent or caregiver may attend six hours of free *play-and-learn* sessions per week in specified locations – but attendance is not limited to Aboriginal and Torres Strait Islander children.
- In the Northern Territory, three-year-olds in very remote communities can access 15 hours of free preschool per week, although they must be accompanied by a guardian until they are three years and six months old.



**System-level barriers** include government policies like the introduction of the *Child Care Package* and accompanying activity test in 2018, which has further restricted hours of access to early years education and care based on parental employment and study activity and introduced administrative burdens for Aboriginal and Torres Strait Islander families and services, working to exclude many of the most vulnerable children from care.

Finally, **cultural-level barriers** are pivotal and cut across all areas. These barriers centre around a lack of cultural competency and trust and refer to services that do not reflect the culture and knowledge of the Aboriginal and Torres Strait Islander community. They are often seen as unsafe *whitefella* places that tend not to be used by Aboriginal and Torres Strait Islander families within that community.

One of the best answers lies in Aboriginal and Torres Strait Islander community-controlled early education and care services. These services are grounded within and managed by local communities and have the unique ability to provide a culturally safe and nurturing space for Aboriginal and Torres Strait Islander children to commence their education journey.

Aboriginal and Torres Strait Islander ECEC services, such as Multifunctional Aboriginal Children's Services and Aboriginal Child and Family Centres, operate as fundamental hubs for Aboriginal and Torres Strait Islander families, providing culturally safe wraparound supports that ensure the safety, health and wellbeing of children, families and communities. These centres often provide a range of services in addition to early childhood education and care, 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 services, as they act as an anchor point for relationship building and to facilitate later referrals, as required.

The unique ability for Aboriginal and Torres Strait Islander ECEC services to break down barriers to access that are otherwise unable to be broken down by non-Indigenous providers can be seen in the results of a 2014 evaluation of New South Wales Aboriginal child and family centres. This evaluation showed that 78% of children attending childcare through these centres had not previously accessed services (CIRCA 2014).

These services also help build stronger Aboriginal and Torres Strait Islander communities by nurturing local leadership, a skilled workforce and connected families (Brennan 2012). Integrated early childhood education and care through Aboriginal and Torres Strait Islander educators and services enhances a child's sense of cultural safety and belonging (SNAICC 2012a). These unique services address more than early education,

by supporting families in meaningful ways across a range of areas and building engagements with families over the longer term.

## NEW INVESTMENTS IN EARLY CHILDHOOD EDUCATION AND CARE

In August 2021, the Australian Government announced that the first *Commonwealth Implementation Plan for Closing the Gap* would include \$120 million of expenditure to improve Aboriginal and Torres Strait Islander children's access to quality early childhood education. This funding includes \$81.8 million for 27 new sites across Australia in the *Connected Beginnings* program, which aims to support the integration of early childhood education, health, development and family support programs for Aboriginal and Torres Strait Islander children. The implementation plan also includes a \$29.8 million expansion of the *Community Child Care Fund Restricted Program*, to fund up to 20 additional childcare services in remote communities, with the majority managed by Aboriginal and Torres Strait Islander organisations. This program provides much needed financial support for services that are not financially viable under *Child Care Subsidy* funding (Tudge and Wyatt 2021). There are also plans to replicate the *Early Years Education Program* in four sites. This program uses a multi-disciplinary approach that offers high-quality early education and care, infant mental health and family support, and is delivered in partnership with families and local community organisations.

This announcement is a welcome investment in improving access to early childhood education and care. However, to be successful, it is essential that all of these initiatives provide opportunities for Aboriginal and Torres Strait Islander communities and organisations to lead, create and adapt models of practice so that they are grounded in our cultural strengths of nurturing children and supporting families. In line with Priority Reform Two of the National Closing the Gap Agreement, they must drive investment in and build on the strengths of Aboriginal and Torres Strait Islander community-controlled integrated early years services.

## 3.10 INADEQUATE GOVERNMENT INVESTMENT IN FAMILY SUPPORT SERVICES

Prevention and early intervention programs and services are essential for strengthening families and enabling them to provide the best possible environment for their children. While quality data are not available to depict access rates of all family support services, data are published about access to intensive family support services. These models provide time-limited, typically in-home, intensive casework supports aimed at addressing the complex needs of families experiencing vulnerabilities (SCRGSP 2021b). Some of these are operated by Aboriginal and Torres Strait Islander

community-controlled organisations (see, for example, SVA 2021), and they have been found to bridge known barriers to service delivery by providing culturally strong casework supports and assisting families to access and navigate the broader service system (SNAICC 2015).

**Figure 29** shows the frequency at which Aboriginal and Torres Strait Islander and non-Indigenous children commenced intensive family support services in 2019–20, alongside each state and territory government’s average per child expenditure on intensive family support services. Meanwhile, **Table 2** shows the raw numbers of Aboriginal and Torres Strait Islander and non-Indigenous children commencing intensive family support services. It can be seen from Figure 29 that, in 2019–20, Aboriginal and Torres Strait Islander children were 7.94 times more likely to commence an intensive family support service than non-Indigenous children, noting that data was unavailable for Queensland, the Northern Territory and Tasmania. This represents a significant increase from previous years (for example, in 2016–17, Aboriginal and Torres Strait Islander children were 4.6 times more likely to commence a service). Jurisdictional rate ratios of Aboriginal and Torres Strait Islander children commencing intensive family support services in 2019–20, compared to non-Indigenous children, ranged from 6.86 in New South Wales to 14.75 in Western Australia.

Over-representation in access to support services must also be considered alongside the level of support provided. Figure 29’s illustration of each state and territory’s expenditure on intensive family support services per child 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 families varies across jurisdictions. For example, in Western Australia, while access for Aboriginal and Torres Strait Islander families to intensive family support appears high when compared to non-Indigenous children, the government invests far less per child (\$25.86) in these services than any other state or territory, which is likely to have significant impacts on service availability and quality. Table 2 also indicates that the percentage of Aboriginal and Torres Strait Islander children commencing an intensive family support service was lowest in Western Australia and South Australia (1.3%). Victoria invests in intensive family support at the highest rate per child (\$112.47) of states and territories with available data, and Table 2 shows that Aboriginal and Torres Strait Islander children also commence a service at the highest rate in Victoria compared to other jurisdictions.

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 intensive family support services prioritise families who have been

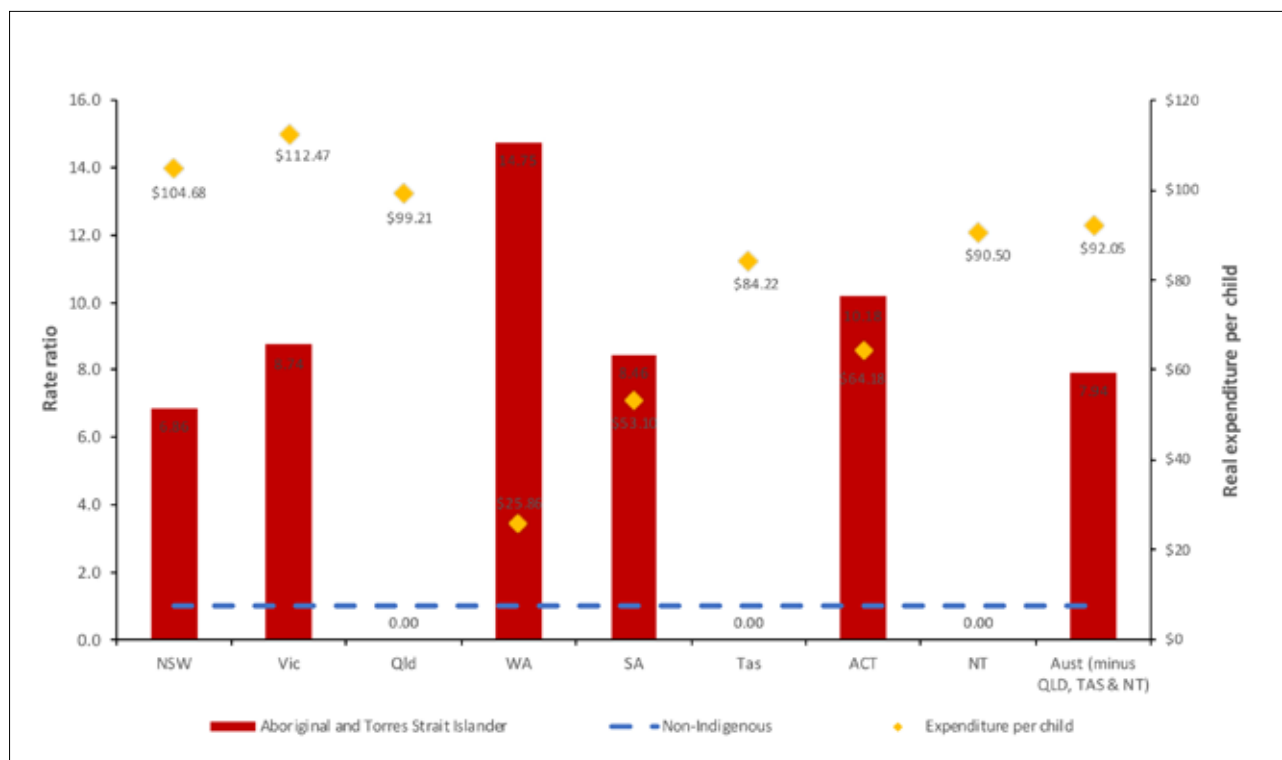
screened in for investigation of a *risk-of-harm* report. Although these services are considered voluntary, there is some conjecture about the extent to which families have free choice to participate. The potential consequences for families choosing not to engage with services include more intrusive interventions by the statutory agency and removal of children into out-of-home care. There is also conjecture 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 (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, is very limited and inconsistent due to a lack of agreed definitions of family support and the lack of consistent reporting frameworks between jurisdictions. Publicly reported state and territory expenditure on child protection and family support services is 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 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 out-of-home care services. The premise of the *National Framework for Protecting Australia’s Children* (both the first Framework from 2009–2020 and the second Framework from 2021–2031) is that redressing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care requires an increased focus on prevention and early intervention. 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).

**FIGURE 29** Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children commencing intensive family support services (IFSS) in 2019–20, and intensive family support services expenditure per child (general population), by state and territory



Notes: (a) Data of Indigenous children commencing IFSS unavailable for Qld, NT and Tas in 2020. (b) Australian rate ratio excludes Qld, NT and Tas. (c) Rate ratios calculated using number of children commencing IFSS and child population by state.  
Source: AIHW (2021i), Table P3; SCRGSP (2021c), Table 16.A33, Table 16A.34.

**TABLE 2** Number of Aboriginal and Torres Strait Islander and non-Indigenous children and families accessing intensive family support services by state and territory

| Jurisdiction* | Number of Aboriginal and Torres Strait Islander children commencing intensive family support services | Number of non-Indigenous children and families commencing intensive family support services | Proportion of Aboriginal and Torres Strait Islander children in the population who commenced intensive family support services |
|---------------|---|---|--|
| NSW           | 3,448   | 7,412   | 3.0%   |
| VIC           | 1,714   | 11,276  | 7.0%   |
| QLD**         | 5,246   | 6,397   | 5.4%   |
| WA            | 544   | 513   | 1.3%   |
| SA            | 234   | 542   | 1.3%   |
| ACT           | 159   | 234   | 2.5%   |
| NT            | 558   | 78  | 2.2%   |

Source: SCRGSP (2021c), Table 16A.34; AIHW (2021i), Table P3. \*Data for Tasmania were not disaggregated by Indigenous status in 2019–20. \*\*Data from Qld are not directly comparable to previous years due to the scope of Queensland's intensive family support services changing from tertiary family support services to secondary family support services. Queensland data for 2019–20 should be regarded as estimated only, and are not necessarily an accurate reflection of the number of children receiving intensive family support services.

## DATA GAP

### ACCESS TO INTENSIVE FAMILY SUPPORT SERVICES

Available data reported nationally is limited to commencement of intensive family support services 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.

**Recommendation:** Collection and publication of national data capturing insight into participation in intensive family support services following commencement of a service.

### ACCESS TO NON-INTENSIVE FAMILY SUPPORTS

The gaps in understanding access to non-intensive family support services are compounded by challenges to agree on definitions of what a family support service is and being able to compare different types and levels of support provided by different services within and between states and territories.

**Recommendation:** Collection and publication of national data on Aboriginal and Torres Strait Islander 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 intervention programs for Aboriginal and Torres Strait Islander children and families, which limits the capacity to confirm the extent of and reasons for effectiveness. This includes limited evaluation of effective culturally safe family support services. Improved data on the impact of early intervention services that keep Aboriginal and Torres Strait Islander children out of out-of-home care is critical to informing future policy and program development and implementation.

**Recommendation:** Prioritisation of culturally appropriate evaluations of early intervention programs for Aboriginal and Torres Strait Islander children and families, particularly programs delivered by community-controlled organisations.

**Figure 30** depicts that 84.1% of current expenditure is allocated to the tertiary end of the sector, compared to 15.9% in measures that seek to prevent, support and reunify families. At only 7.6% and 8.4% of the

overall budget, respectively, governments are not only underinvesting in intensive family support services and family support services, but also not shifting the balance, despite rhetoric about the value of prevention and early intervention. 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) to early intervention family support services (voluntary and secondary level) (COAG 2009). The *Prevention* discussion in part 4.3 further examines the importance and breakdown of prevention services as considered by the Aboriginal and Torres Strait Islander Child Placement Principle.

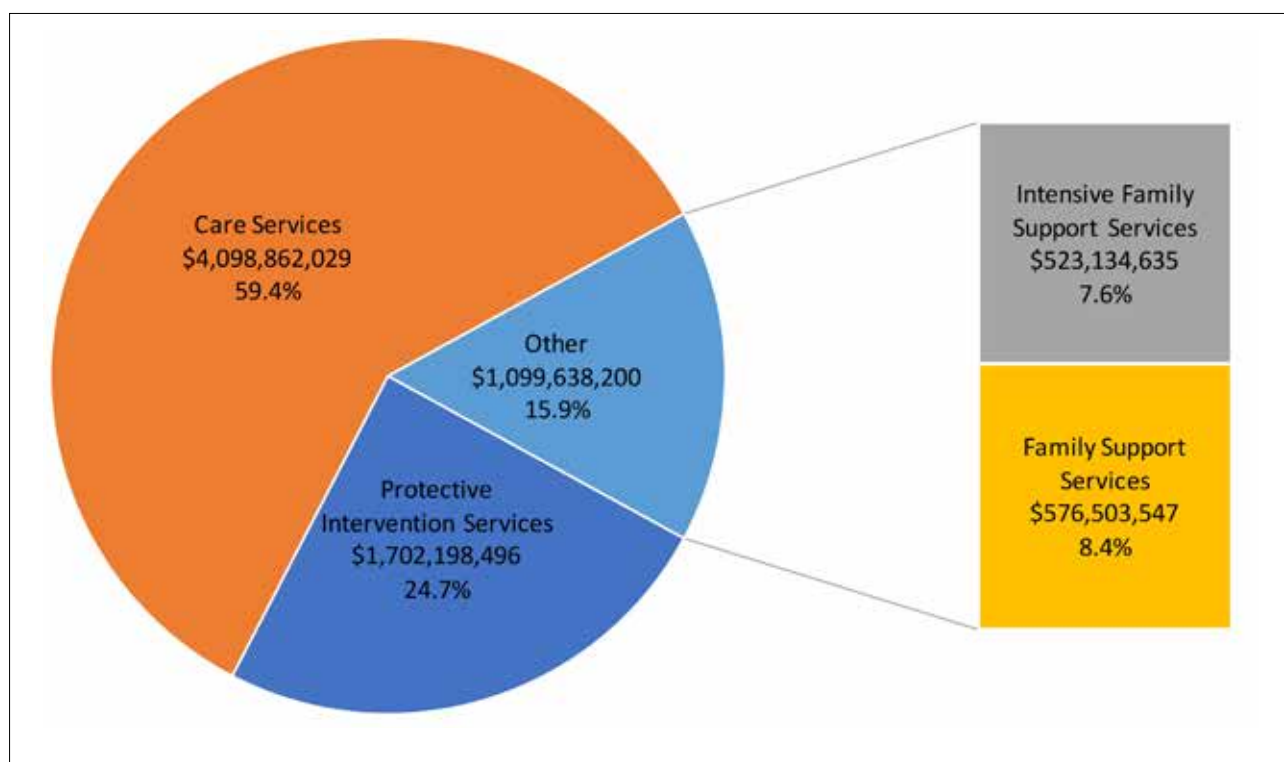
**Figure 31** and **Table 3** provide a snapshot of state and territory government investment in family support and intensive family support services as a percentage of total child protection government investment. Nationally, there has been a disappointing reduction in proportional investment in family support and intensive family support services, in terms of a percentage of overall expenditure, from 17.1% in 2015–16 to 15.9% in 2019–20.

Investment proportions into family support and intensive family support services have been steady in Victoria (25.3%) and the Northern Territory (23.7%). These jurisdictions have the highest proportional expenditure rates nationally by a significant margin, currently spending nearly a quarter of their child protection budgets on direct prevention services. New South Wales (13.0%) and Queensland (15.7%) have seen slight decreases in proportional expenditure compared to the previous financial years, falling further behind leading jurisdictions. Western Australia (5.7%) and South Australia (8.8%) spent the least, and both have had significant declines in their prevention expenditures in the past five years, from 11% to 5.7% and 14.6% to 8.8% respectively. The Australian Capital Territory (12.3%) reported a slight increase in proportional investment over the same five-year period; however, its proportional investment remains modest when compared to Victoria and the Northern Territory. Tasmania has also seen an increase in proportional investment since 2015–16, up from 15.7% to 18.5%; a welcome increase from the lowest Tasmanian rate of investment at 12.8% in 2018–19.

However, 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.

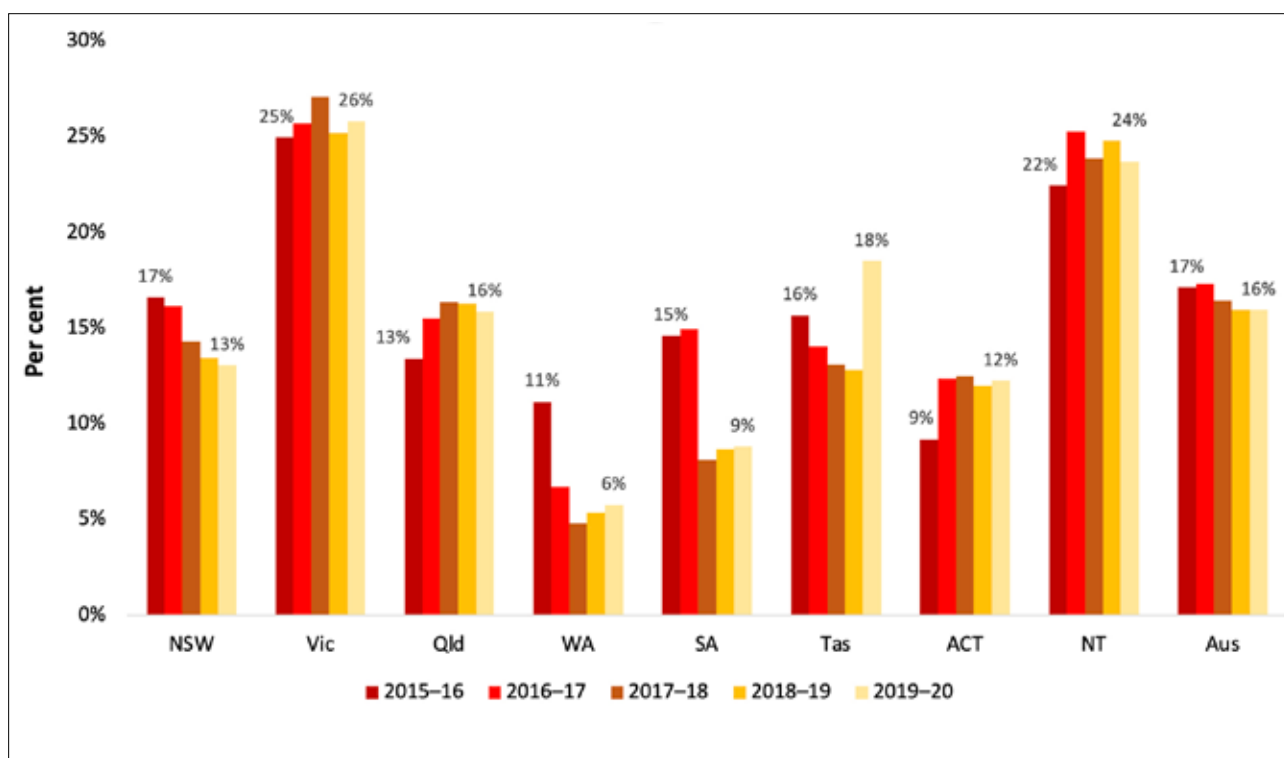


**FIGURE 30** Nationwide proportions of government expenditure on child protection services, 2019–20



Source: SCRGSP (2021c), Table 16A.8.

**FIGURE 31** Total proportion of expenditure on family support and intensive family support by state and territory, 2015–16 to 2019–20



Source: SCRGSP (2021c), Table 16A.8.

**TABLE 3** Total % expenditure on family support and intensive family support over time

|                 | 2015–16 | 2016–17 | 2017–18 | 2018–19 | 2019–20 |
|-----------------|---------|---------|---------|---------|---------|
| <b>NSW</b>      | 16.62%  | 16.15%  | 14.31%  | 13.44%  | 13.07%  |
| <b>Vic</b>      | 24.96%  | 25.72%  | 27.08%  | 25.21%  | 25.80%  |
| <b>Qld</b>      | 13.42%  | 15.50%  | 16.37%  | 16.28%  | 15.86%  |
| <b>WA</b>       | 11.17%  | 6.71%   | 4.79%   | 5.34%   | 5.77%   |
| <b>SA</b>       | 14.60%  | 14.97%  | 8.13%   | 8.67%   | 8.81%   |
| <b>Tas</b>      | 15.67%  | 14.04%  | 13.10%  | 12.83%  | 18.49%  |
| <b>ACT</b>      | 9.20%   | 12.38%  | 12.50%  | 12.02%  | 12.26%  |
| <b>NT</b>       | 22.46%  | 25.26%  | 23.85%  | 24.80%  | 23.70%  |
| <b>National</b> | 17.13%  | 17.32%  | 16.45%  | 15.94%  | 15.94%  |

Source: SCRGSP (2021c), Table 16A.8.

For example, although Victoria had the highest proportional expenditure on family support and intensive family support, only 11.6% of children who commenced an intensive family support service in 2019–20 were Aboriginal or Torres Strait Islander. When compared to the 26.9% of children in out-of-home care in Victoria who were Aboriginal or Torres Strait Islander, this suggests that the level of culturally safe and accessible services is not aligned to the level of support needs for Aboriginal and Torres Strait Islander families.

Another example is that the Northern Territory's high proportion of expenditure on family support and intensive family support (23.7%) is in part driven by a high *internal* spend on family support functions that are part of the statutory child protection system. In 2019–20, Territory Families (now the Department of Territory Families, Housing and Communities) reported having procured \$8.91 million of outsourced family support services, which sits alongside \$8.34 million invested by the Australian Government on intensive family support services in the Northern Territory (Territory Families 2020; SCRGSP 2021b). This suggests that the remaining 66% of the \$50.57 million of funding spent on family support and intensive family support services was invested internally in the statutory system (SCRGSP 2021b), unless other government departments besides Territory Families also procured outsourced family support services (which is unlikely). This analysis aligns with the views of Northern Territory community stakeholders, many of whom have expressed concern at the lack of community led family support services on the ground. However, the Northern Territory

government is making efforts to improve this situation, having completed a new grant round for family support services to be delivered by Aboriginal community-controlled organisations and non-Indigenous services working in partnership with community-controlled organisations in late 2021.

In spite of comparatively low levels of investment, there are many good practice examples of family support and early intervention programs around Australia, particularly those being delivered by Aboriginal community-controlled organisations. Examples of these are provided in part 4.3 to illustrate what can be achieved and scaled up with proper investments by jurisdictions into Aboriginal-led and -delivered family support and intensive family support services.

### 3.11 THE IMPACTS OF COVID-19 ON CHILDREN AND FAMILIES

Aboriginal and Torres Strait Islander children and their families have been disproportionately impacted by the COVID-19 pandemic, and the social and economic ramifications of the pandemic will be felt in the years to come. While the Australian Government has recognised that Aboriginal and Torres Strait Islander people are at greater risk from COVID-19 than non-Indigenous people, these risks extend well beyond the health threat posed by the virus itself, to higher vulnerability to social and economic impacts due to pre-existing levels of disadvantage. This has had significant flow-on effects for many Aboriginal and Torres Strait Islander children and families.

Since March 2020, SNAICC has engaged with service providers for Aboriginal and Torres Strait Islander children and families to determine the short- and long-term effects of the pandemic, and to advocate for effective policy and practice responses. As part of this engagement, in late 2020, SNAICC conducted an online survey with child and family sector organisations to gain further insight into the short- and long-term effects of COVID-19. The responses documented in the *Ongoing Impacts Survey Report*, available on the SNAICC website, confirm that the pandemic has disproportionately impacted Aboriginal and Torres Strait Islander children and their families. But many ACCOs have found innovative ways to adapt their service delivery model to support children and families in their community, despite having limited additional supports and resources provided to them.

Key issues that arose from SNAICC's engagement with organisations and stakeholders are highlighted below. An awareness of these issues is critical to immediate and long-term responses to pandemic impacts, and to planning for more effective responses to future pandemics and emergency responses.

## EARLY YEARS SERVICES

The onset of the pandemic, and related restrictions in its early stages, brought on the effective collapse of the ECEC funding model across Australia that ties funding directly to children's attendance rates. Positively, the Australian Government intervened to provide a relief package for services that included suspending the operation of the childcare subsidy and providing free childcare to families for a limited period. Throughout the pandemic, Aboriginal and Torres Strait Islander early years services have faced great challenges, including financial insecurity, variable attendance rates across the country affecting whether relief payments were adequate, workforce instability, and the enormous challenges of supporting their children and families through very uncertain times. The system's unpreparedness for the crisis resulted in high disruption and uncertainty for service providers and families that will have long-term repercussions.

While free childcare was in place, key barriers to access childcare were removed, including administrative registration requirements, the operation of the activity test, and interactions with Centrelink, which resulted in some Aboriginal and Torres Strait Islander services reporting significant increases in the numbers of Aboriginal and Torres Strait Islander children attending their services, as well as increases in the attendance hours for children. Some services reported that vulnerable Aboriginal and Torres Strait Islander families who were not previously accessing ECEC supports did so during this time. However, the childcare subsidy was reimposed in most states and territories after six weeks. Aboriginal and Torres Strait Islander early years service providers are working hard to maintain the momentum they gained with vulnerable Aboriginal

and Torres Strait Islander families during that time, to ensure that those families remain engaged and continue to be able to access crucial ECEC supports for the wellbeing and developmental needs of their children, despite the re-imposition of administrative and cost barriers.

SNAICC has called for fundamental changes to the early education system so that Aboriginal and Torres Strait Islander early years services are adequately and more flexibly resourced to provide culturally strong and holistic supports that enable our children to thrive in their early years. SNAICC developed a proposal on COVID-19 recovery and the long-term reforms that are needed; this proposal is available from the SNAICC website.

## MENTAL HEALTH OF CHILDREN AND CONNECTION TO CULTURE

The mental health impacts of COVID-19 on Aboriginal and Torres Strait Islander children cannot be underestimated. Aboriginal and Torres Strait Islander children and families who are in contact with child protection systems are commonly impacted by experiences of trauma and require high levels of therapeutic support. Disruption and stress caused by COVID-19 have affected the mental health of children and parents who are already experiencing high vulnerability. Additional stress has resulted from economic hardship, health issues, isolation, increased demands of home schooling, and a lack of respite for parents and carers of children with disabilities, behavioural issues and developmental delays. Protective factors, including cultural and community networks that support wellbeing for children and families, have been heavily disrupted while social distancing measures have been in place.

Although a model of telehealth was rolled out across Australia to respond to mental health issues, many Aboriginal and Torres Strait Islander children and families missed out. Families encountered multiple access barriers to telehealth, including a lack of access to technology, restricted capacity of services to build trusting relationships through online communications, and services that are not culturally safe or designed to meet the specific needs of children and their families.

## TECHNOLOGICAL UPGRADES AND CAPABILITY BUILDING

While many people have turned to technological resources to adapt, the crisis highlighted the *digital divide* that excludes many Aboriginal and Torres Strait Islander families. Lack of access to technology or internet connection throughout the pandemic has, in some cases, severely impacted children's access to education and families' access to health and other support services. SNAICC has heard from many stakeholders that outdated telecommunications infrastructure and lack of internet access, particularly in remote areas, has severely impacted the ability of

Aboriginal and Torres Strait Islander children and families to adapt to social distancing measures. Many ACCOs have also struggled to adapt to working from home without sufficient technological infrastructure in place. Dedicated investment is required to improve the technological capabilities of ACCOs and to improve access to telecommunications for remote communities.

## WORKFORCE

A consistent theme in SNAICC's consultations has been the impact of COVID-19 on the Aboriginal and Torres Strait Islander workforce, particularly in ACCOs. These organisations have been required to respond promptly to a crisis that disproportionately affects their staff and clients, with limited resources. Government messaging around Aboriginal and Torres Strait Islander people aged 50 years and over being at the same level of risk from COVID-19 as non-Indigenous people over the age of 70 years has had significant impacts on people's ability to continue working. SNAICC also heard from its member organisations in late 2021 that lower vaccination rates among Aboriginal and Torres Strait Islander communities (more detail provided below) had begun to create significant challenges, to both staffing and families' ability to participate in services such as ECEC, in the face of government vaccine mandates for many service sectors.

It is well established that in the child and family services sector, the Aboriginal and Torres Strait Islander workforce is vital to achieving better outcomes for children and families. Supports are required for ACCOs to sustain their workforce and be prepared for any future crisis.

## KINSHIP CARERS

The response to COVID-19 has created additional challenges for both kinship and foster carers. These impacts have often been felt more acutely by Aboriginal and Torres Strait Islander kinship carers who provide a high level of care for children in their communities, often with less support and facing higher levels of social and economic disadvantage and discrimination than other carers. Many Aboriginal and Torres Strait Islander kinship carers are in the high COVID-19 risk category, above 50 years of age.

Kinship carers are under additional pressures as a result of unemployment and financial hardship, changed contact arrangements for children with their parents, and providing additional home education support for children. At times during the pandemic, there has been difficulties for carers to access essential family supplies, including basic food items and hygiene products. While these challenges are being faced by all families, the impacts on kinship carers are often greater as many are providing care for children who have high needs, including disabilities, behavioural issues and experiences of trauma. Responses must also address

the needs of permanent kinship carers who may be receiving less support from governments due to no longer being considered part of the statutory system.

## FAMILY AND CULTURAL CONTACT, REUNIFICATION AND PERMANENT CARE

Restrictive measures imposed due to the COVID-19 pandemic have limited access between children in out-of-home care and their parents and family members. Policy responses have been inconsistent, with some states and territories limiting contact visits, some requiring services to support visits without safety guidance, and some measures not considering the developmental needs of young children. Reduced contact can have devastating impacts on children, particularly for babies, very young children and mothers who may still be breastfeeding. Reduced contact can be harmful for child-parent attachments, wellbeing and prospects of reunification. Alternative contact arrangements, such as by video conferences, are often not appropriate for young children and children with disabilities.

For Aboriginal and Torres Strait Islander children, contact is vitally important, not only with parents but also with extended family and kin. Even where contact with parents has been maintained, the COVID-19 pandemic has reduced the opportunity for children in out-of-home care to participate in the cultural life of their communities and to visit their Country.

COVID-19 pandemic measures have also prevented parents from following reunification plans due to reduced access to support services, higher levels of stress and anxiety and reduced physical contact with their children. The consequences are magnified in many states and territories that impose limited time frames for pursuing reunification before children are moved to permanent care orders. Adjournments and delays to court proceedings have also delayed decisions about child removal, family contact, placement and reunification, further hindering work towards family reunification. SNAICC has called on governments across the country to ensure that no Aboriginal and Torres Strait Islander family is penalised or disadvantaged in respect of a reunification plan because of COVID-19-related disruptions that were beyond their control.

## VACCINE ROLLOUT CHALLENGES

In all states and territories, Aboriginal and Torres Strait Islander people have consistently been vaccinated against COVID-19 at much lower rates than the non-Indigenous population. By early November 2021, the gap was 27.8 percentage points nationwide (with 49.6% of Aboriginal and Torres Strait Islander people fully vaccinated compared to 77.4% of non-Indigenous people: Ting, Shatoba and Palmer 2021).



There are multiple and complex reasons underpinning this gap, including but not limited to:

- limited initial supplies of the Pfizer vaccine, which for some time was the only vaccine recommended for people under 60 years of age (while the Aboriginal and Torres Strait Islander population profile is, on average, much younger than the non-Indigenous population profile)
- Australia-wide hesitancy towards the AstraZeneca vaccine (not only among Aboriginal and Torres Strait Islander communities), following rapid changes to government recommendations about its safety, and misinformation campaigns around vaccines more broadly
- an understandable distrust of the mainstream health system among some Aboriginal and Torres Strait Islander communities, given historical unethical conduct and (in many places) ongoing experiences of poor treatment compared to non-Indigenous patients
- the logistical challenges associated with distributing vaccines across remote communities, including transportation, storage, staffing, and physically reaching widely dispersed populations (Ah Chee and McLnerney 2021).

To combat vaccine hesitancy and dispel misinformation, Aboriginal and Torres Strait Islander community-controlled health organisations (ACCHOs) around the country developed innovative methods of connecting with community members and gaining their trust (see, for example, James 2021; Jonscher 2021).

These organisations' success at rolling out vaccines is further proof that services to our people work best when they are both *delivered* by our people and *led* by our communities. However, governments have not always acknowledged the pivotal role played by ACCHOs in defending our communities against COVID-19 thus far, with several examples of key ACCHOs being left out of decision-making and planning processes regarding restrictions and vaccinations (see, for example, Allam 2021; Brennan 2021).

Unfortunately, while COVID-19 was almost entirely kept out of Aboriginal and Torres Strait Islander communities throughout 2020 and early 2021, outbreaks of the Delta variant throughout the second half of 2021 spread rapidly across several states and territories, including into vulnerable and under-vaccinated Aboriginal communities in regional and remote areas. (As mentioned above, in some cases these outbreaks followed governments failing to engage with ACCHOs on locally led strategies to protect those areas.) Overcrowded housing in some of these communities (as discussed in part 3.8 above) meant that people infected with COVID-19 were unable to isolate away from other members of their households, and saw entire multigenerational families simultaneously infected –

with the COVID positive proportion of some majority Aboriginal communities exceeding 15% (Gooley and Clun 2021; NITV Online 2021).

## CONCLUSION

COVID-19 exacerbated existing flaws within systems that impact Aboriginal and Torres Strait Islander children and their families. Despite government acknowledgement of widespread impacts, to date there has not been a systemic, comprehensive and targeted policy response to meet the unique short and long term needs of Aboriginal and Torres Strait Islander children and their families. While all states and territories are now into the recovery phase of the pandemic, the Australian Government should consider the lessons learnt from this crisis in any contingency and future planning. Supporting Aboriginal and Torres Strait Islander children and their families throughout the recovery process requires prioritised investments in ACCOs to provide them with the flexibility to address the specific needs they identify within their communities.



## PART 4

# IMPROVING SERVICE SYSTEMS THROUGH SELF-DETERMINATION, CULTURAL AUTHORITY AND CONNECTION TO CULTURE

Part 4 of this report focuses on how child protection service systems can be improved, including through the genuine achievement of self-determination, cultural authority, connection to culture, data sovereignty and by addressing structural racism and ritualism. It is crucial that the overarching system – and its guiding national and jurisdictional policies, frameworks, pieces of legislation, budgets and oversight mechanisms – fully implement all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle and all four Priority Reforms of the *National Agreement on Closing the Gap*. This includes ensuring that a strong Aboriginal community-controlled sector is in place and that independent oversight mechanisms are established and resourced to allow for legitimate shared decision-making and access to critical data.

### 4.1 WHAT IS SELF-DETERMINATION?

Self-determination is a collective right of Aboriginal and Torres Strait Islander peoples to determine and control their own destiny. As recognised in the United Nations *Declaration on the Rights of Indigenous Peoples* (UNDRIP), this is a right for Aboriginal and Torres Strait Islander peoples to exercise autonomy in their own affairs and to maintain and strengthen distinct political, legal, economic, social and cultural institutions (UNGA 2007). This right recognises that Aboriginal and Torres Strait Islander communities are best placed to make informed decisions about the safety, wellbeing and protection needs of their children (Family Matters campaign 2020), and that “inherent in the right of self-determination is Indigenous decision-making carried through into implementation” (HREOC 1997, p. 276). This was recently echoed by the Australian Human Rights Commission (AHRC 2020), which emphasises the importance of all levels of government creating an enabling environment to achieve self-determination. The AHRC recognises that Aboriginal and Torres Strait Islander people know what is in their own interests and hold the solutions, so it is about setting up the space for them to achieve the best outcomes. Such an environment requires Australian governments to change their ways of working and remake processes,

programs and services to be community-led, strengths-based and trauma-informed (AHRC 2020, p. 28).

Self-determination was also a key theme of SNAICC’s 2021 community consultations when developing the second *National Framework for Protecting Australia’s Children 2021–2031* (the National Framework). Aboriginal and Torres Strait Islander participants stressed that the National Framework needs to recognise and support Aboriginal and Torres Strait Islander people, organisations and communities to realise their right to self-determination, in order to positively transform the child protection space for our children. This must be achieved by governments recognising the critical role already being played by many Aboriginal community-controlled organisations (ACCOs) in keeping families together and keeping our children safe. Governments also should support upscaling the ACCO sector, increase government funding towards ACCOs, and support the transfer of control and power from non-Indigenous organisations and government agencies to Aboriginal and Torres Strait Islander peoples and ACCOs.

These consultations highlighted that programs designed and overseen by Aboriginal and Torres Strait Islander communities, and delivered by an empowered Aboriginal and Torres Strait Islander workforce, have the greatest benefits for our children and families (SNAICC 2021). These programs tend to be strengths-based and incorporate local cultural practices, which increase the likelihood of Aboriginal and Torres Strait Islander communities feeling empowered and connected. Aboriginal and Torres Strait Islander participants in these consultations also appealed for broader substantive changes to the current child protection systems in all Australian jurisdictions, including for governments to step out of the way and relinquish power to Aboriginal and Torres Strait Islander peoples. The enduring power imbalances within child protection systems are amongst the clearest indicators that self-determination is still lacking and that governments’ current efforts are not going far enough to achieve this collective right. Those consulted called for governments not only to *allow*, but to *support*

self-determination being realised through legislation, policy and practice. Communities called for Aboriginal and Torres Strait Islander peoples to be supported to commission their own work, develop their own agendas, and have full control over the operation of those child protection systems and processes affecting their children and families.

As highlighted in previous Family Matters reports, national and international documents recognise the importance of self-determination and outline how it can be realised in practice. This includes the *Uluru Statement from the Heart, Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (HREOC 1997), the *Family is Culture Review Report* (Davis 2019), the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). The two international covenants – both ratified by Australia – recognise the right to self-determination as a fundamental principle of modern international law, while *Bringing Them Home* and *Family is Culture* identify self-determination as being more than consultation, participation and/or partnership with Aboriginal and Torres Strait Islander peoples. It is critical that Aboriginal and Torres Strait Islander peoples have full decision-making authority, a collective say in the wellbeing of their children and young people, and control over their own lives and outcomes (HREOC 1997).

The new *National Agreement on Closing the Gap* has encapsulated the concept of self-determination through its four Priority Reforms, recognising that self-determination is supported when decision-making is genuinely shared between governments and Aboriginal and Torres Strait Islander peoples. The National Agreement provides strong incentives for all parties to build the community-controlled sector to achieve Aboriginal and Torres Strait Islander communities' right to self-determination. It also commits state and territory governments to transforming child protection systems and services, including by enabling self-determination in child protection decision-making, supporting children and families to remain safely together, and ensuring that the relevant systems meet the needs of Aboriginal and Torres Strait Islander children, families and communities (DSS 2021).

The *National Framework for Protecting Australia's Children (2021–2031)* further commits all Australian jurisdictions to establish Aboriginal and Torres Strait Islander self-determination in the child protection sector, including by embedding all four Closing the Gap Priority Reforms. Through the National Framework, governments recognise that Aboriginal and Torres Strait Islander people have the right to self-determination and, to support this right, governments are to recognise and build on the strengths and leadership of the community sector. In endorsing the National Framework, governments have committed to transforming child protection systems by:

- fully embedding the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle
- supporting delegation of authority in child protection to Aboriginal and Torres Strait Islander families, communities and organisations
- taking active steps towards partnering with Aboriginal and Torres Strait Islander families, communities and organisations in child protection system design and administration
- undertaking relevant reforms through each jurisdiction's next review of relevant legislation and policy
- further developing the Aboriginal and Torres Strait Islander evidence base for community-designed and -delivered approaches to child and family welfare (DSS 2021).

## DATA SOVEREIGNTY

Data sovereignty recognises that people and communities who have control over their own data have the power to set and effectively adapt their own agenda, control their public narrative, and design programs that work for them. Control over data in this context includes having the right to govern the collection, ownership, and application of all data related to Aboriginal and Torres Strait Islander child protection and family strengthening services. Data sovereignty requires governments to support Aboriginal and Torres Strait Islander communities and organisations to build their capabilities and expertise to collect, use, store and interpret data in a meaningful way (JCOCTG 2020). It also requires governments to transfer their current control of data and information – including resources, tools and practices – to Aboriginal communities, experts and ACCOs.

Priority Reform Four of the National Agreement supports Aboriginal and Torres Strait Islander people to gain access to – and have the capability to use – locally-relevant data and information, in order to set priorities for efforts to close the gap, drive their development, and monitor their implementation (JCOCTG 2020). Key data features in the National Agreement include:

- the partnerships put in place to guide improved data systems (including frameworks for the collection, access, management and use of data) to inform shared decision-making
- governments agreeing to provide Aboriginal and Torres Strait Islander communities and organisations access to the same data and information on which their own decisions are made (subject to privacy requirements and ensuring data security and integrity)
- governments agreeing to collect, handle and report data at sufficient levels of disaggregation, and in an accessible and timely way, to empower local Aboriginal and Torres Strait Islander communities to access, use and interpret data for local decision-making.



From 2017 to 2019, the Aboriginal and Torres Strait Islander Working Group for the *National Framework for Protecting Australia's Children (2009–2020)*, in partnership with an inter-governmental working group, led a process to design improved indicators aligned to the Child Placement Principle. Indicators were agreed with the Children and Families Secretaries Group (CaFS) for data development throughout 2019 and 2020; however, since that time, this process has stalled. Given the relative lack of transparent public reporting on these indicators, SNAICC's annual review of all jurisdictions' implementation of the Child Placement Principle is a key step towards data sovereignty. These reviews not only help to hold governments accountable but also support SNAICC to access, consolidate, monitor and publish data that can build a more complex and transparent picture of the child protection sector and the experiences of Aboriginal and Torres Strait Islander children and their families when interacting with the sector.

As identified in SNAICC's 2021 community consultations, Aboriginal and Torres Strait Islander people currently consider a lack of government accountability and transparency in the child protection sector to be driven by governments' inability (or disinclination) to share critical data. As recognised in *The Family Matters Report 2020*, the reluctance of governments to share data with communities has created a level of distrust and disempowerment, and through the 2021 consultations, it was evident that Aboriginal and Torres Strait Islander communities consider child protection data to not be shared objectively, to have deficiencies, and to not have coherence across jurisdictions. There is a lack of clarity on whether important data are captured or available, which prevents Aboriginal and Torres Strait Islander communities and researchers from identifying the areas that need attention and taking timely action to create change.

In attaining data sovereignty, Aboriginal and Torres Strait Islander communities would be able to understand the impact that current policies and practices are having on Aboriginal and Torres Strait Islander children, families and communities, as well as what is needed to develop and scale up programs that achieve positive outcomes for Aboriginal and Torres Strait Islander peoples. The *Family is Culture Review Report* recommended that the first step in achieving data sovereignty is to create frameworks and infrastructure that support rigorous stakeholder engagement over any administrative data concerning Aboriginal and Torres Strait Islander people and children. The Productivity Commission's study report on *Expenditure on Children in the Northern Territory* further recommended that governments should collate regional and community-level data on outcomes and share this data with communities (PC 2020).

**"There is a big service gap for our families and children in getting the services they need – because we do not have good information, we do not have a good understanding of what is needed"**

Aboriginal and Torres Strait Islander community member, during SNAICC's 2021 *National Framework* consultations (SNAICC 2021)

Apart from the initiatives committed to under the National Agreement, both the Queensland Government and the Victorian Government are in the early stages of implementing initiatives that will improve shared access to data, through the *Our Way Strategy* and *Wungurilwil Gapgapduir – Aboriginal Children and Families Agreement* respectively. There also is ongoing work between CaFS, SNAICC and the Australian Institute of Health and Welfare (AIHW) to improve data reporting aligned to the Child Placement Principle (the discussion of the Connection element of the Principle, in part 4.3, provides more detail).

The importance of data sovereignty is exemplified by the challenges experienced by the Family Matters campaign in obtaining and reporting on accurate standardised data for this report. The data provided by the Australian, state and territory governments, including expenditure and out-of-home care data, were not always consistently provided or comparable across jurisdictions. In some cases, responses to data requests were significantly delayed, requests required considerable follow-ups, and comprehensive data sets were not always provided. This has created challenges when analysing datasets, particularly when making comparisons across jurisdictions and across years.

## **4.2 SUPPORTING A STRONG ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITY-CONTROLLED SECTOR**

As identified above, a key means for governments to support Aboriginal and Torres Strait Islander peoples to achieve self-determination is to support the establishment of a strong Aboriginal and Torres Strait Islander community-controlled sector. There is strong evidence linking self-determination and community control with better Aboriginal and Torres Strait Islander health and wellbeing (Bourke *et al.* 2018; Butler *et al.* 2019; Cronin, D'Arcy and Murphy 2019; Dudgeon, Bray and Walker 2020). Most participants in SNAICC's 2021 community consultations were of the view that programs designed and overseen by Aboriginal and Torres Strait Islander communities, and delivered by an empowered Aboriginal and Torres Strait Islander workforce, have the greatest – and most affordable – benefits for Aboriginal and Torres Strait Islander children and families.

Further to this, the National Agreement recognises that Aboriginal and Torres Strait Islander community control is an act of self-determination (JCCTG 2020). ACCOs (recognised as being not for profit organisations that are controlled and operated by Aboriginal and/or Torres Strait Islander people, connected to the communities in which they deliver services, and governed by a majority Aboriginal and/or Torres Strait Islander governing body) deliver programs and services that build the strength and empowerment of Aboriginal and Torres Strait Islander communities and people. Accordingly, under Clause 45 of the National Agreement, an Early Childhood Care and Development Sector Strengthening Plan is to be finalised in 2021 and implemented from 2022. This plan proposes joint national efforts to strengthen the Aboriginal and Torres Strait Islander community-controlled sectors in early childhood education and care (ECEC) and child protection/family support. Elements considered critical by the National Agreement to determining a strong sector include:

- sustained capacity building and investment in ACCOs
- a dedicated, appropriately trained and identified Aboriginal and Torres Strait Islander workforce
- a peak body that supports ACCOs that deliver common services, with this body governed by a majority Aboriginal and Torres Strait Islander Board
- a dedicated, reliable and consistent funding model designed to suit common services that are delivered by ACCOs and required by communities.

Both the services and the funding model are to be responsive to the needs of those receiving the services, and must be developed in consultation with the relevant peak body. While the Sector Strengthening Plan is not yet in place, it is expected that its objectives will address these elements, including by increasing service delivery coverage, capacity, quality and resources for ACCOs, and strengthening data systems.

The new *National Framework for Protecting Australia's Children 2021–2031* puts in place the intent for all governments to work collaboratively to reduce the factors contributing to the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care, including by committing to progressive systems transformation that is centred upon self-determination. Through the National Framework and its action plans, this will include taking active steps towards partnering with ACCOs in child protection system design and administration, and governments supporting delegation of authority in child protection to families, communities and ACCOs. The framework acknowledges that Aboriginal and Torres Strait Islander community-controlled services are safer for Aboriginal and Torres Strait Islander people, achieve better results, employ more Aboriginal and Torres Strait Islander people, and are often preferred over mainstream services. The framework also highlights that the Australian Government is supporting ACCOs to play a central role in social service provision, with funding committed in the first Commonwealth Closing the Gap

implementation plan to increase ACCOs' involvement in child and family services, and to embed cultural competency in Commonwealth-funded child and family services.

The *National Aboriginal and Torres Strait Islander Early Childhood Strategy* also supports Aboriginal and Torres Strait Islander communities and their community-controlled services to design and deliver responses to children's needs. In particular, the strategy's fifth goal – *Aboriginal and Torres Strait Islander children, families and communities are active partners in building a better service system* – recognises that Aboriginal and Torres Strait Islander communities and community-controlled organisations know how to best support the health, wellbeing and development of Aboriginal and Torres Strait Islander children, and they should be better enabled to do so. As a result, the strategy prioritises Aboriginal and Torres Strait Islander agency and decision-making in policy design through a deliberative and negotiated process, rather than simply accepting *involvement* through information-giving and consultation. In doing so, the strategy acknowledges that Aboriginal and Torres Strait Islander families are more receptive to, and more likely to benefit from, culturally safe support that is delivered through ACCOs and provided by culturally strong caseworkers (NIAA 2021).

Recent SNAICC community consultations to support the development of both the National Framework and the Early Childhood Strategy heard that Aboriginal and Torres Strait Islander peoples consider ACCOs to be more effective than non-Indigenous organisations at preserving and reunifying families. One reason for this is that community-controlled child protection services are often inclusive of early intervention, prevention and intensive family support, including pre-statutory work. In taking active efforts to hand over control to ACCOs, governments would realise some of their commitments under the National Agreement, support true self-determination, and help communities to realise their obligations to their children's rights.

Our communities consider that the failure to enable community control (so far) is a core concern when looking at how to protect Aboriginal and Torres Strait Islander children, and that increasing community control is a critical step. This requires ACCOs to have the right investment, funding, workforce, resources, and governance models to meet the needs of Aboriginal and Torres Strait Islander children and families.

## EXPENDITURE

To support ACCOs effectively, a meaningful proportion of funding is required to help ACCOs deliver relevant initiatives intended to service the broader population across the socioeconomic outcome areas of the National Agreement (per 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, some states and territories provide this data to inform the Family Matters reports.

In 2021, six states and territories provided data on their 2019–20 expenditure on ACCOs, broken down into family support, intensive family support, protective intervention services (this includes child protection investigations and the issuing and management of care and protection orders), and out-of-home care services. These data are presented in **Table 4** measured against the total expenditure for child protection services as published annually in the *Report on Government Services*. This table also shows the proportion of children in each jurisdiction's child protection system who are Aboriginal or Torres Strait Islander, as a rough proxy for ACCOs' service delivery needs as a proportion of state and territory budgets. (However, this should not be treated as a precise measure, because it cannot reflect the number of Aboriginal and Torres Strait Islander or non-Indigenous families who need child protection services, nor the relative scale and complexity of Aboriginal and Torres Strait Islander families' needs.)

New South Wales leads the nation in the proportion of total child protection expenditure directed to ACCOs, with 6.05%, although this still falls significantly short of the proportion of children receiving child protection services who are Aboriginal or Torres Strait Islander (35.16%), and around two thirds of this expenditure goes to out-of-home care rather than earlier intervention services. Queensland leads the nation in the proportion of expenditure on ACCOs for the delivery of family support and intensive family support services (21.82%), which is commendable given the priority call of the Family Matters campaign for investment in community-led prevention and early intervention. However, Queensland also has the second largest percentage gap overall, with 4.88% of total child protection investment provided to ACCOs, compared to 39.51% of children receiving child protection services being Aboriginal or Torres Strait Islander.

Western Australia also invests a relatively high proportion of its family support and intensive family support services expenditure in ACCOs (21.41%) but shows an even larger discrepancy in overall expenditure than Queensland, with only 2.38% of child protection expenditure directed to ACCOs while 43.53% of children receiving child protection services are Aboriginal or Torres Strait Islander children. Also, as noted in part 3, 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, so while the percentage of funding to ACCOs

is high in those categories, the amount of funding is comparatively low.

Relative to the other four jurisdictions that provided complete data, South Australia's proportion of overall child protection expenditure directed to ACCOs (3.37%) and proportional gap (30.96%) sit roughly in the middle of the pack. However, it is concerning that this is primarily driven by an exceptionally high proportion of expenditure on ACCO out-of-home care services (79.73%) – by far the highest proportion out of all jurisdictions. Finally, the Australian Capital Territory reported only 1.21% of total child protection expenditure as directed to ACCOs, compared to the 26.66% of children receiving child protection services that are Aboriginal or Torres Strait Islander. Victoria is known to invest very significantly in Aboriginal and Torres Strait Islander community-controlled organisations for child protection-related services, including through its frameworks to transfer case management and delegate statutory authority to ACCOs (more detail provided below); however, the Department of Families, Fairness and Housing has stated that the provided ACCO expenditure data should *not* be used to calculate percentages of the total expenditure figures published in the *Report on Government Services* due to comparability issues.

## DELEGATION OF POWERS TO ACCOS

One mechanism to support self-determination in the child protection context is the delegation by governments of their case management roles and/or statutory powers, regarding Aboriginal and Torres Strait Islander children, to ACCOs. This is a key component of Family Matters building block 2 – and the Partnership element of the Child Placement Principle – and is therefore one of the Family Matters campaign's core priorities.

To date, delegated authority has been implemented to varying degrees in Victoria and Queensland.

- In Victoria, the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* includes a framework for the case management of Aboriginal children in care and on protection orders to be transferred from the Department of Families, Fairness and Housing (DFFH) and non-Indigenous service providers to ACCOs under the *Transitioning Aboriginal Children to ACCOs* program. There is also a mechanism under Section 18 of the *Children, Youth and Families Act 2005* (Vic) for the DFFH Secretary to delegate their legislative powers and functions, in respect of an Aboriginal child on a protection order, to the CEO of an authorised ACCO under the *Aboriginal Children in Aboriginal Care* (ACAC) program.
  - This transfer of control means that authorised ACCOs actively work with a child's family, community and other professionals to develop and implement the child's case plan and achieve permanency objectives in a way that is culturally

**TABLE 4** Real recurrent child protection expenditure on Aboriginal and Torres Strait Islander community-controlled services, 2019–20, by state and territory

| Jurisdiction                        | Type of service                                      | Total expenditure (\$'000) | Direct funding to ACCOs (\$'000) | % of total expenditure on ACCOs | % of children in child protection system who are Aboriginal or Torres Strait Islander |
|-------------------------------------|--|----------------------------|----------------------------------|---------------------------------|---|
| <b>New South Wales</b>              | Family support and intensive family support services | 328,488                    | 19,795                           | 9.97%                           | 35.16%  |
|                                     | Protective intervention services*                    | 663,131                    | 0                                | 0.00%                           |   |
|                                     | Care services  | 1,484,268                  | 117,059                          | 7.89%                           |   |
|                                     | <b>Total expenditure</b>                             | <b>2,475,887</b>           | <b>149,795</b>                   | <b>6.05%</b>                    | <b>Gap: 29.11pp</b>   |
| <b>Victoria<sup>^</sup></b>         | Family support and intensive family support services | 400,130                    | 43,501                           | n/a                             | 15.37%  |
|                                     | Protective intervention services                     | 340,597                    | 7,664                            | n/a                             |   |
|                                     | Care services  | 805,339                    | 35,725                           | n/a                             |   |
|                                     | <b>Total expenditure</b>                             | <b>1,546,065</b>           | <b>86,893</b>                    | <b>n/a</b>                      |   |
| <b>Queensland</b>                   | Family support and intensive family support services | 205,901                    | 44,935                           | 21.82%                          | 39.51%  |
|                                     | <i>Incl. family preservation and reunification**</i> | 31,272                     | 5,583                            | 17.85%                          |   |
|                                     | Protective intervention services                     | 341,024                    | 12,551                           | 3.68%                           |   |
|                                     | Care services  | 751,125                    | 5,820                            | 0.77%                           |   |
|                                     | <b>Total expenditure</b>                             | <b>1,298,051</b>           | <b>63,306</b>                    | <b>4.88%</b>                    | <b>Gap: 34.63pp</b>   |
| <b>Western Australia</b>            | Family support and intensive family support services | 33,435                     | redacted                         | 21.41%                          | 43.53%  |
|                                     | Protective intervention services                     | 221,039                    | redacted                         | 0.00%                           |   |
|                                     | Care services  | 321,157                    | redacted                         | 2.03%                           |   |
|                                     | <b>Total expenditure</b>                             | <b>575,632</b>             | <b>redacted</b>                  | <b>2.38%</b>                    | <b>Gap: 41.15pp</b>   |
| <b>South Australia</b>              | Family support and intensive family support services | 50,706                     | 1,763                            | 3.48%                           | 34.33%  |
|                                     | Protective intervention services                     | 65,919                     | 133                              | 0.20%                           |   |
|                                     | Care services  | 458,765                    | 17,475                           | 3.81%                           |   |
|                                     | <b>Total expenditure</b>                             | <b>575,390</b>             | <b>19,372</b>                    | <b>3.37%</b>                    | <b>Gap: 30.96pp</b>   |
| <b>Tasmania</b>                     | Family support and intensive family support services | 25,936                     | n/a                              | n/a                             | 34.89%  |
|                                     | Protective intervention services                     | 27,699                     | n/a                              | n/a                             |   |
|                                     | Care services  | 86,597                     | n/a                              | n/a                             |   |
|                                     | <b>Total expenditure</b>                             | <b>140,232</b>             | <b>n/a</b>                       | <b>n/a</b>                      |   |
| <b>Australian Capital Territory</b> | Family support and intensive family support services | 9,423                      | 928                              | 9.85%                           | 26.66%  |
|                                     | Protective intervention services                     | 16,214                     | 0                                | 0.00%                           |   |
|                                     | Care services  | 51,163                     | 0                                | 0.00%                           |   |
|                                     | <b>Total expenditure</b>                             | <b>76,800</b>              | <b>928</b>                       | <b>1.21%</b>                    | <b>Gap: 25.45pp</b>   |
| <b>Northern Territory</b>           | Family support and intensive family support services | 50,566                     | n/a                              | n/a                             | 82.80%  |
|                                     | Protective intervention services                     | 26,816                     | n/a                              | n/a                             |   |
|                                     | Care services  | 135,474                    | n/a                              | n/a                             |   |
|                                     | <b>Total expenditure</b>                             | <b>212,856</b>             | <b>n/a</b>                       | <b>n/a</b>                      |   |

Sources: SCRGSP (2021c), Table 16A.8; AIHW (2021i), Table S2.3; unpublished data provided to SNAICC by the NSW, Victorian, Queensland, WA, SA and ACT Governments.

Notes: Only Queensland provided standalone estimates regarding expenditure on family preservation and reunification services. For most jurisdictions, these services are included in Family Support and Intensive Family Support services.

**NSW:** \*NGOs are not responsible for the provision of protective intervention services. Only the Department of Communities and Justice provides these services. **Victoria:** ^Percentages of expenditure directed to ACCOs are not available, because the expenditure listed in this table is not directly comparable to RoGS. **Qld:** As at 30 June 2021, DCYJMA did not have an agreed definition of ACCOs. The data provided above may therefore not be an accurate representation of the expenditure directed specifically to ACCOs. **\*\*Expenditure on family preservation and reunification (as a component of the Aboriginal and Torres Strait Islander Family Wellbeing Service) is estimated.** **NT:** Expenditure data in relation to ACCOs are not available.

**Tas:** Expenditure data in relation to ACCOs are not available.



safe and in the best interests of the child. Throughout 2019, 2020 and 2021, six ACCOs have been authorised to undertake statutory functions and powers for more than 180 Aboriginal children, and around 50% of all Aboriginal children in care have been case managed by ACCOs (though, as noted in Victoria's Community Voices input (part 2), this falls short of the Victorian Government's commitment to move all Aboriginal children to ACCO-led case management by the end of 2021: Family Matters campaign 2020, p. 29).

- In Queensland, legislation amending the *Child Protection Act 1999* in 2019 enabled the relevant Chief Executive to delegate one or more of their functions or powers under the Act to the CEO of an Aboriginal and Torres Strait Islander community-controlled entity to make decisions for the child in relation to child protection matters. Implementation of these provisions is currently being trialled in two communities via a partnership between DCYJMA, QATSICPP and two local ACCOs.

While these initiatives do not fully enable ACCOs to design and deliver their own systems, the initiatives are both essential first steps and important examples of key decisions being handed over from governments to Aboriginal and Torres Strait Islander people in order to achieve better outcomes for Aboriginal and Torres Strait Islander children.

## THE WORKFORCE

As governments work to meet their commitments under the National Agreement, and the Aboriginal and Torres Strait Islander community-controlled sector grows, so will the demand for a qualified and culturally capable Aboriginal and Torres Strait Islander workforce. It is essential that governments and ACCOs prepare to meet this increasing demand by addressing the significant lack of data on the current Aboriginal and Torres Strait Islander workforce in the child and family sector, modelling future needs, and identifying existing and potential barriers.

This sector is sometimes characterised as being crisis-driven, with a workforce facing high turnover, burnout and systemic racism. These challenges need to be addressed by equipping the workforce with the knowledge, skills, proficiency, efficacy and capacity to carry out their roles in a culturally safe, compassionate, and inclusive manner. The new National Framework highlights the importance of championing and scaling up the Aboriginal and Torres Strait Islander child protection workforce, as well as supporting the non-Indigenous workforce to have the requisite cultural competence to work with Aboriginal and Torres Strait Islander children and families. It includes a key focus on strengthening the capabilities of the child and family sector workforce to better support children and young people experiencing vulnerability or disadvantage, including disability, and proposes joint effort across jurisdictions to build the Aboriginal and Torres Strait

Islander workforce in the child and family sector. The upcoming *Closing the Gap Early Childhood Care and Development Sector Strengthening Plan* is expected to include similar priorities.

Initiatives will need to focus on improved education and training for all future frontline workers, as well as to increase trauma-informed, culturally competent training and support to all existing staff involved with supporting Aboriginal and Torres Strait Islander children. Government agencies and non-Indigenous organisations need to demonstrate their commitment to valuing their Aboriginal and Torres Strait Islander staff, ensuring that there is ongoing cultural supervision in place, and implementing reflective practice. Aboriginal and Torres Strait Islander representation in child protection management and leadership positions should be increased, not only for the impact that this will have on decision-making but also to help attract other Aboriginal and Torres Strait Islander workers to the sector. Further to this comes a need for sustained funding models and workforce strategies to support the recruitment, training and retention of Aboriginal and Torres Strait Islander workers, the fostering of professional development pathways and clarity of career trajectories, and the establishment of national standards of good practice.

## 4.3 IMPLEMENTATION OF THE ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

### INTRODUCTION

Over the past three decades, disproportionate representation of Aboriginal and Torres Strait Islander children in the statutory child protection system has been a constant – Aboriginal and Torres Strait Islander children are more likely to be removed from their families' care and more likely to be placed with non-family carers in most jurisdictions. Structural reforms are required to address and change this trajectory. These reforms would also include all Australian governments adopting a legislated definition of the Aboriginal and Torres Strait Islander Child Placement Principle that comprehensively reflects all five elements of the Child Placement Principle, along with a national framework that monitors governments' compliance efforts and outcomes against the principle.

The Child Placement Principle is a means to ensure that government intervention into Aboriginal and Torres Strait Islander family life does not disconnect children from their family, culture and Country, and promotes partnership between governments and Aboriginal and Torres Strait Islander communities in decision-making about children's welfare. It also recognises that Aboriginal and Torres Strait Islander people have the knowledge and experiences to make the best decisions for their children, and recognises the importance of each child staying connected to their family, community,

culture, and Country. To achieve this on a holistic level, the principle is made up of five elements: prevention, partnership, placement, participation, and connection.

State and territory governments have undertaken significant work in recent years to strengthen their adherence to the Child Placement Principle, but overall implementation remains limited. Aboriginal and Torres Strait Islander children continue to be separated from their families, communities and cultures at disproportionately high rates compared to non-Indigenous children, and there remains a lack of comprehensive approaches to involving children, families, and communities in decisions and services related to the care and protection of children. Yet the four Priority Reforms of the National Agreement – which commit parties to partnering with Aboriginal and Torres Strait Islander people, building the community-controlled sector, transforming government organisations, and sharing data at a regional level – require essentially the same processes and principles as would be involved in fully implementing the Child Placement Principle.

The National Agreement calls for a national compliance framework to be consistent with indicators being developed by the Australian Institute of Health and Welfare (AIHW) in collaboration with SNAICC, the Children and Family Secretaries Strategic Information Group (SIG) and the Children and Families Data Network (CAFDaN). Indicators will apply to all jurisdictions and measure all five elements of the Child Placement Principle (JCOCTG 2020). However, development of most agreed indicators has not progressed significantly since they were identified in 2019. SNAICC's involvement has been limited in recent years, and progress appears to be slow or stalled.

The new *National Framework for Protecting Australia's Children (2021–2031)* recognises the Child Placement Principle as the framework's sixth guiding principle, calling for all five elements to be embedded across the framework's focus areas. It is also recognised that the Child Placement Principle outlines how all parties to the National Framework can support Aboriginal and Torres Strait Islander children to maintain and strengthen their connections to community, culture, and Country – a connection that nurtures and supports children's wellbeing, spirituality and identity development. To promote and enable the full implementation of the Child Placement Principle, parties to the National Framework will identify, implement and report on active efforts across the five elements and through legislation, policy, programs, processes and practice.

The *National Aboriginal and Torres Strait Islander Early Childhood Strategy* also recognises the Child Placement Principle as the leading national policy and legislative framework that supports and maintains cultural connections for Aboriginal and Torres Strait Islander children who come into contact with child protection systems. Along with the National Framework, the strategy acknowledges that the Child Placement

Principle aims to:

- embed an understanding that culture is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children and young people, and must be embedded in policy and practice
- recognise and protect the rights of Aboriginal and Torres Strait Islander children, family members and communities in child safety matters
- support self-determination of Aboriginal and Torres Strait Islander people in child safety matters
- reduce the over-representation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care systems.

The following section analyses jurisdictions' progress to implement all five elements of the Child Placement Principle. It also seeks to demonstrate the importance of achieving a close partnership between Aboriginal and Torres Strait Islander people and all levels of government, so that Aboriginal and Torres Strait Islander children are guaranteed safety, support and connection. This partnership requires all sides to actively identify and share resources, methodologies and data that support best practice in fully embedding the Child Placement Principle.

To achieve full implementation and maximise the benefits of all five elements, governments need to confront institutional racism and ritualism, and continuously apply active efforts.

**Institutional racism** does not require people to actively sign up to *overt* racist beliefs or behaviour; instead, as highlighted by Race Discrimination Commissioner Dr Tim Soutphommasane, it can “appear with the face of respectability. It doesn't need to involve physical violence or threatening abuse. It can be perpetrated perfectly well, with a pleasant smile, and with good manners ... Prejudice, ignorance, thoughtlessness, indifference – these all add up to what we would understand as racism” (Soutphommasane 2017). Aboriginal and Torres Strait Islander people experience racial prejudice at least twice as frequently as non-Indigenous people in Australia (Reconciliation Australia 2020).

Governments' and non-Indigenous organisations' policies and practices continue to allow – or reinforce – racial bias, while their workforces' assumptions, behaviours and decisions continue to reflect institutional racism as described above. This makes these agencies and their services not only ineffective for Aboriginal and Torres Strait Islander people, but also culturally unsafe. In practice, this may manifest in higher surveillance of Aboriginal and Torres Strait Islander families by child protection agencies, or in a tendency to make more punitive decisions when considering plans for an Aboriginal and Torres Strait Islander child (particularly when working with impoverished families or people with a disability). Child protection workers may fail to put in place measures that support Aboriginal and Torres Strait

Islander families to be treated equally, including using interpreters, or may not be adequately and regularly supported to be culturally competent.

The presence of Aboriginal staff [within the Northern Territory Government] does not mean that they are able to operate in a culturally safe and responsive way, given existing systemic racism, and the fact that legislation and policy prescribe what they can do. Cultural safety cannot be achieved by individuals; it must be embedded structurally

Northern Territory Community Voices input

Those Aboriginal and Torres Strait Islander people who experience racist services and outcomes will eventually distrust information and advice from these institutions and avoid them where possible. This unjustly impacts the health and education of Aboriginal and Torres Strait Islander people, and creates hostile relationships between Aboriginal and Torres Strait Islander people and these institutions. In turn, this undermines efforts to design and put in place decision-making structures that do include and respect Aboriginal and Torres Strait Islander people, communities and organisations.

To fully realise the benefits of the Child Placement Principle, government agencies and non-Indigenous institutions need to consider their institutional racism and change their ways accordingly. This requires wholesale transformation efforts, including reviewing, identifying and combatting racial bias and prejudice in policies, workforces and practices. Ultimately, it requires the institutions to eliminate systemic racism and explicitly acknowledge and value Aboriginal and Torres Strait Islander cultures, knowledges and experiences.

**Ritualism** was considered in detail in the 2019 *Family is Culture Review Report* and is also relevant in determining the challenges of implementing international human rights standards in practice. When ritualism is present in an institution, the workforce formally participate “in the system of regulation while overlooking its substantive goals” (Mulders 2015, p. 1). Within child protection systems, ritualism can mean workers conforming to a culture of risk aversion and overreliance on bureaucratic practices when faced with difficult decisions. Workers defer to previous practices or decisions – no matter how unfavourable the long term outcomes to a particular child and family – in order to avoid risk or reprimand, or because of feeling overwhelmed. Over time, this culture of ritualism becomes so entrenched that it “can be indifferent or resistant to the intentions of legislators ... This means that the regulatory framework — the laws and policies that govern a bureaucracy — often compete with, or are neutralised by, the dominant culture of a department” (Davis 2019, p. xiii). In particular, the *Family is Culture* review found that at least one Australian child protection department (NSW’s Department of Communities and Justice) had lost focus on achieving

the fundamental goal of the Child Placement Principle, which is to keep children and young people connected to family, community, culture and Country. While this department (and others) had maintained an outward appearance of compliance — formal participation in a system of regulation towards the Child Placement Principle — its ritualism had hidden a culture of non-compliance.

**Active efforts** require those people and institutions engaged with child protection systems and services to positively support families to overcome the barriers (including institutional racism and ritualism) that are preventing children and families from staying together, being reunified or benefiting from family support services. Active efforts are purposeful, thorough and timely, supported by legislation and policy, and guarantee the safety and wellbeing of Aboriginal and Torres Strait Islander children (SNAICC 2018). Such efforts also include a shared national understanding of the aims of the Child Placement Principle, and are necessarily broad in order to include any number of strategies that work towards supporting children’s connection to family, culture, community and Country. Active efforts require strengths-based assessments, which take into account the cultural needs of the child and the lived realities of their community; case plans that are developed in partnership with a child’s family and community; the provision of early intervention supports to families (except in cases of imminent risk); and the provision of services that support the reunification of a child with their parent or Aboriginal and Torres Strait Islander kin after the removal of a child (SNAICC 2018).

The current widespread lack of progress to halt the trajectory of Aboriginal and Torres Strait Islander children’s over-representation in child protection systems indicates that active efforts currently are not being coherently or fully applied by all Australian jurisdictions.

## PREVENTION

A prevention approach to child safety and wellbeing is essential for Aboriginal and Torres Strait Islander children and families to thrive, and critical in protecting their rights to grow up in family, community and culture (Mastroianni 2020). This element requires all stakeholders to take active efforts to prevent the occurrence of factors that increase the risk of harm to children, and to address the causes of child protection interventions, including the decision to intervene.

This element is purposefully broad and covers a wide range of topics, many already addressed in this report. These include, but are not limited to:

- addressing the institutional racism and intergenerational trauma that are known to cause significant harm to Aboriginal and Torres Strait Islander families

- supporting the social determinants of health – including improving the conditions into which Aboriginal and Torres Strait Islander children are born and in which they grow up
- supporting access to culturally safe universal services, including maternal and child health, disability support, housing, family violence interventions, and assistance dealing with alcohol or other drug misuse
- ensuring Aboriginal and Torres Strait Islander children and their caregivers have access to quality education from children's early years onwards
- embedding self-determination within systems and empowering communities to be the decision makers, designers and leaders of the services and programs available to their community members
- improving cultural competency and addressing issues of racial bias in all workforces who are mandated to report a child and their family to child protection authorities.

A prevention approach means that all actions are undertaken with a view to *prevent* harm to children and their families before it can occur – this requires understanding the inter-related effects that structural and socioeconomic facets of a family's life can have on the causes of child protection intervention, and promoting their holistic wellbeing by providing quality, culturally safe services across all those facets. In turn, this enables high-quality opportunities and life outcomes for Aboriginal and Torres Strait Islander peoples, services the real needs of communities, supports the preservation of families, and ensures a child's connection to their community and culture (SNAICC 2020).

In spite of widespread acknowledgements of the merits of a prevention approach, national data continues to indicate that government expenditure in child protection is disproportionality allocated to protective intervention services (24.7%) and out-of-home care services (59.4%) (part 3.9 provides a more detailed explanation and disaggregation of data.) Currently, only 15.9% of expenditure goes towards early intervention and prevention (via funding of family support and intensive family support services): this proportion has held steady since 2018–19 but shows a decline from 2015–16. This does not account for governments' expenditure on primary-level prevention, including initiatives to address the social determinants of health, universal whole-of-community services and activities, and population-level strategies that improve citizens' health, education, employment, housing, and other basic needs in life.

A prevention approach ensures that services are available to children and their families along a continuum, and that policies and interventions are designed to counter those factors increasing vulnerabilities. Any intervention needs to be quick to identify and respond to the factors that are contributing to the vulnerability of (and harm to) children and

families, to minimise the long-term effects. This starts at a broader population level early on the continuum, becoming more individualised and targeted as the child and family become more vulnerable and face a higher risk of harm, particularly as those families who are more at risk often have complex needs and are more severely impacted by intergenerational trauma and disadvantage (**Figure 32**). It is critical that government interventions also acknowledge the legacies of past harmful interventionist policies and abuses of power that have taken place, and that this legacy continues to impact both on families' internal dynamics and their apprehension to government programs and institutions.

Aboriginal community-controlled organisations are best placed to engage Aboriginal and Torres Strait Islander children and families in a prevention approach and to understand what these children and families need to stay together. Through innovative and culturally safe initiatives, several ACCOs are demonstrating excellence in supporting families and transforming the lives of Aboriginal and Torres Strait Islander children for the better. Soft-entry early education and health initiatives are enabling these organisations to build up trusting relationships with families and provide culturally safe, non-judgemental spaces for families to address their challenges and meet with those service providers who can tackle their (potentially complex) needs. In these spaces, and with patience and compassion, families are building their capacities and skills in resilience, parenting and individualised goal achievements.

Critical elements of success include not only that these early intervention and prevention programs are located within Aboriginal organisations and are culturally safe in their methods, but also that they employ and demonstrate respect towards Aboriginal support workers; they equally value Aboriginal ways of knowing, doing and being alongside Western approaches to health and education; and they purposefully provide holistic wraparound supports for families.

Some governments have identified specific investment targets to increase the role of community-controlled services in early intervention and prevention services. For example, South Australia has started work towards a target to dedicate 30% of intensive family support funding to ACCO services and has engaged two ACCOs to deliver these services to date. In New South Wales, a goal for delivering 30% of all targeted earlier intervention program funding through ACCOs was set over four years ago, but AbSec notes that progress towards this goal appears to have stalled (with this proportion increasing by only 0.66% in the past three years, to 14.71% in 2019–20). As noted above, Queensland is leading the country in investment in ACCO family support and intensive family support, providing 21.82% of its annual expenditure to ACCOs.

If governments are genuinely committed to decreasing the number of Aboriginal and Torres Strait Islander children being separated from their families and entering out-of-home care, it is vital that jurisdictions



**FIGURE 32** Continuum of prevention approaches



focus significantly more on the prevention element of the Child Placement Principle.

#### QUEENSLAND GOVERNMENT CASE STUDY

Queensland leads nationally in the proportion of expenditure provided to ACCOs for family support and intensive family support services (21.82% in 2020–21: see Table 4). Consultation with the First Children and Families Board guides continued investment in ACCOs for culturally responsive child protection services. In 2019–20, the Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) invested \$42 million in community-controlled Aboriginal and Torres Strait Islander family wellbeing services (FWS) to support families to care for their children. An implementation and outcomes evaluation of the FWS program has so far observed a high level of success in de-escalating risks and addressing family needs, with 93% of children and families that completed a FWS requiring no further

investigation by child protection in the following six months. \$14 million was also allocated to the family participation program to support Aboriginal and Torres Strait Islander families to participate in key decisions across the child protection system. This has seen many positive outcomes for children remaining safely with their families, with strengthened safety and support networks. DCYJMA is also expanding its prevention approach further by undertaking work in partnership with QATSICPP and Queensland Health to ensure that Aboriginal and Torres Strait Islander pregnant women can receive holistic antenatal support in culturally safe environments.



## FOCUS ON ABORIGINAL AND TORRES STRAIT ISLANDER-LED SOLUTIONS – CASE STUDIES

### CENTRAL AUSTRALIAN ABORIGINAL CONGRESS

#### Child and Youth Assessment and Treatment Service (CYATS)

Regional and remote – Alice Springs, Ntaria, Ltyentye Apurte, Mutitjulu and surrounds (Northern Territory)

As the first of its kind in the Northern Territory, the Child and Youth Assessment and Treatment Service (CYATS) provides free diagnostic assessments and therapeutic interventions to Aboriginal children who may have neurodevelopmental delays or disorders. This service was developed in response to disproportionately high numbers of developmentally vulnerable Aboriginal children and youth in Central Australia.

Now into its fourth year of operation, this specialist health service has supported children and their families to understand young people's neurodevelopmental profiles by determining diagnoses such as fetal alcohol spectrum disorder, autism spectrum disorder, and attention deficit hyperactivity disorder. Assessments are comprehensive and multidisciplinary, with the approach including clinicians from across neuropsychology, speech pathology, occupational therapy and paediatric medicine, who work closely with an Aboriginal family support worker (AFSW) and other allied health staff to provide holistic care to children and families.

CYATS is operated by the Central Australian Aboriginal Congress, an Aboriginal community-controlled health service in Alice Springs. The service is one of a number of innovative child health and development programs within Congress and, as such, is widely trusted and easily accessed by the Aboriginal families and children of Alice Springs and surrounding communities. CYATS has assisted Aboriginal families not only to receive early detection of and intervention for their child's neurodevelopmental condition, but also to enter a network of support services across health, education, social and family supports, including the National Disability Insurance Scheme. The team aims to assess and diagnose Aboriginal children, as well as to look at how children with developmental differences can access the most appropriate supports that will improve their developmental outcomes and functional capacities at home, at school, and in the community.

### TOWNSVILLE ABORIGINAL AND ISLANDER HEALTH SERVICE (TAIHS)

#### Yamani Meta Family Wellbeing House

Urban / Regional – Townsville (Queensland)

Yamani Meta is the dedicated community space for the Townsville Aboriginal and Islander Health Service (TAIHS), where Aboriginal and Torres Strait Islander families enjoy a range of culturally safe supports. Run through TAIHS's family wellbeing service, the Yamani Meta team prides itself on offering an environment that is like a welcoming family home rather than a clinical setting, implementing a unique service-delivery approach that harmonises the culturally responsive physical environment with the supportive interactions of all people who work in and visit the house.

Since its inception, Yamani Meta has focused on providing child-centred, culturally safe programs and activities that empower parents and caregivers in their roles to raise smart, healthy, *dearly* children and young people. Within its first three years, the home has been able to offer award-winning family development programs and networking and peer-mentoring opportunities to Aboriginal and Torres Strait Islander families. It is an easy access point to other TAIHS services and a friendly safe place for those who might be ill-at-ease or distrustful of non-Indigenous medical services. With a whole-of-community focus, Yamani Meta is also open to all in the Townsville region.

"Yamani Meta is a safe haven. I find it really welcoming and safe. I feel comfortable. The staff are very kind and welcoming" (Yamani Meta family member)





## WELLINGTON ABORIGINAL CORPORATION HEALTH SERVICE

### Australian Nurse-Family Partnership Program (ANFPP)

Regional and urban – Dubbo and Blacktown (New South Wales)

The Australian Nurse-Family Partnership Program (ANFPP) is a home-visiting health and wellbeing program that supports vulnerable first-time mothers who are pregnant with Aboriginal and Torres Strait Islander children. It is run through the community-controlled Wellington Aboriginal Corporation Health Service (WACHS), and aims to transform the lives of these mothers.

At the start of a mother's journey with the ANFPP, she is assigned a two-person home visiting team, which includes an Aboriginal Family Partnership Worker (AFPW) and a Nurse Home Visitor (NHV). Over a 30 month period, from the woman's pregnancy until the child's second birthday, the ANFPP team help her to improve her pregnancy outcomes, take control of her child's health and development, and build a positive life course development for both herself and her family.

The ANFPP is adapted from the evidence-based community health model, the Nurse-Family Partnership Program, with WACHS one of 11 partner organisations in Australia. The AFPW role is unique to the Australian context and has been crucial in providing a cultural lens to the intensive healthcare visits. Within the WACHS program, the positive impact of this role is reinforced by culturally empowering activities like belly casting, adaptation of materials to ensure appropriateness to the local community, using the WACHS networks to addresses the holistic needs of the family, and being based within an Aboriginal community-controlled organisation.

## ALBURY WODONGA ABORIGINAL HEALTH SERVICE (AWAHS)

### The Kids Team

Regional – Albury-Wodonga (north-eastern Victoria and southern New South Wales)

The Kids Team of Albury Wodonga Aboriginal Health Service (AWAHS) is a multidisciplinary group of health practitioners who regularly meet to strategise and coordinate their support for the organisation's more vulnerable Aboriginal and Torres Strait Islander children and families. What started as informal get-togethers of three health practitioners sharing their professional knowledge and helping their Aboriginal and Torres Strait Islander child patients has grown into a good practice example of a 12-member team collaborating to support local Aboriginal and Torres Strait Islander families to achieve the best healthcare for their children.

The team operates with the awareness that early intervention and support helps families to achieve the best outcomes for their children. Using a child-centred cultural-recognition approach, the team combines members' expertise to guide each AWAHS family along their own suitable healthcare path. At the same time, group members work to understand each family's psychosocial situation through a cultural lens while supporting one another in their healthcare roles. This allows members to build up their own confidence while identifying and breaking down those health service silos that notoriously prevent vulnerable families from receiving holistic care and navigating complex healthcare systems.

"It's really good, you're seeing a client and you're stuck with, 'Where do we go next? Which way would be the best way for that family?' and then [you're] able to just discuss it at the Kids Team meeting to work out a plan, so it's just not yourself deciding what the best thing to do is"

Kids Team member



### Birthing in Our Community (BiOC)

Urban – south-east Brisbane (Queensland)

BiOC is a partnership program between the Mater Mothers Hospital and two local Aboriginal and Torres Strait Islander community-controlled health services – the Institute for Urban Indigenous Health (IUIH) and the Aboriginal and Torres Strait Islander Community Health Service Brisbane Limited (ATSICHS). Since its launch in 2013, the program has been accessed by over 1,000 women.

BiOC delivers a unique model of Aboriginal and Torres Strait Islander-led care to mothers pregnant with, or raising, Aboriginal and Torres Strait Islander babies. It provides Aboriginal and Torres Strait Islander women with access to their own midwife and Aboriginal and Torres Strait Islander Family Support Worker throughout each mother's pregnancy, birth and up until the child is three years of age. The role of family support workers is to support each mother to recognise and break down the barriers that prevent her from engaging with health service supports. They also support each mother to access appropriate care throughout the critical stages of her child's life and to feel empowered and confident in her new role as a parent.

The BiOC team established a community hub in south-eastern Brisbane in recognition that Aboriginal and Torres Strait Islander women live and thrive within community. The team has worked to make the hub into a homelike environment, featuring a full kitchen, easy access to transport, and a venue of cultural activities; a building that participating mothers say "feels Black". This space offers a safe haven to mothers where they can receive essential care and information, connect and learn from each other, attend community days, and feel safe and culturally supported during their pregnancy and in their new roles as mothers. Members of the community also work in the hub, including the family support workers, an Auntie from the community who works as the receptionist, and the program's bus driver who is a well-respected community member.

"Since I was 9, I have never felt safe. Yet every time I walk into the hub, I can honestly say I feel safe and at home"

BiOC participant

All appointments with midwives and support services take place in this warm and inviting hub – standing in stark contrast to a clinical hospital setting. Parenting and cultural supports are integrated into all elements of the hub's services, offering a no-wrong-door and one-stop-shop approach to service delivery. These include psychology, social work, obstetric and gynaecological services, sexual and reproductive health, paediatric medical services, specialist ear nose and throat services, and visiting allied health services (such as specialists in nutrition, paediatric speech, audiology, and occupational therapy).

The BiOC team engage women during a critical life stage in recognition that pregnancy is a point when women are particularly open to exploring healthy lifestyle choices and making changes for the better. Focusing on family wellbeing through such a spiritual time empowers BiOC mothers to develop themselves, focus on their innate strengths, and be the best parent that they can be. Although birthing is a moment in time, the BiOC team is committed to the ongoing journey of "supporting Mob to raise a Strong, Black and Deadly family".

## MAARI MA HEALTH ABORIGINAL CORPORATION

### Intensive Supported Playgroups

Regional – Broken Hill and Wilcannia (New South Wales)

The Intensive Supported Playgroups program for Aboriginal and Torres Strait Islander children aged 0 to 5 years is a central part of Maari Ma's Early Years Program. The playgroups program focuses on providing a culturally safe space for Aboriginal children and their families, in which their needs can be addressed and families can be supported to break down the barriers preventing them from accessing early childhood education and health services. The program also aims to prepare children for preschool and school – offering them the opportunity to play, learn and build relationships that will improve the quality of their lives, establish familiarity with literacy and numeracy, and orient children and families towards culturally safe local preschools.

Delivered to Aboriginal families in the Broken Hill and Wilcannia regions of New South Wales, some of the key strengths of this program are that it is run by an Aboriginal community-controlled organisation, is delivered by local Aboriginal community members who undertake significant efforts to engage local families, and prioritises the development of trusting relationships between staff, children and families. It also forms part of Maari Ma's integrated holistic approach to Aboriginal healthcare, creating a soft entry point for families to take control of their health and wellbeing.

"[My child] didn't know how to play with kids or talk to them – he had no social skills. What Maari Ma Playgroup did for [him], it ... really built him up"

Playgroup parent

## VICTORIAN ABORIGINAL CHILD CARE AGENCY (VACCA)

### Aboriginal Cradle to Kinder (AC2K)

Urban – Melbourne (Victoria)

The Aboriginal Cradle to Kinder Program (AC2K) is a child and family service that was designed as an intensive longer-term antenatal and postnatal Aboriginal home-visitation program. One of its key aims is to provide targeted in-home support to Aboriginal and Torres Strait Islander mothers who are at increased risk of having their child removed by the state's child protection agency, the Department of Families, Fairness and Housing (DFFH). The Victorian Aboriginal Child Care Agency (VACCA) has been running AC2K since 2014, adapting it from the mainstream Cradle to Kinder (C2K) program (DFFH (Vic) 2017). Through this program, VACCA aims to provide a culturally competent, sensitive and respectful service to Aboriginal and Torres Strait Islander families, supporting vulnerable mothers and their families as early as possible into the journey of motherhood. This support includes working with children, parents and extended family members to strengthen connections to family, community and culture (AIFS and CCCH 2017).

"Giving young mums and dads and their Boorais (babies) a great start on their journey from pregnancy to preschool. We support young Aboriginal and Torres Strait Islander women who are pregnant and experiencing stressful life experiences like financial pressure, social isolation and limited support while being pregnant"

(VACCA 2021)

Aboriginal and Torres Strait Islander women start with the AC2K program during pregnancy and continue until the child is aged four years. During this time, they are supported in preparing for the birth, parenting, and getting to know about child development. They also build skills and routines in caring for babies and young children, in order to keep their children safe, happy and well. Where relevant, they learn about dealing with stress, budgeting, how to be more independent, and how to access employment pathways. The program is designed to build the overall capacity of vulnerable Aboriginal and Torres Strait Islander mothers so that they can provide for their children's health, development and safety over the longer term and as circumstances change.

VACCA delivers the program across Victoria's north, west, and Gippsland regions, with bases in Dandenong, Morwell, Preston and Werribee.



## PARTNERSHIP

The partnership element of the Child Placement Principle requires the participation of community representatives in service design, delivery and individual case decisions. Participation must extend beyond consultation to genuinely include Aboriginal and Torres Strait Islander community representatives in the decisions that are made about children at all stages of child and family welfare decision-making.

This point was a key concern during SNAICC's 2021 consultations for the *National Framework for Protecting Australia's Children 2021–2031*, where those consulted highlighted that partnerships do not involve governments 'building the ACCO sector', only consulting ACCOs at a surface level, or only tasking ACCOs with low-level program activities; nor are they about non-Indigenous organisations *helping* an Aboriginal community-controlled organisation. First, there needs to be recognition by governments and non-Indigenous organisations that ACCOs already exist and successfully work in the child protection sector, and are often best placed to work with Aboriginal and Torres Strait Islander families and communities. These entities also need to be alert to, and contest, power imbalances that may exist in established or new partnerships between government, non-Indigenous organisations and ACCOs. Partnerships should have clearly delineated ways of working and shared values. Ultimately, opportunities should be identified for the full ownership of these programs and services to be transitioned to ACCOs, requiring current partnerships to put in place transition plans with a clear timeframe. Governments can further support partnerships that involve ACCOs by ensuring that ACCOs have adequate resourcing to take lead partner roles and by linking relevant funding and procurement rules to contracts.

*"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"*

(Davis 2019, p. xviii)

More active efforts are needed on the part of governments and non-Indigenous organisations to build deeper, more respectful and more genuine working relationships with Aboriginal and Torres Strait Islander peoples and organisations. The National Agreement includes this as its first Priority Reform, under which Aboriginal and Torres Strait Islander people must be empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements (JCOCTG 2020). While some examples of genuine partnerships do currently exist in various jurisdictions, **Table 5** indicates that at least two jurisdictions were not able to provide, in their submissions to this report, at least one example of

partnership between government and an ACCO. Most jurisdictions that provided examples have only provided a few, and in some cases, these were primarily based on 'consulting with' the ACCO.

## PLACEMENT

The placement element of the Child Placement Principle requires children removed from their families to be placed in accordance with the agreed hierarchy of placement options. The hierarchy seeks to ensure that the highest level of connection possible is maintained for a child in out-of-home care to their Aboriginal and/or Torres Strait Islander family, community, culture and Country.

While the placement hierarchy varies in legislation in different states and territories, SNAICC promotes the national best practice hierarchy as requiring that placement of an Aboriginal or Torres Strait Islander child in out-of-home care is prioritised with:

1. Aboriginal or Torres Strait Islander relatives or extended family members, or other relatives or extended family members
2. Aboriginal or Torres Strait Islander members of the child's community
3. Aboriginal or Torres Strait Islander family-based carers.

If the above preferred options are not available, as a last resort the child may be placed with:

4. A non-Indigenous carer or in a residential setting. If the child is not placed with their extended Aboriginal or Torres Strait Islander family, the placement must be within close geographic proximity to the child's family (Tilbury 2013; SNAICC 2017).

Full and proper application of the placement hierarchy requires child protection decision makers to exhaust all possible options at each level of the hierarchy before considering a lower-order placement. No placement should be made unless consultation with the child's family and community representatives can be demonstrated to ensure all possible higher-order placement options have been considered. Community representatives should also be able to provide independent advice to the courts on the most appropriate care options (SNAICC 2017).

The outcome of a placement decision is reported in national child protection data to indicate whether a child is placed with Aboriginal and Torres Strait Islander family or kin, other family or kin, or other Aboriginal and Torres Strait Islander carers (see, for example, AIHW 2021b, Table S5.12). These data are useful to indicate overall implementation of the placement element; however, it should be noted that they only provide a proxy measure of compliance, as they do not indicate the extent to which practitioners explored a child's family and community relationships and cultural connections to identify potential placements or consulted those with cultural authority for a child.

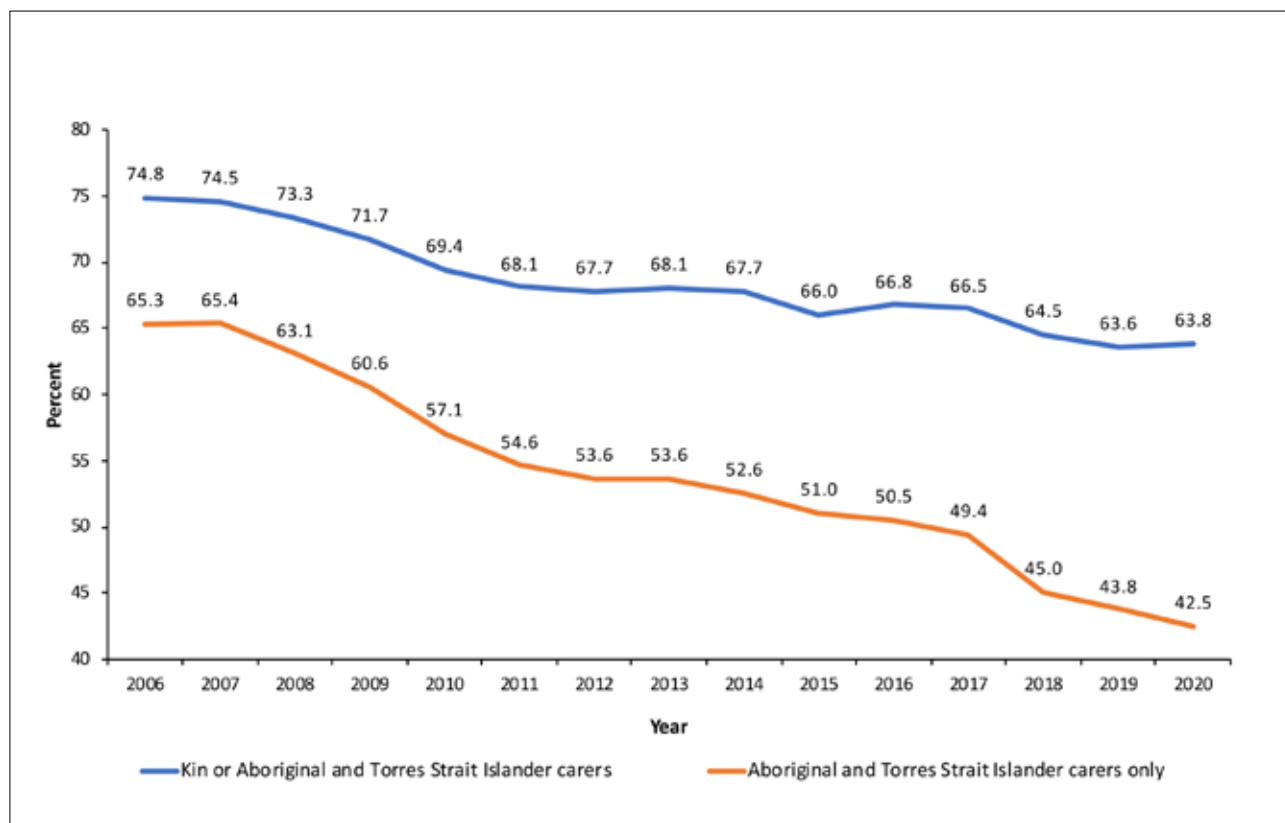


**TABLE 5** Examples of partnerships between state/territory governments and ACCOs, as provided in submissions to the Family Matters campaign data and information request

| Jurisdiction       | Type of Partnership  | Partnership details   |
|--------------------|--|---|
| Tasmania           | Program delivery to Aboriginal and Torres Strait Islander families                           | The Children, Youth and Families (CYF) branch of the Department of Communities partners with the Tasmanian Aboriginal Centre (TAC) to provide intensive family engagement services to Aboriginal families. These services support families to develop parenting skills where there are concerns for the safety and wellbeing of children or young people.   |
|                    | Program delivery to government staff   | The Tasmanian Government continues to engage the TAC to deliver cultural training ( <i>tipara waranta kani nina-tu</i> ) to CYF staff and carers.   |
| Northern Territory | Program delivery to Aboriginal and Torres Strait Islander families and children in OOHC      | The Department of Territory Families, Housing and Communities has partnered with six local ACCOs to deliver Aboriginal Carer Services. This partnership aims to increase the number of Aboriginal children placed with family and kin. Participating ACCOs work to find, recruit and support family and community members to become carers, and support children in care to maintain their connection to family, community and culture. ACCOs in the Northern Territory have argued that this program is a good initiative, but funding is very low when compared to demand for kinship carers. The ACCOs delivering the program also have no ultimate authority in decisions about children's care and protection, meaning that their work on identifying appropriate kinship carers can be – and is – over-ruled. |
| Queensland         | Joint decision-making  | The Queensland Government continues its long-term commitment, in partnership with Family Matters Queensland and the First Child and Families Board, to eliminate the over-representation of Aboriginal and Torres Strait Islander children and families in the child protection system.   |
|                    | Transfer of decision-making authority to Aboriginal and Torres Strait Islander organisations | In partnership with QATSCIPP, the Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) has commenced implementation of delegated authority to ACCOs (Refocus and CQID) in early adopter sites on the Sunshine Coast and Rockhampton. As at 30 June 2021, nine instruments of delegation had been approved, enabling reunification of four children with their parent in safe and stable placements, and work continuing to reunify the other five children. DCYJMA and QATSCIPP will next develop a strategic blueprint for scaling up the state-wide implementation of delegated authority.  |
|                    | Program delivery and co-design   | DCYJMA is undertaking work in partnership with Queensland Health and QATSCIPP to ensure Aboriginal and Torres Strait Islander pregnant women have opportunities to receive support in a culturally safe environment.  |
|                    | System and practice review and redesign  | A partnership between DCYJMA, QATSCIPP and Family Participation Program providers is currently undertaking two relevant reviews – one of the intake system for children entering care, with particular focus on decision-making and assessment tools impacting Aboriginal and Torres Strait Islander children and families, and a second review of children under three years of age on permanency orders.  |
| Victoria           | Joint decision-making  | The Aboriginal Children's Forum – a quarterly meeting of ACCOs, government and community service organisation representatives, co-chaired by the Minister for Child Protection and the CEO of an ACCO – continues to provide shared governance to the design and delivery of services for Aboriginal children and families.   |
|                    | Transfer of authority to Aboriginal and Torres Strait Islander organisations                 | The <i>Aboriginal Children in Aboriginal Care</i> (ACAC) program enables the Victorian government to delegate statutory authority for Aboriginal children to ACCOs. As of 30 June 2021, there had been an expansion of ACAC to VACCA's Morwell branch, the Gippsland and East Gippsland Aboriginal Cooperative, and the Rumbalara Aboriginal Co operative, and 181 Aboriginal children and young people were authorised to an ACCO, with 6 agencies in total authorised. There is also a framework for transitioning the case management of Aboriginal children to ACCOs, with approximately 50% (at June 2021) of Aboriginal children in care case managed by an ACCO.   |
| Western Australia  | Program delivery to Aboriginal and Torres Strait Islander families and children              | <i>Wungening Moort</i> is delivered by four ACCOs and provides intensive supports to keep children safely at home or reunify them with their parents. It is still the only early intervention service exclusively for Aboriginal families. Its effectiveness is limited in that families can only be referred by the Department of Communities (DoC) where children are identified as being at imminent risk of entering care – nobody can self refer – and once DoC closes a case, families can no longer access the service or obtain follow up supports.   |

| Jurisdiction              | Type of Partnership   | Partnership details   |
|---------------------------|---|---|
| Western Australia (cont.) | Case management for Aboriginal and Torres Strait Islander families and children in OOHC | Yorganop Association is the only recognised ACCO providing out-of-home care in the state. Currently, it is funded to provide foster care arrangements for 123 children in Perth. In 2020, Yorganop's service area was extended to encompass most of Noongar country, but no additional placements were funded by DoC.   |
|                           | Joint decision-making <i>[Partnership ceased]</i>                                       | The Independent Reference Group (IRG) for Out-of-home Care was ceased in 2020. This group was only established in 2019 and had included Aboriginal and non-Indigenous representatives from across the community sector. It had collaborated strongly with DoC's out-of-home care reform team to co-design solutions to long standing and complex problems within the child protection system. The dissolution of the IRG and the specialist reform team led to a significant loss of knowledge, time, and progress in the commissioning of reformed out-of-home care services.                        |
| South Australia           | Providing funding and opportunity for community-led peak body development               | Following sustained advocacy from Aboriginal leaders, the South Australian Government has provided funding to facilitate an Aboriginal-led process for the design and implementation of a peak body for Aboriginal children and families. The peak will be operational from 2022–23 and will: <ul style="list-style-type: none"> <li>• privilege the voices of Aboriginal children and young people</li> <li>• work with government to reduce the over-representation of Aboriginal children in the child protection system</li> <li>• support the Aboriginal community-controlled sector.</li> </ul> |
|                           | Funding (for delivery of training program to Aboriginal and non-Aboriginal staff)       | ACCOS are being funded to deliver the <i>Yaitya Mingkamingka Purruitiapinhi</i> (Aboriginal Trauma Healing) training package to the intensive family support services workforce.  |
| All states                | Co-design / collaboration / consultation  | All jurisdictions developed their jurisdictional Closing the Gap Implementation plans in partnership with Aboriginal peoples and organisations. The degree of co-design, collaboration and consultation differed between jurisdictions.   |

**FIGURE 33** Aboriginal and Torres Strait Islander children placed with kin or Aboriginal and Torres Strait Islander carers, and with Aboriginal and Torres Strait Islander carers only, at 30 June 2020



Data sources: SCRGSP (2021c), Table 16A.22; SCRGSP (2016), Table 15A.24.

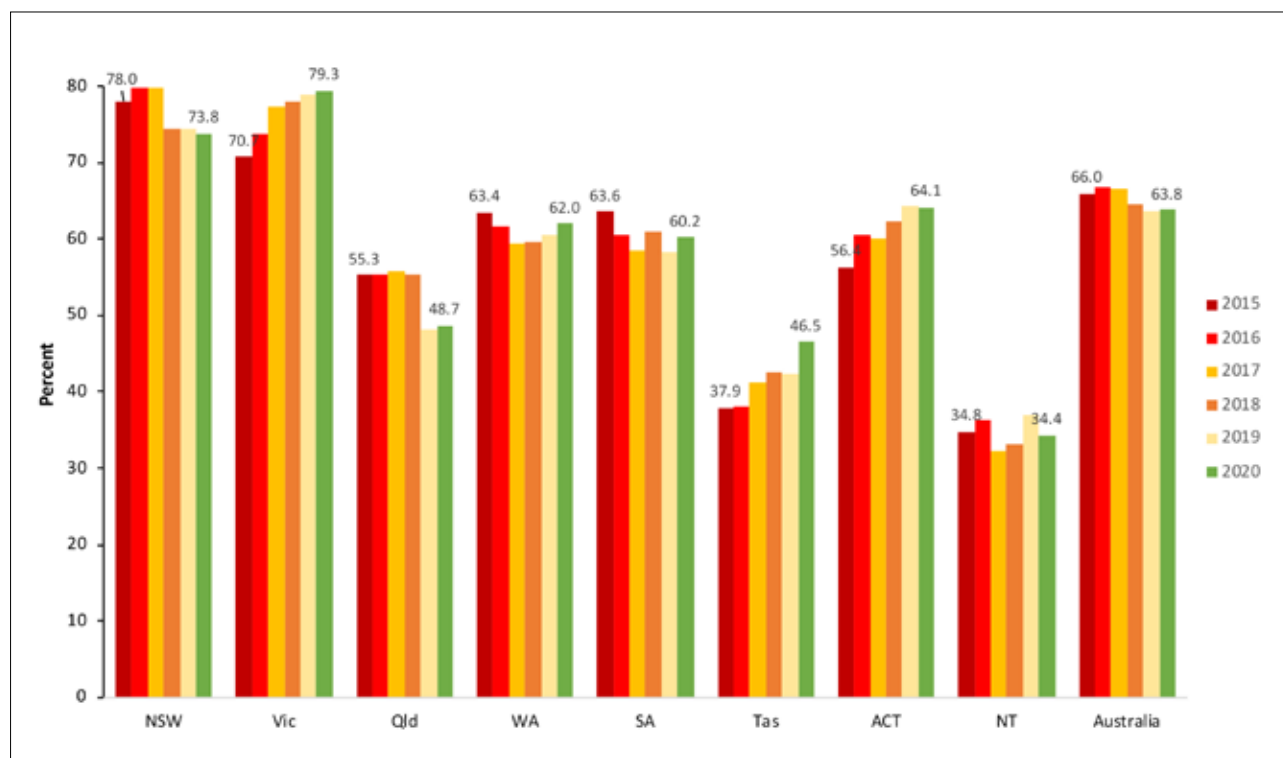
Another limitation of placement data is the definition of kinship in each state and territory and the way in which it is applied. Kinship is often defined by courts and government child protection services from a non-Indigenous perspective. Legislative definitions of kin in some states and territories are broad and allow for non-relatives and non-Indigenous people with a limited relationship with the child to be identified as kin. For example, some definitions of kin include: a person who is closely associated with the child or another family member of the child (s. 19, *Care and Protection of Children Act 2007* (NT)); a person who is significant in the child's life (s. 14, *Children and Young People Act 2008* (ACT); Schedule 3, *Child Protection Act 1999* (Qld)). To achieve alignment to the Child Placement Principle, kinship relationships must be defined by the family and community members who have cultural knowledge and authority in relation to the child.

**Figure 33** shows that the rate of placement of Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers nationally continues to fall each year, reaching a low of 42.5% at 30 June 2020, and dropping over 10 percentage points in just the last six years. This large reduction in the proportion of children living with Aboriginal and Torres Strait Islander carers, alongside the growing numbers

of Aboriginal and Torres Strait Islander children in out-of-home care, has concerning implications for children's connections to their family, community, culture and Country. When placements with non-Indigenous family and kin carers are added, the rate (of Aboriginal and Torres Strait Islander children placed with *any* family or kin) has steadied in the last two years, but still shows a decrease of 11 percentage points since 2006. This indicates an increasing (and concerning) trend for Aboriginal and Torres Strait Islander children to be placed with non-Indigenous family rather than Aboriginal and Torres Strait Islander kin. Next, **Figures 34** and **35** break placement rates (from 2014–15 to 2019–20) down by jurisdiction.

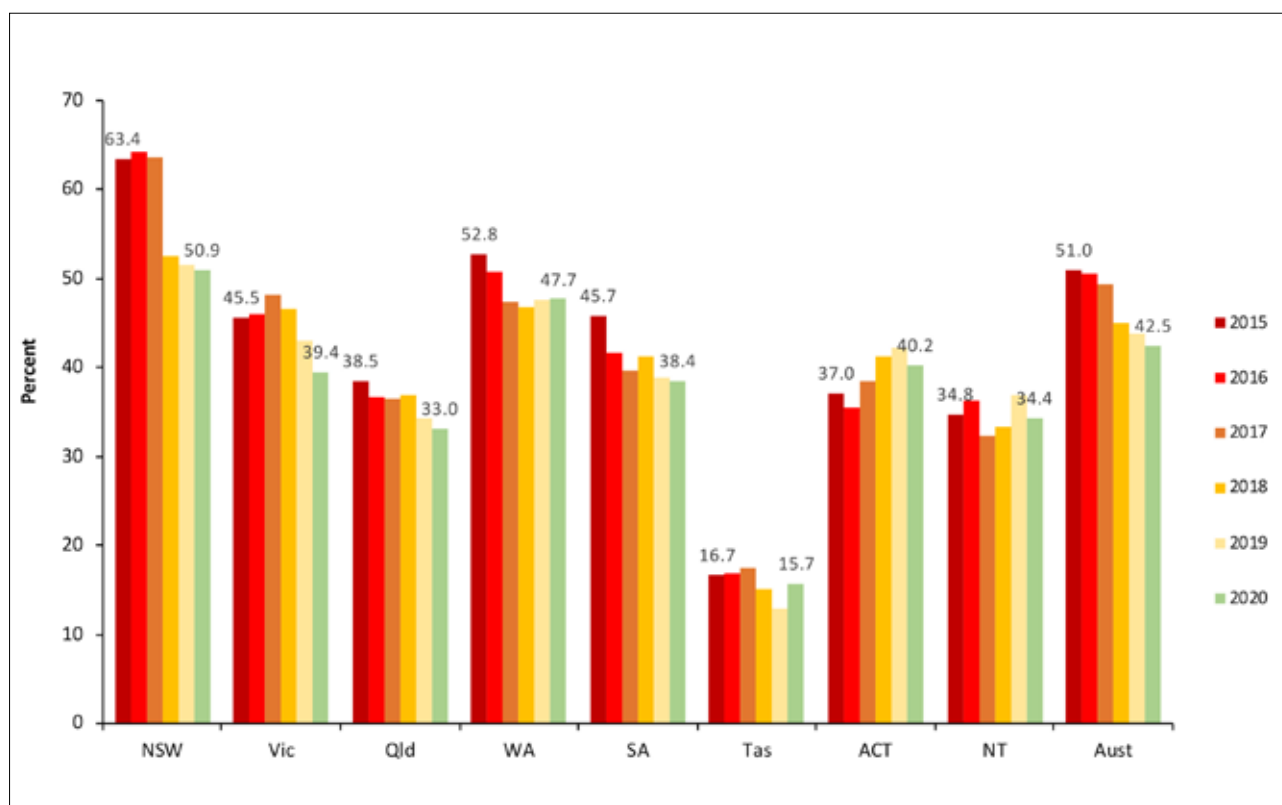
Victoria had the highest rate of placement with kin or Aboriginal and Torres Strait Islander carers in 2019–20 (79.3%) and a consistent upward trajectory; however, Victoria also has a noticeable downward trajectory in placements with Aboriginal and Torres Strait Islander carers specifically (39.4%), placing children with non-Indigenous kin at a high rate. In 2019–20, New South Wales had the second highest rate of placement with Aboriginal and Torres Strait Islander carers or kin (73.8%) and the highest rate of placement with Aboriginal and Torres Strait Islander carers specifically (50.2%).

**FIGURE 34** Aboriginal and Torres Strait Islander children placed with kin or Aboriginal and Torres Strait Islander carers at 30 June 2020



Data sources: SCRGSP (2021c), Table 16A.22; SCRGSP (2016), Table 15A.24.

**FIGURE 35** Aboriginal and Torres Strait Islander children placed with Aboriginal and Torres Strait Islander carers at 30 June 2020



Data sources: SCRGSP (2021c), Table 16A.22; SCRGSP (2016), Table 15A.24.

**TABLE 6** Placement of Aboriginal and Torres Strait Islander children via finalised third-party parental responsibility orders (or 'permanent care orders'), as at 30 June 2020 (number and proportion)

|                              |   | Number of children in each placement type (and % as a proportion of all Aboriginal and Torres Strait Islander children subject to these orders) |                             |  |   |                  |
|------------------------------|---|---|-----------------------------|--|---|------------------|
| Jurisdiction                 | TPPRO   | Aboriginal and Torres Strait Islander relative/kin  | Non-Indigenous relative/kin | Other Aboriginal and Torres Strait Islander carer(s) | Non-Indigenous, non-relative/kin carer(s) | Residential care |
| Victoria                     | Permanent care orders                                       | 187 (59%)   | 49 (16%)                    | 9 (3%)   | 71 (22%)                                  | 0                |
| Queensland                   | Long-term child protection orders and permanent care orders | 291 (49%)   | 239 (40%)                   | 18 (3%)  | 42 (7%)                                   | 5 (1%)           |
| Western Australia            | Special guardianship order                                  | n/a   | n/a                         | n/a  | n/a                                       | n/a              |
| South Australia              | Unspecified   | 13 (41%)  | 11 (34%)                    | 0  | 8 (25%)                                   | 0                |
| Tasmania                     | Unspecified   | 12 (20%)*   | 27 (44%)**                  | 9 (15%)  | 13 (21%)                                  | 0                |
| Australian Capital Territory | Enduring parental responsibility orders                     | 4 (13%)   | 8 (27%)                     | 0  | 18 (60%)                                  | 0                |
| Northern Territory           | Permanent care orders                                       | 0   | 0                           | 0  | 0   | 0                |

Source: unpublished data provided to SNAICC by the Victorian, Queensland, WA, SA, Tasmanian, ACT and NT Governments.

Notes: **Queensland** – Data sourced from DCYJMA Corporate Data sets and therefore is not comparable to data provided in previous years, which was sourced from the AIHW using Queensland's Child Protection National Minimum Data Set. **WA** – Data on the carer(s) to whom the Special Guardianship Order was issued is incomplete in the WA child protection client system. **Tasmania** – \*The high number of carers whose Indigenous status is unknown may impact affect the identification of children living with Aboriginal and Torres Strait Islander caregivers. \*\*Children placed with carers whose Indigenous status is unknown are included in the count of children with non-Indigenous carers. **NT** – There were no Permanent Care Orders granted in the NT in 2019-20. Data derived from the AIHW Child Protection Australia Report.



Despite a small drop from 2018–19 to 2019–20, the Australian Capital Territory has shown consistent improvement against both measures, and was the only jurisdiction to increase placement for Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers in the last five years (increasing from 37% to 40.2%). The lowest rate of placement with Aboriginal and Torres Strait Islander carers and other kin was in the Northern Territory (34.4% in 2019–20). Tasmania had by far the lowest rate of placement with Aboriginal and Torres Strait Islander carers specifically, at just 15.7% in 2019–20, while Queensland was second lowest at 33%.

State and territory governments were also asked to provide additional data on the placements of children on finalised long-term third-party parental responsibility orders (TPPROs or their equivalent), as shown in **Table 6**. These orders are particularly relevant to the maintenance of children’s cultural identity and connections because they reflect circumstances where governments have fully transferred responsibility for the child’s care to a foster or kinship carer until the child turns 18 (further details are provided in part 1).

Notably, New South Wales applies permanent care orders for Aboriginal and Torres Strait Islander children at the highest rate of any state or territory (18.7 per 1,000) but did not provide any data indicating whether these children are placed with Aboriginal and Torres Strait Islander carers or kin. This reflects a concerning lack of transparency regarding efforts to ensure culturally connected placements for Aboriginal and Torres Strait Islander children in permanent care. Victoria uses permanent care orders for Aboriginal and Torres Strait Islander children at the second highest rate (16.9 per 1,000), and children on those orders were more likely to be placed with Aboriginal and Torres Strait Islander carers (62%) than in any other state (this proportion was also significantly higher than the 39% of Aboriginal and Torres Strait Islander children in the broader Victorian out-of-home care population living with Aboriginal and Torres Strait Islander carers).

Numerous reasons underpin the decreasing rate of placements with Aboriginal and Torres Strait Islander kin. The increasing strain on Aboriginal and Torres Strait Islander families and communities to provide care because of increasing numbers of children in the system is a factor but cannot be identified as the only reason. Other key factors include: failure to involve Aboriginal and Torres Strait Islander communities in child protection decision-making; inappropriate carer recruitment and assessment processes; inadequate financial and non-financial supports for kinship carers (see, for example, Hermant and Youmshajekian 2021); individual and systemic racism in the identification and selection of carers; and failures to resource ACCOs to provide kinship care services (Arney *et al.* 2015; SNAICC 2021).

This report identifies a range of promising initiatives to counter dropping Aboriginal and Torres Strait Islander

kinship care rates, including delegation of statutory child protection authority to community-controlled organisations in Victoria and Queensland, and recent increases in funded community-controlled kinship care services in jurisdictions such as the Northern Territory and South Australia. However, the data indicate that much more is needed to ensure children are in placements connected to family and culture.

## PARTICIPATION

In order to achieve the best interests of the Indigenous child, the United Nations *Convention on the Rights of the Child* (UNCRC) General Comment 11 explains that Indigenous children and communities worldwide need to be given the opportunity to meaningfully participate in legislation, policies and programs that affect their lives (UNCRC 2009a). Critical to this is that decisions can be – and are – made in a culturally sensitive way, reflecting not only the rights of the individual child but the collective right of the Indigenous group. Further explained by the UNICEF *Implementation Handbook for the Convention on the Rights of the Child*, Article 30 purposefully stresses that children from Indigenous origins will not be denied their rights to enjoy their own cultures. Included specifically because of “overwhelming evidence of serious and continuing discrimination against minority and Indigenous populations”, this article aims to make certain that state signatories pay adequate attention to these rights, and that “all children have the right of peaceful enjoyment of practices and faiths that are not harmful, no matter how strange or alien they may seem to others” (UNICEF 2007, pp. 455–6).

Article 12 of the UNCRC also “requires that a child capable of expressing views must have the right to express those views freely in all matters affecting the child and that the child’s views must be given due weight”; in particular, the child must have an opportunity to be heard in any judicial and administrative proceedings affecting their life (UNICEF 2007, p. 149). In 2009, the Committee on the Rights of the Child further expanded upon the right of the child to be heard, including that those children who are facing separation from their parents can have their views solicited and considered through legislation, regulation and policy directives (UNCRC 2009b). **Box 1** provides more detail.

The participation element of the Child Placement Principle further engrains this in the Australian context. This element requires Aboriginal and Torres Strait Islander children, parents and family members to be involved in all decision-making that affects them – including decisions about how a family can best provide safe care for a child, and child protection case decisions at intake, assessment, intervention, placement and when a child is in out-of-home care, including judicial decision-making processes related to children.

Given the significant long-term impacts and poor life outcomes on children and families when a child is

## BOX 1

### THE RIGHT OF THE CHILD TO BE HEARD

United Nations Convention on the Rights of the Child CRC/C/GC/12 – 1 July 2009  
Committee on the Rights of the Child – 51st session 12 June 2009

Article 12 of the Convention on the Rights of the Child provides:

- "1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
- 2. For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."*

#### SEPARATION FROM PARENTS AND ALTERNATIVE CARE

53. Whenever a decision is made to remove a child from her or his family because the child is a victim of abuse or neglect within his or her home, the view of the child must be taken into account in order to determine the best interests of the child. The intervention may be initiated by a complaint from a child, another family member or a member of the community alleging abuse or neglect in the family.

54. The Committee's experience is that the child's right to be heard is not always taken into account by States parties. The Committee recommends that States parties ensure, through legislation, regulation and policy directives, that the child's views are solicited and considered, including decisions regarding placement in foster care or homes, development of care plans and their review, and visits with parents and family.

#### IN ALTERNATIVE CARE

97. Mechanisms must be introduced to ensure that children in all forms of alternative care, including in institutions, are able to express their views and that those views be given due weight in matters of their placement, the regulations of care in foster families or homes and their daily lives.

These should include:

- Legislation providing the child with the right to information about any placement, care and/or treatment plan and meaningful opportunities to express her or his views and for those views to be given due weight throughout the decision-making process;
- Legislation ensuring the right of the child to be heard, and that her or his views be given due weight in the development and establishment of child-friendly care services;
- Establishment of a competent monitoring institution, such as a children's ombudsperson, commissioner or inspectorate, to monitor compliance with the rules and regulations governing the provision of care, protection or treatment of children in accordance with the obligations under article 3. The monitoring body should be mandated to have unimpeded access to residential facilities (including those for children in conflict with the law), to hear the views and concerns of the child directly, and to monitor the extent to which his or her views are listened to and given due weight by the institution itself;

#### BASIC REQUIREMENTS FOR THE IMPLEMENTATION OF THE RIGHT OF THE CHILD TO BE HEARD

132. The Committee urges States parties to avoid tokenistic approaches, which limit children's expression of views, or which allow children to be heard, but fail to give their views due weight. It emphasizes that adult manipulation of children, placing children in situations where they are told what they can say, or exposing children to risk of harm through participation are not ethical practices and cannot be understood as implementing article 12.

133. If participation is to be effective and meaningful, it needs to be understood as a process, not as an individual one-off event.

Source: Table 16A.8 [SCRGSP, 2021]

removed from their family and community, governments have a responsibility to afford children, families and communities procedural justice to ensure that they are meaningfully informed and involved in these life-impacting decisions. This also helps to balance out the substantial powers that government currently have to remove a child, and the potential for these powers to be misused or not properly applied in the absence of cultural knowledge and authority for the child.

Participation of the child, family and community extends beyond simple consultation, and is expected to genuinely include relevant Aboriginal and Torres Strait Islander people in the decisions about children at all stages of child and family welfare decision-making. This requires such practices as Aboriginal and Torres Strait Islander family-led decision-making, respect and acknowledgment of cultural authority and traditional child-rearing practices, and legislative alignment with the participation element of the Child Placement Principle (all of which have been identified by several reviews and inquiries across Australia as ways in which to effectively engage with Aboriginal and Torres Strait Islander children and families in the practice of participation) (Family Matters 2020).

To meaningfully participate, Aboriginal and Torres Strait Islander children and families need to have the opportunity, information, time and culturally safe and appropriate supports to do so. This includes ensuring that ACCOs have resourced and legislated roles to support the participation of children and families in their communities.

Governments' role in establishing these parameters includes considering and incorporating:

- easy-to-navigate and easy-to-access family decision-making processes, independent of statutory agencies and facilitated by Aboriginal and Torres Strait Islander organisations and people
- acknowledgement of, and steps to combat, the barriers faced by families when navigating the current child protection system
- family participation in case planning, including engaging mothers, fathers and extended family members early in the process
- adequate provision of advocacy support for families and adequate professional capacity of representatives
- adequate, culturally safe, well resourced legal representation for families
- empowered Aboriginal and Torres Strait Islander community-controlled organisations that can facilitate family decision-making processes for all families where child safety concerns are identified, as well as inform policies and programs when required
- high cultural competence of child protection professionals, so they are able to effectively engage Aboriginal and Torres Strait Islander families in child protection decision-making processes

- sufficient understanding and respect among child protection professionals of Aboriginal and Torres Strait Islander child rearing practices and cultural authority
- appropriate communication mechanisms and styles, including clear messaging and the ability to reasonably adjust to meet the circumstances (for example, when communicating with a family with low English literacy levels).

**Table 7** considers the alignment of provisions in primary child protection legislation in each jurisdiction with requirements for Aboriginal and Torres Strait Islander children, families, communities and community organisations to participate in child protection decisions. The table cuts across aspects of both the participation element (focused on the participation of children and families) and the partnership element discussed above (focused on the participation of community representatives and organisations). Outside of Western Australia, there have been few significant changes to legislation to improve requirements for participation in the last year. The Queensland and Victorian legislation remain the most comprehensive in meaningfully supporting participation.

Legislation reviewed includes: *Children and Young People Act 2008* (ACT), *Children and Young Persons (Care and Protection) Act 1998* (NSW), *Care and Protection of Children Act 2007* (NT), *Child Protection Act 1999* (Qld), *Children and Young People (Safety) Act 2017* (SA), *Children, Young Persons and Their Families Act 1997* (Tas), *Children Youth and Families Act 2005* (Vic), and *Children and Community Services Act 2004* (WA).

Some examples of participation provided by jurisdictions – and, where relevant, elements that have been critiqued by Aboriginal and Torres Strait Islander communities, experts or organisations – include:

- Increased family participation in decision-making is currently addressed in New South Wales through the Aboriginal Case Management Policy and legislative reform to the *Children and Young Persons (Care and Protection) Act 1998*. The policy, developed with AbSec in 2018, supports the involvement of families and communities in case planning with child protection practitioners, while the legislative reform means that all families must be offered alternative dispute resolution, preferably family group conferencing. In 2019–20, 47% of such conferences (331) were for Aboriginal families. However, there are no requirements to implement a distinct Aboriginal family-led decision-making model that is designed and facilitated by Aboriginal people and organisations. While the NSW Department of Communities and Justice states that there are some frameworks and protocols in place to promote adherence to the ATSCPP, the *Family is Culture Review Report* highlighted that practice is not aligned to policies and procedures, and that broader structural deficiencies impede good practice. Inadequate government resourcing also continues to

**TABLE 7** Alignment of state and territory child protection legislation with elements of participation

|     | Aboriginal and Torres Strait Islander self-determination is a recognised principle in the Act | Aboriginal and Torres Strait Islander people's participation and/or consultation is a decision-making principle in the Act | Consultation/participation of an Aboriginal and Torres Strait Islander agency (external) is required for all significant decisions | Consultation with an external Aboriginal and Torres Strait Islander agency is required prior to placement decisions | Input from external Aboriginal and Torres Strait Islander agencies is expressly required in judicial decision-making | The Act mandates that a child has meaningful opportunities to express their views and for those views to be given due weight in the decision-making process |
|-----|---|--|--|---|--|---|
| ACT | No  | No (Participation requirements not specific to decision-making)  | No (Submissions considered)  | No  | No (Limited input requirement for long-term orders)  | Yes (Does not stipulate how children's views will be responded to and taken into account in all processes)  |
| NSW | Yes   | Yes  | Yes (Required by principle, but no enabling process is specified)  | Yes   | No   | Yes   |
| NT  | Yes   | Yes  | No   | No  | No   | Yes   |
| QLD | Yes   | Yes  | Yes  | Yes   | No   | Yes   |
| SA  | No  | No   | No   | Yes   | Yes (For placement decisions only)   | Yes (Does not stipulate how children's views will be responded to and taken into account in all processes)  |
| TAS | Yes   | Yes  | No   | No  | No (Evidence and submissions)  | Yes   |
| VIC | Yes   | Yes  | No (Required by agreed protocol, but not legislation)  | Yes   | Yes (For permanent care orders only)   | Yes (Does not stipulate how children's views will be responded to and taken into account in all processes)  |
| WA  | Yes   | Yes  | No   | Yes   | No   | Yes   |

GREEN – Legislation aligned RED – Legislation not aligned GREY – Limited / significantly qualified alignment



undermine the effective implementation of positive initiatives that could change how the system works for Aboriginal people, including the Aboriginal Case Management Policy and Aboriginal family-led decision-making.

- A two-year Aboriginal family led decision-making pilot was announced in August 2020 by the Western Australian Minister for Child Protection and was initially implemented in Mirrabooka and the Midwest Gascoyne region in September 2021. The pilot intends to support Aboriginal families to make decisions about their children in a culturally safe way and to keep Aboriginal children safe and connected to community. Since February 2021, it has also included an Aboriginal Implementation Group to guide and make decisions on the design. The pilot is considered to complement changes to the *Children and Community Services Act 2004*. However, at present this pilot is only being trialled by two ACCOs and has only been funded for \$715,000 (an amount identified by community stakeholders as inadequate for implementation and evaluation of a comprehensive and quality pilot program). Aboriginal leaders in the Western Australian child and family sector have also argued that this pilot (which intends to develop an implementation plan to extend Aboriginal family-led decision-making across the state) is still several years behind other jurisdictions' progress and that there is no reason not to implement a state-wide program in line with the strong evidence base for this model's value.
- The Northern Territory Government considers the Multi-Agency Community and Child Safety (MACCS) Framework to be a demonstration of its commitment to local collaborative decision-making. This framework brings community members, locally based heads of government agencies, and non-government organisations into teams (MACCSTs) that identify issues, create action plans for family and community safety, and carry out actions together. These teams will eventually be established in 27 communities across the Territory to collaboratively address issues through locally built solutions. However, Aboriginal organisations consider the focus on MACCSTs as the primary mechanism for community input into child protection decisions to be problematic, as there is no specific means for families to be involved (including to articulate their own needs), and even the inclusion of Aboriginal community members is often minimal in practice. There is also concern that information sharing provisions in the *Territory Families Legislation Amendment Bill 2021* will have a negative effect on families' willingness to engage with ACCOs that are members of MACCSTs, due to fears that reaching out for help will lead to notifications and child removals by Territory Families.
- In 2019–20, the Queensland Government allocated \$14m to the *Family Participation Program* to support Aboriginal and Torres Strait Islander families to

participate in key decisions that affect them across the child protection system. The Government reports that this has resulted in many positive outcomes for children, including many remaining safely with their families while having strengthened safety and support networks in place. ACCOs in Queensland agree that there has been improved implementation of the participation element in some regions of the state, where collective decision-making mechanisms such as HALT are being implemented – with these mechanisms enhancing planning and decision-making, protecting cultural integrity, and supporting ACCOs and community leaders to work with the Queensland Government from the point a child first comes to the attention of the child protection system. Leading ACCOs recommended that similar localised models are implemented across the state, particularly to respond to concerns for unborn babies and for young people on dual orders and living in detention centres.

## DATA GAPS FOR PARTICIPATION

There is limited nationally consistent data available to capture the progress of implementing the participation principle. The principle could be measured through the inclusion of the following indicators:

- Aboriginal and Torres Strait Islander children admitted to out-of-home care for whom the input of family regarding placement decisions was collected through a family group conference or family-led decision-making.
- Aboriginal and Torres Strait children in out-of-home care with cultural support plans that include the input of the child.
- Aboriginal and Torres Strait children in out-of-home care with cultural support plans that include the input of family members.
- Aboriginal and Torres Strait children in out-of-home care with cultural support plans that include the input of family collected through a family group conference or family-led decision-making.

## CONNECTION

For Aboriginal and Torres Strait Islander children removed from their parent and placed in out-of-home care, genuine and active efforts to maintain connections to family, community, culture and Country are vital to their ongoing safety and wellbeing. The *National Agreement on Closing the Gap* acknowledges that strong Aboriginal and Torres Strait Islander cultures are fundamental to improving life outcomes for Aboriginal and Torres Strait Islander peoples. Research is clear that Aboriginal and Torres Strait Islander children removed from their families experience worse

outcomes in both health (physical and psychological) and social domains, linked to loss of cultural connection and identity (Atkinson *et al.* 2014). Efforts to maintain and reinstate cultural connections have been identified as critical to prevent and respond to the traumas that result from disconnection and to minimise the associated health and social disparities (Hunter, Skouteris and Morris 2021).

Protecting Aboriginal and Torres Strait Islander children's rights to cultural connections requires that:

- cultural care plans are developed, resourced, and implemented for every child
- carers commit, and are held accountable to their commitment, to maintaining cultural connections for children
- cultural care arrangements are regularly reviewed and updated to ensure an enduring commitment to maintaining connections is demonstrated
- reunification is considered early, and plans and culturally safe supports are put in place to support reunification where it is identified as a possibility
- options for reunification and reconnection are regularly reviewed (and advanced wherever possible)
- decisions relating to permanency of care do not cause harm by severing the potential for future cultural connections for Aboriginal and Torres Strait Islander children (SNAICC 2017).

The implementation of cultural plans (also known as cultural support plans or cultural care plans in some jurisdictions) offers a way to support cultural connections if undertaken in a comprehensive and meaningful way, led by Aboriginal and Torres Strait Islander people from the child's cultural group. Important aspects of cultural planning include the mapping of cultural connections through accurate genealogies and the provision of practical supports and resourcing for Aboriginal and Torres Strait Islander children to connect with, and participate in the cultural life of, their families and communities (Libesman 2011). Requirements or recommendations commonly exist for cultural planning across child protection systems, but the evidence unfortunately indicates that their effectiveness is frequently hampered by limited completion of plans and inadequate practical supports for implementation (Libesman 2011; Tilbury 2013).

The existence of cultural plans for Aboriginal and Torres Strait Islander children in out-of-home care is an indicator reported under the *National Framework for Protecting Australia's Children 2009–2020* and the *National Standards for Out-of-Home Care*. The AIHW reports that at 30 June 2020, 71.2% of Aboriginal and Torres Strait Islander children in out-of-home care *who were required to have a cultural support plan* had a current plan (AIHW 2021c). However, these data are highly limited – they exclude three states and territories that do not have available or reliable data (South Australia, Tasmania, Australian Capital Territory), and they are restricted to

Aboriginal and Torres Strait Islander children who are required by legislation to have a cultural plan, rather than focused on ensuring *all* Aboriginal and Torres Strait Islander children in out-of-home care have their cultural support needs met. Further, the data do not indicate the quality of a cultural plan or whether a plan has been implemented.

As discussed above (in part 4.1), in 2019, the Children and Families Secretaries Group agreed on a set of Child Placement Principle indicators for data development, including a range of indicators for measuring implementation of the connection element. Within this set of indicators, several reflect the work that should go into the development of a cultural support plan, including:

- Aboriginal and Torres Strait Islander children in out-of-home care with documented genograms
- Aboriginal and Torres Strait Islander children in out-of-home care with cultural support plans that include the child's cultural background and actions for the maintenance of children's culture
- Aboriginal and Torres Strait Islander children with cultural support plans that include the input of:
  - an ACCO
  - family members
  - a family group conference or family-led decision-making meeting (AIHW 2020b).

Unfortunately, progress on the development of these indicators has been slow and appears stalled, with no apparent increase in the numbers of indicators reported in the second edition of *The Aboriginal and Torres Strait Islander Child Placement Principle Indicators* (AIHW 2021d).

States and territories were invited to provide additional data to inform this report on the number of Aboriginal and Torres Strait Islander children in out-of-home care with a documented genogram. This data point would provide an indication of whether work had been undertaken to map and understand a child's family and cultural connections in order to be able to maintain and support them. Further reflecting the lack of progress in indicator development, only one state provided data, with the SA Department of Child Protection indicating that 1,295 children – 85.3% of all Aboriginal and Torres Strait Islander children in out-of-home care in South Australia – have a documented genogram.

#### 4.4 OVERSIGHT AND ACCOUNTABILITY

A key theme in SNAICC's 2021 community consultations has been the seeming lack of accountability and transparency of government in child protection systems, including as regards policies, practices and funding allocations. While Aboriginal and Torres Strait Islander families are quickly punished when they fail to demonstrate compliance with child protection mandates, governments and government services

are generally not held accountable when they fail to demonstrate full compliance with, for example, the Child Placement Principle. These consultations saw communities call strongly for greater accountability and transparency of child protection systems to Aboriginal and Torres Strait Islander people, including through:

- establishment of a National Aboriginal and Torres Strait Islander children's commissioner
- establishment of state-based Aboriginal and Torres Strait Islander children's commissioners where these do not yet exist
- better funding and legislative power for existing state-based Aboriginal and Torres Strait Islander children's commissioners and guardians
- strong child protection peak bodies in each state
- a dedicated national Aboriginal and Torres Strait Islander child protection framework or plan
- jurisdictions' policies being aligned to the new *National Agreement for Closing the Gap*.

### JOINT COUNCIL ON CLOSING THE GAP

The Joint Council on Closing the Gap plays a critical ongoing role in monitoring implementation of the *National Agreement on Closing the Gap*, including progress by the parties against their implementation plans and to achieving Outcome 12: *Aboriginal and Torres Strait Islander children are not over-represented in the child protection system*. All governments are now committed to the accountability measures and reporting requirements agreed to as part of Closing the Gap, and to achieving the National Agreement's targets. The Joint Council includes ministers from each jurisdiction, a representative from the Coalition of Peaks from each state and territory, subject matter expert representatives from the Coalition of Peaks, and the president of the Australian Local Government Association.

### SAFE AND SUPPORTED – THE NATIONAL FRAMEWORK FOR PROTECTING AUSTRALIA'S CHILDREN 2021–2031

The new National Framework recognises that it will be subject to existing accountability and governance arrangements under the National Agreement (JCOCTG 2020), including requirements for reporting by the Productivity Commission (updating a publicly-accessible data dashboard annually, and undertaking a review of progress against the Priority Reforms and Outcomes every three years); annual public reports by each Agreement signatory, that include measures and actions taken to implement Closing the Gap; independent Aboriginal and Torres Strait Islander led reviews of progress within 12 months of each Productivity Commission review; and mechanisms for independent oversight, including through existing mechanisms under Closing the Gap.

### INDEPENDENCE AND AUTONOMY

It is critical that there are additional protections for, and a guarantee of government accountability towards, Aboriginal and Torres Strait Islander children and young people. This is the case in light of both the increasing over-representation of Aboriginal and Torres Strait Islander children in out-of-home care and the unique historical legacies, disadvantages and systemic discriminations that continue to impact Aboriginal and Torres Strait Islander children, families and communities. The level of protection and accountability needed for today's Aboriginal and Torres Strait Islander children and young people requires strong oversight bodies that: have full legislated independence and autonomy from government; are adequately resourced; and are shown appropriate respect when carrying out their roles. At present, only three Australian jurisdictions have a standalone commissioner for Aboriginal and Torres Strait Islander children, and one has a deputy guardian for Aboriginal children and young people (Table 8). Additionally, the Australian Capital Territory committed in its first *Closing the Gap Implementation Plan* to undertake preliminary work towards establishing a commissioner for Aboriginal and Torres Strait Islander children and young people.

### NATIONAL COMMISSIONER FOR ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND YOUNG PEOPLE

Seventy organisations and seven children's commissioners and guardians from across Australia have endorsed the SNAICC and Family Matters position paper (SNAICC 2019) calling for the establishment of a national commissioner for Aboriginal and Torres Strait Islander children and young people. This role would sit alongside the Australian children's commissioner and the Aboriginal and Torres Strait Islander social justice commissioner, in the Australian Human Rights Commission, as an equal and fully resourced member. This commissioner would advocate at the national level for the needs, rights (including cultural rights) and views of Aboriginal and Torres Strait Islander children and young people. The role would provide rigorous oversight and accountability of governments' child protection systems and services, in order to guarantee the protection of Aboriginal and Torres Strait Islander children's rights, as well as a voice dedicated to advancing these rights. The commissioner would be empowered to support strategies that lead to more effective collaboration and coordination both between and within governments, which is particularly critical in situations where Aboriginal and Torres Strait Islander children are impacted by *buck-passing* between and within multiple government agencies.

This position would be established in conformity with the following United Nations benchmark guidelines for national human rights institutions, known as the Paris Principles (SNAICC and KWM 2020):

**TABLE 8** Commissioners and Guardians with dedicated oversight/responsibility for Aboriginal and Torres Strait Islander children, by state and territory

| JURISDICTION    | NAME           | TITLE   | YEAR OF INCEPTION | FOCUS   | LEGISLATED   |
|-----------------|----------------|---|-------------------|---|--|
| Victoria        | Justin Mohamed | Commissioner for Aboriginal Children and Young People   | 2013              | <ul style="list-style-type: none"> <li>- Functions and powers not clearly defined</li> <li>- Significantly resourced and empowered to perform certain functions</li> </ul>  | Role not enshrined in legislation                              |
| South Australia | April Lawrie   | Commissioner for Aboriginal Children and Young People   | 2018              | <ul style="list-style-type: none"> <li>- Power to conduct independent inquiries and formal investigations into issues relevant to Office</li> <li>- Authority to advise/recommend government ministers, state authorities and other non-government bodies on matters relating to Aboriginal children</li> <li>- Ensure SA is held accountable to international obligations on the rights of Aboriginal children.</li> </ul> | Role enshrined in legislation in 2021                          |
| Queensland      | Natalie Lewis  | Commissioner, Queensland Family and Children Commission (QFCC) – Aboriginal and Torres Strait Islander role | 2020              | <ul style="list-style-type: none"> <li>- Oversees systemic and structural issues affecting Aboriginal and Torres Strait Islander children</li> <li>- Statutory responsibilities to ensure representation of Aboriginal and Torres Strait Islander people's interests</li> <li>- Promotes role of Aboriginal and Torres Strait Islander service providers</li> </ul>   | Established by Queensland Family and Child Commission Act 2014 |
| New South Wales | Richard Weston | Office of the Children's Guardian – Deputy Children's Guardian for Aboriginal Children and Young People     | 2020              | <ul style="list-style-type: none"> <li>- Distinct from a commissioner as the guardian works solely for children in care of a government department</li> <li>- Limiting as a deputy role</li> </ul>  | Not yet legislated.  |

**TABLE 9** Aboriginal and Torres Strait Islander child and family peak bodies, by state and territory

| JURISDICTION      | PEAK BODY   | OTHER MEASURE/S IN PLACE   |
|-------------------|---|--|
| National          | SNAICC – National Voice for our Children  |  |
| Queensland        | QATSICPP – Queensland Aboriginal and Torres Strait Islander Child Protection Peak |  |
| New South Wales   | AbSec – NSW Child, Family and Community Peak Aboriginal Corporation               |  |
| Victoria          | No peak body  | Policy participation through VACCA and VACYPA, and the representation of all ACCOs in the Aboriginal Children's Forum. |
| Western Australia | No peak body  | Noongar Family Safety and Wellbeing Council provides a strong advocacy voice for Noongar children and families.        |



- established by legislation to ensure its independence and autonomy from government
- filled by an identified Aboriginal and Torres Strait Islander person with appropriate qualifications, knowledge and experience, and appointed through a transparent process
- mandated with a clear scope and purpose for the role
- granted appropriate functions and powers to promote systemic change and accountability, including powers of inquiry and investigation
- adequately resourced to perform its role effectively.

To date, there has been no progress in establishing this role or achieving government acknowledgement of the critical need for this role.

## STATE AND TERRITORY ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN'S COMMISSIONERS

Aboriginal and Torres Strait Islander children's commissioners should be established in every state and territory, with legislated powers and functions to pursue better services for all Aboriginal and Torres Strait Islander children within their jurisdiction. These roles should also comply with the Paris Principles, and all roles should be enshrined in legislation. Where commissioners' roles currently exist, the role should be reviewed to align with the Paris Principles, and may need to be updated to guarantee sufficient functions, powers and consistency of remit. Community representatives in many jurisdictions have long called for such commissioners to be established but have had limited success to date.

## PEAK BODIES

Peak bodies are also an important mechanism to provide advocacy, oversight and accountability for systems that impact Aboriginal and Torres Strait Islander children and their families. Currently, as shown in **Table 9**, peak bodies with a dedicated focus on the Aboriginal and Torres Strait Islander child protection and family services sector operate at the national level (SNAICC), in Queensland (QATSICPP) and in New South Wales (AbSec). Victoria also has significant policy participation roles resourced through the Victorian Aboriginal Child Care Agency and the Victorian Aboriginal Children & Young People's Alliance. While there is no state peak body in Western Australia, the Noongar Family Safety and Wellbeing Council provides a strong voice for Noongar children and families and advocates on their behalf. And in South Australia, the Department for Child Protection has committed to developing a model for an Aboriginal child and family peak body (including the provision of funding) through a community consultation process in 2021–22.

It is important to note that the establishment and resourcing of peak bodies does not necessarily create meaningful participation, particularly if peak bodies are not properly consulted when a government is developing legislation, policies or practice frameworks that affect Aboriginal and Torres Strait Islander children, families and communities.





## CONCLUSION AND RECOMMENDATIONS

Successive Family Matters reports have shown that we have yet to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care – in fact, overall, the data indicate clearly that the situation is getting progressively worse. The Family Matters campaign believes that the solutions lie in harnessing the strengths and cultural authority of our families and communities to lead the supports and responses that will advance the safety and wellbeing of our children.

The crisis of child protection intervention will only be acted on at the pace required if the Australian, state and territory governments commit to work together – in partnership with Aboriginal and Torres Strait Islander peoples – through a dedicated strategy to achieve Target 12 of the *National Agreement on Closing the Gap* (reducing Aboriginal and Torres Strait Islander children’s over-representation in out-of-home care by 45% by the year 2031), with implementation plans at the national and state and territory levels.

The National Agreement’s Priority Reforms saw governments across the country committing to make decisions in genuine partnership with Aboriginal and Torres Strait Islander peoples and organisations; to invest in our community-controlled services; to transform government agencies and non-Indigenous services into culturally safe institutions; and to support Aboriginal and Torres Strait Islander oversight. These commitments align strongly with the Family Matters building blocks. Yet after one year of the National Agreement’s existence, it is clear that – sadly – limited progress has been made to redress over-representation and the drivers of child protection intervention.

If *Safe and Supported: The National Framework for Protecting Australia’s Children 2021–2031* is to achieve the fundamental shift in child protection outcomes to which governments have committed, its implementation (through five-year Action Plans) must support genuine and comprehensive systems transformation that has Aboriginal and Torres Strait Islander self-determination at its centre. This includes taking active steps towards families, communities and Aboriginal and Torres Strait

Islander community-controlled organisations partnering in child protection system design and administration.

Our key recommendations are provided in alignment with the Family Matters building blocks for change. Implementing these recommendations will move us closer to protecting the rights of Aboriginal and Torres Strait Islander children and empowering our families and communities to care for and protect future generations.

We recommend:

**Ensure that the first five-year action plans for *Safe and Supported: The National Framework for Protecting Australia’s Children 2021–2031* set out a clear and resourced pathway to transform Australia’s child and family service systems to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by 2031. *The Family Matters Roadmap*, which has been developed through extensive review of the evidence and consultation with leading Aboriginal and Torres Strait Islander experts, provides a vision and clear strategies for achieving fundamental change to systems, policy and practice.**

The previous *National Framework for Protecting Australia’s Children* proved grossly inadequate to achieve necessary change for our children. In December 2021, a new 10-year framework has been launched through which “all governments commit to progressive systems transformation that has Aboriginal and Torres Strait Islander self-determination at its centre.” This must not become another empty promise to our children. The action plans for this Framework must reflect self-determination in their design, and accountability to Aboriginal and Torres Strait Islander peoples for their implementation. The action plans should reflect all of our recommendations below.



## 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 investment in universal and targeted early intervention and prevention, including family support and reunification services, and including funding to community-controlled services at a rate equivalent to the representation of Aboriginal and Torres Strait Islander children in child protection services.**

Despite long-standing policy rhetoric surrounding re-orientation of Australia's child protection systems, 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 in evidence-based and culturally safe Aboriginal and Torres Strait Islander community-controlled early childhood education and care, maternal and child health, trauma, healing, 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 out-of-home care systems. What is needed is the foresight of governments to invest more in and recognise the long-term cost and societal benefits of prevention and early intervention that are born out in the evidence.

**Progress since last year:** Nationally proportional investment in family support and intensive family support compared to other child protection services remained almost the same. Only Tasmania showed a significant increase from 12.8% to 18.5%.

- 2. Invest to increase the coverage and capacity of Aboriginal and Torres Strait Islander community-controlled integrated early years services through a new specific funding model and program designed to meet the needs of our children and families.**

In December 2021, a new National Aboriginal and Torres Strait Islander Early Childhood Strategy (Early Childhood Strategy) has been launched that recognises the high impact of early childhood on lifelong outcomes and the need for holistic and whole-of-government efforts to improve outcomes for our children in the early years.

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 Aboriginal Child and Family Centres 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 child-minding for working families, are ineffective to sustain our services and address 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:** The Australian Government and philanthropic organisations have invested in a new community-controlled intermediary/backbone support initiative led by SNAICC to strengthen the voice of, and address barriers for community-controlled early years services. A pilot has commenced in New South Wales, with West Australian and Victorian pilots to be established next year. The Australian Government is also investing an additional \$29.9 million to fund 20 additional Aboriginal and Torres Strait Islander child care centres. There are no other significant changes to the child care funding model that creates barriers for our families and services.

## BUILDING BLOCK 2

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

- 3. Set and implement investment targets to increase investment in Aboriginal and Torres Strait Islander service design and delivery by community-controlled organisations in line with self-determination and the aspirations of communities.**

In 2020 all Australian governments committed through the *National Agreement on Closing the Gap* to building the Aboriginal and Torres Strait Islander community-controlled sectors. But again this year, 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 privilege large non-Indigenous organisations that are often ineffective to engage and support 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:** South Australia set a new target for 30% of intensive family support investment to go to ACCOs, and made progress engaging two ACCOs for delivery. Progress on the similar 30% target for ACCO targeted early intervention services in New South Wales remains stalled. Queensland continues to lead on the proportion of investment in ACCOs for family support and intensive family support (21.8%) but this still remains well below the representation of Aboriginal and Torres Strait Islander children in child protection services. Victoria continued significant progress to invest in community-controlled child protection services providing case management and taking on delegated statutory authority, though case management transfer targets were missed.

**4. Establish and support independent Aboriginal and Torres Strait Islander family-led decision-making models in every state and territory, for all families across all significant child protection decision-making points.**

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 Aboriginal and Torres Strait Islander family-led decision-making 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.

Aboriginal family-led decision-making 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:** Western Australia progressed its two-year trial of Aboriginal family-led decision-making in two locations, however community representatives raised concern over inadequate trial funding (\$715k) and that rollout should occur faster in line with the evidence. An opportunity to legislate the model was also missed as part of child protection legislative reforms passed in 2021 in Western Australia. A long-standing commitment to progress Aboriginal family-led decision-making in the Northern Territory has not materialised in legislation or program funding. Victoria and Queensland remain the only two jurisdictions with state-wide models that include independent facilitation by ACCOs.

**5. Expand and appropriately fund the delegation of authority to Aboriginal and Torres Strait Islander organisations for statutory child protection functions across Australia.**

Increasing self-determination for Aboriginal and Torres Strait Islander peoples in child protection requires that our communities and organisations be able to 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. Delegated authority has been described as “the opportunity to change the whole nature of the relationship between Aboriginal communities and child protection; it is the means to ensure that identity and belonging is central to any response to an Aboriginal child who needs the protection of guardianship.”

Despite the strengths and potential of delegating child protection authority to our organisations, commitments and progress across the rest of the country are minimal, with only Queensland implementing delegated authority in two locations.

**Progress since last year:** Strong progress continued in Victoria with 181 children and young people authorised to an ACCO at 30 June 2021, and the number of ACCOs with delegated authority expanding (currently four, with two in the process of applying for delegations). In Queensland, the state government is working in partnership with QATSICPP to implement delegated authority in two early adopter sites, with nine instruments of delegation authorised to an ACCO at 30 June 2021.

### BUILDING BLOCK 3

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

6. **End the policy and practice of adopting Aboriginal and Torres Strait Islander children from out-of-home care and engage with Aboriginal and Torres Strait Islander peoples to create an alternative system of promoting stability and permanency for children, instead of using permanent legal orders. Where permanent care orders are used, legislate a requirement that an Aboriginal and Torres Strait Islander organisation must approve the making of the order.**

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 Family Matters 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 Aboriginal and Torres Strait Islander Child Placement Principle has been fully applied, and 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 are 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:** The proportion of Aboriginal and Torres Strait Islander children in out-of-home care on long-term child protection orders to age 18 remains very high at 79%, down only slightly from 81% the previous year. The alarming trend towards increased adoption of Aboriginal and Torres Strait Islander children continues with 12 adoptions in each of the last two years, the highest number in the past 25 years. Even more concerning is that only four of these 12 children were adopted by Aboriginal and Torres Strait Islander parents. New South Wales stands out as having the highest use of permanent care orders and the highest number of adoptions of Aboriginal and Torres Strait Islander children, while not transparently reporting whether children on permanent care orders are placed with Aboriginal and Torres Strait Islander carers.

7. **Establish national standards to ensure family support and child protection legislation, policy and practices are in adherence to all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle, including:**
  - a. nationally consistent standards for Aboriginal and Torres Strait Islander Child Placement Principle implementation and linked jurisdictional reporting requirements under *Safe and Supported: National Framework for Protecting Australia’s Children 2021-2031*
  - 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. increased investment in reunification services to ensure children are not spending longer in out-of-home care than is necessary due to inadequate planning and support for parents; and increased investment in support services for families once children are returned
  - d. 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:** National standards to ensure adherence with the Aboriginal and Torres Strait Islander Child Placement Principle have not been established or committed to. Part 4 of this report provides an overview of progress against each of the five elements.

## BUILDING BLOCK 4

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

#### 8. The establishment and resourcing of peak bodies that support and enable participation of Aboriginal and Torres Strait Islander people in policy and service design and in the oversight of systems impacting children.

If genuine self-determination and Aboriginal and Torres Strait Islander-led co-design are to emerge, then 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 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 have critical roles to play in legislation and policy development and in 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:** South Australia made funding available for Aboriginal and Torres Strait Islander communities and the child and family services sector in South Australia to design a model for their children and families peak body. SNAICC is currently facilitating a process to support the design of a peak by South Australian sector and community representatives. Queensland increased funding to QATSICPP including for system design and implementation roles related to delegation of statutory authority and a new kinship care model.

#### 9. The establishment of a commissioner for Aboriginal and Torres Strait Islander children nationally and in every state and territory.

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 would 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:** South Australia became the first state in the country to legislatively enshrine the role of Commissioner for Aboriginal Children and Young People on equal standing with the state's Commissioner for Children and Young People and including legislated powers to conduct systemic enquiries.

#### 10. The establishment of 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. 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 own 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:** At the national level, progress has stalled on the development of new indicators aligned to the Aboriginal and Torres Strait Islander Child Placement Principle that were agreed between the sector and government in 2019 (see part 4 of this report for further detail). No significant progress on data sharing and data partnership initiatives were reported in input to this year's report. There were some small improvements in data provision from states and territories to inform *The Family Matters Report 2021*, including most jurisdictions reporting on their level of investment in Aboriginal and Torres Strait Islander community-controlled organisations.

#### 11. 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 out-of-home care makes large numbers of our children, who are at risk of losing their family and cultural connections, invisible in the system. This change to the definition and counting rules in recent years reduces government transparency and accountability for protecting the rights of our children. It also provides a potential perverse pathway to achieving the Closing the Gap target to reduce over-representation in out-of-home care, by prioritising permanent removal rather than preventing children 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:** Children on permanent care orders continue to be excluded from the definition and count of Aboriginal and Torres Strait Islander children in out-of-home care. 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 out-of-home care. However, increased visibility does not address the core concern that governments are reducing and renouncing their responsibility for children on permanent care order by excluding them from the definition of out-of-home care.





## APPENDICES

### APPENDIX I: PROJECTIONS OF OVER-REPRESENTATION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN IN OUT-OF-HOME CARE (NATIONAL TRENDS)

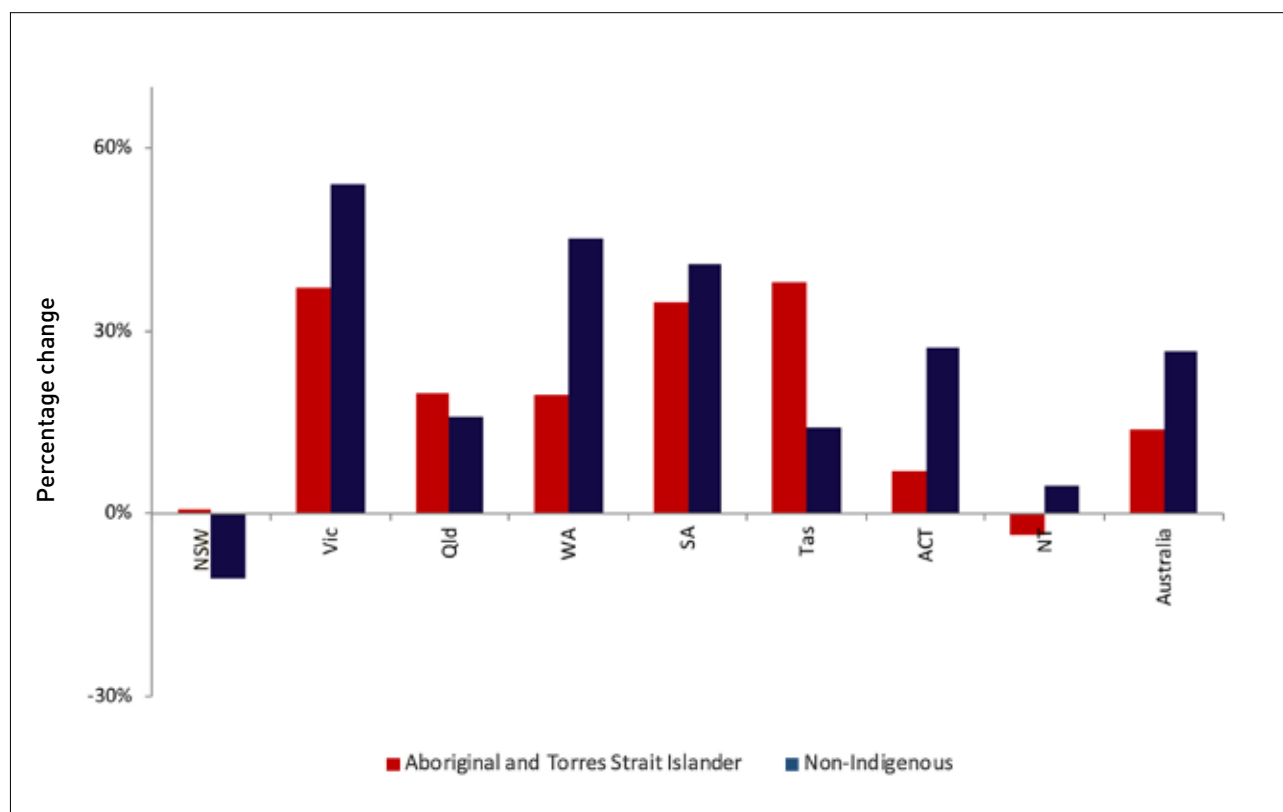
#### DISPROPORTIONALITY BY STATE/TERRITORY

**Figure A1** shows the percentage increase/decrease in the out-of-home care population across all states and territories from 30 June 2017 to 30 June 2020, with the blue bars representing the population of Aboriginal and Torres Strait Islander children in care, and the orange bars representing the non-Indigenous population of children in out-of-home care.

Unlike previous years, growth scenarios for *The Family Matters Report 2021* are based only on data from 2016–

17 to 2019–20. This decision has been informed by the AIHW's introduction of a standardised definition of out-of-home care, which includes both children in 'standard' out-of-home care and children on third-party parental responsibility orders (TPPROs). This definition has been retrospectively applied to all state, territory and national counts of children in out-of-home care from 2016–17 to 2019–20. As a result of this standardised definition, estimates of growth (as per Figure A1) and the projected growth scenarios to 2030 (as per Figure A3) cannot be compared to previous reports.

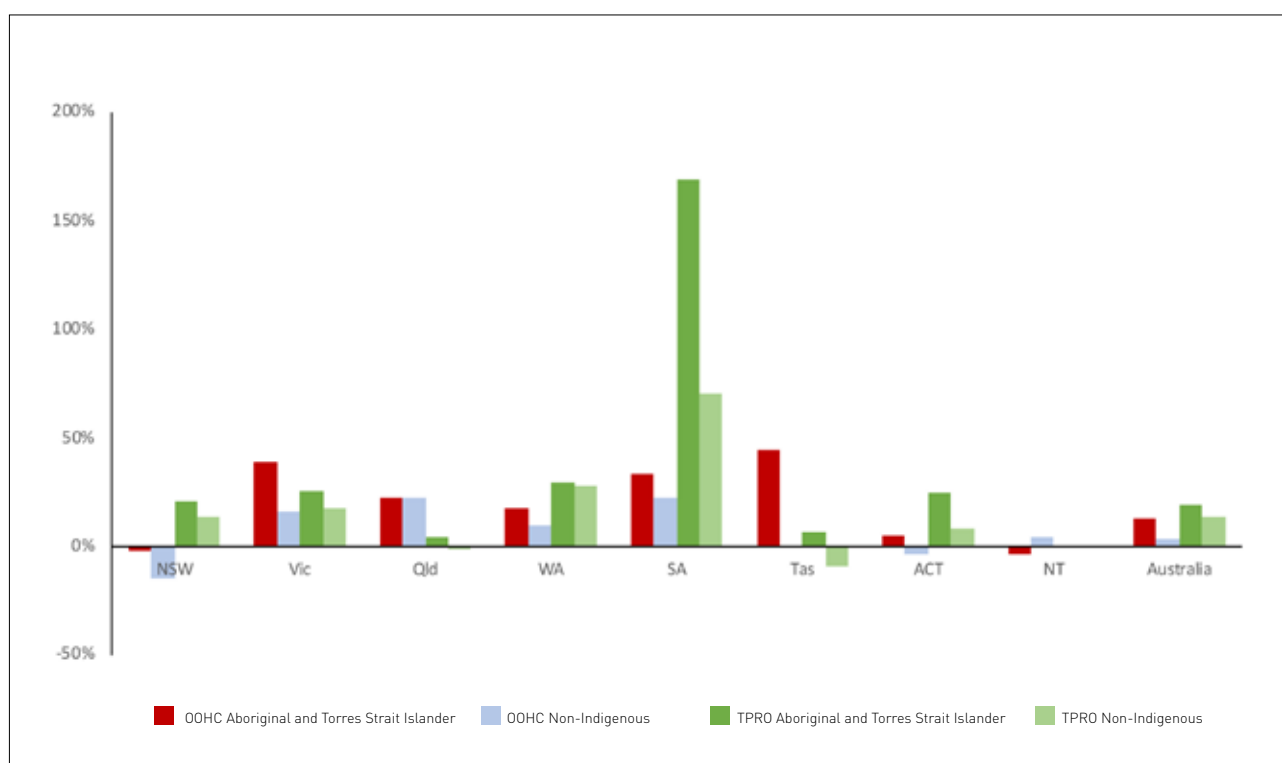
**FIGURE A1** Change in numbers of Aboriginal and Torres Strait Islander children and non-Indigenous children in out-of-home care, 30 June 2017 to 30 June 2020



Data sources: SCRGSP (2021); AIHW (2021b).



**FIGURE A2** Change in numbers of Aboriginal and Torres Strait Islander children and non-Indigenous children in out-of-home care versus on TPPROs, 30 June 2017 to 30 June 2020, by states/territories and nationally



Data sources: SCRGSP (2021); AIHW (2021b).

Based on the revised definitions, between 30 June 2017 and 30 June 2020, the out-of-home care system *shrunk* in New South Wales, with a larger decrease in the proportion of non-Indigenous children in care. However, as shown in Figure A2, while the number of children in 'standard' out-of-home care has decreased, this has been accompanied by an increase in the number of children on TPPROs. As shown by the green bars in **Figure A2**, a higher proportion of Aboriginal and Torres Strait Islander children have been placed on these orders, compared to non-Indigenous children. Therefore, while the overall out-of-home care system shrunk, this decrease was much sharper among non-Indigenous children and was offset by a large increase in the number of children placed on TPPROs, with a higher rate of increase in TPPROs for Aboriginal and Torres Strait Islander children compared to non-Indigenous children.

Figure A2 shows that in Victoria, Western Australia, South Australia, the Australian Capital Territory and the Northern Territory, there have been larger percentage increases in the out-of-home care population among non-Indigenous children. However, as with the New South Wales data, these overall increases mask differences between 'standard' out-of-home care and TPPROs. For example, in Victoria, the number of Aboriginal and Torres Strait Islander children increased by 40% in 'standard' out-of-home care and 25% among

children placed on TPPROs. This is contrasted with an increase of 25% and 18% among non-Indigenous children in 'standard' out-of-home care and on TPPROs, respectively. The largest percentage increase can be seen in the data for South Australia, where the number of Aboriginal and Torres Strait Islander children on TPPROs increased by almost 170% between 2017 and 2020, compared to an increase of only 71% for non-Indigenous children.

Figure A2 therefore shows that, despite jurisdictional variability in the growth of the out-of-home care populations, across all states and territories the percentage increase in Aboriginal and Torres Strait Islander children on TPPROs exceeded that of non-Indigenous children. A similar pattern is observed for the percentage increase in Aboriginal and Torres Strait Islander children in standard out-of-home care, particularly in Victoria, Queensland, Western Australia, South Australia, Tasmania and the Australian Capital Territory. Tasmania evidenced the largest percentage increase in the number of Aboriginal and Torres Strait Islander children in out-of-home care (45%), while the Australian Capital Territory had the least growth (5%).

## CHANGES IN THE OUT-OF-HOME CARE POPULATION RELATIVE TO CHANGES IN THE GENERAL POPULATION OF CHILDREN, BY STATE AND TERRITORY

Nationally, the population of Aboriginal and Torres Strait Islander children aged 0–17 years old grew by 2.4%, ranging from 0.4% in Tasmania to 3.6% in Victoria, with an average growth of 2% across all states and territories. In the Northern Territory the population of Aboriginal and Torres Strait Islander children aged 0–17 years old shrunk by 2.1%. Given the small overall increase in the population of Aboriginal and Torres Strait Islander children aged 0–17 years old across all jurisdictions, the increase in the Aboriginal and Torres Strait Islander out-of-home care population – whether or not ‘standard’ out-of-home care is considered separately to TPPROs – remains extremely disproportionate.

In contrast, there was no evidence of disproportionality in New South Wales or the Northern Territory. In New South Wales, for example, the percentage increase in the Aboriginal and Torres Strait Islander population was only one quarter of the increase in the general Aboriginal and Torres Strait Islander population of children aged 0–17 years old (0.7% and 2.8%, respectively). The Northern Territory experienced a reduction in both the Aboriginal and Torres Strait Islander general and out-of-home care populations, with the reduction in the Aboriginal and Torres Strait Islander out-of-home care population being 1.6 times larger than the reduction in the general Aboriginal and Torres Strait Islander population of children.

The nature of the disproportionality differs depending on how out-of-home care is defined. Using the broader definition recently standardised by the AIHW (that is, including TPPROs), the disproportionality is most pronounced in Tasmania, where the population of Aboriginal and Torres Strait Islander children increased by only 0.4%, but the population of Aboriginal and Torres Strait Islander children in out-of-home care increased by a staggering 38%. This means that the percentage increase in the Aboriginal and Torres Strait Islander out-of-home care population was 95 times the percentage increase of the general Aboriginal and Torres Strait Islander population of children. In Victoria, the percentage increase in the Aboriginal and Torres Strait Islander out-of-home care population was 10.3 times the percentage increase in the general population of Aboriginal and Torres Strait Islander children, and in Western Australia it was 9.8 times as large.

When ‘standard’ out-of-home care is considered (without TPPROs), the pattern changes slightly. Disproportionality remains most pronounced in Tasmania, where the percentage increase in the Aboriginal and Torres Strait Islander out-of-home care population is 112 times larger than the percentage increase in the general population of Aboriginal and Torres Strait Islander children (45% and 0.4%, respectively). Similarly, Victoria shows an increase in the

Aboriginal and Torres Strait Islander out-of-home care population that is 10.9 times the increase in the general population of Aboriginal and Torres Strait Islander children (39.3% and 3.6%, respectively).

Finally, when TPPROs are considered on their own, South Australia has the highest disproportionality ratio, with a percentage increase in the number of Aboriginal and Torres Strait Islander children on TPPROs that is 54 times the percentage increase of the general Aboriginal and Torres Strait Islander population (169.2% and 3.1%, respectively). The disproportionality in relation to TPPROs is also high in Tasmania and Western Australia, with disproportionality ratios of 17 and 15 respectively. In contrast, Queensland has the lowest disproportionality, with the percentage increase in the use of TPPROs almost equivalent to the percentage increase in the general Aboriginal and Torres Strait Islander population (4.1% and 3%, respectively).

## NATIONAL GROWTH SCENARIO

**Figure A3** shows the projected growth in the national out-of-home care population for Aboriginal and Torres Strait Islander children and non-Indigenous children. The growth scenario reflects the standardised definition of out-of-home care, which includes TPPROs. Based on average annual population growth rates (APGR) and a standardised population (see Appendix II below), it is estimated that by 2030 the number of Aboriginal and Torres Strait Islander children in out-of-home care across Australia will increase by 54% while the number of non-Indigenous children in care will increase by 20%. As can be seen in Figure A3, without significant and meaningful change, the disparity between the number of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care will only increase over time.

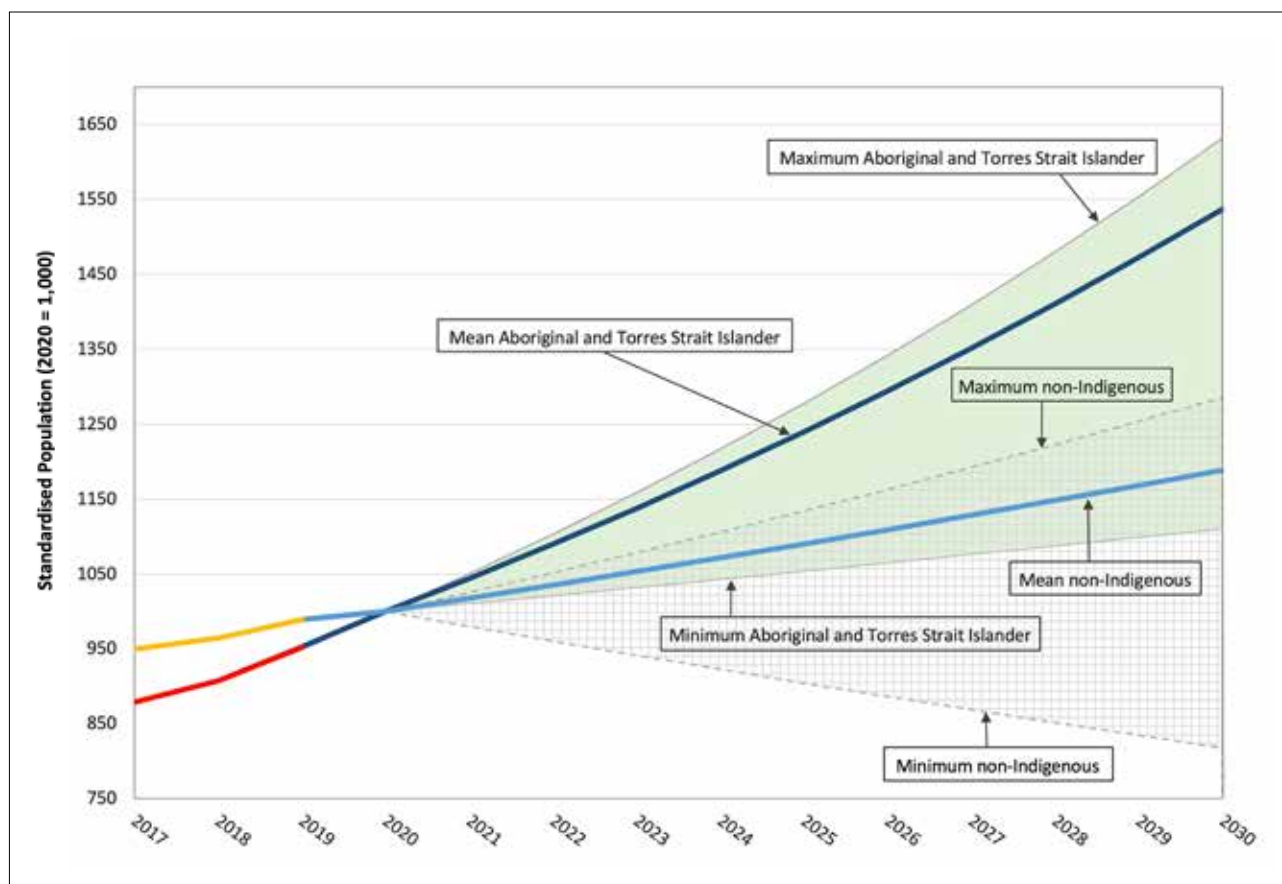
## APPENDIX II: METHODOLOGY FOR THE PROJECTION SCENARIO

### Appendix II: Methodology for the projection scenario

The projections of out-of-home care population shown in Figure A3 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 (that is, 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 out-of-home care, assuming that each population continues to grow at the APGR. Unlike previous Family Matters Reports, these growth scenarios are only based on four years of data, from 2017 to 2020. Lower and upper limits for the projected populations were estimated using the minimum and

**FIGURE A3** National growth scenario for Aboriginal and Torres Strait Islander children and non-Indigenous children in out-of-home care, 30 June 2017 to 30 June 2030



Data source: University of Melbourne modelling using Child Protection Australia data (AIHW 2021b).

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 1,000 (there are far more non-Indigenous children in the Australian population, so growth rates were standardised to a base population of 1,000 in order to facilitate the comparison of growth rates within each population). There are also several important caveats that are listed in Appendix III. 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 III: CAVEATS FOR THE PROJECTION SCENARIO

### CAVEATS AS A RESULT OF THE MODEL RESTRICTIONS:

- The growth scenario for *The Family Matters Report 2021* is based on different data used in previous years. Due to the introduction of a standardised definition for out-of-home care applied by the AIHW,

the decision was made to truncate the range of data used for this year's growth scenario. This decision was based on the provision of updated data by the AIHW on the number of children in out-of-home care and on TPPROs 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, previous years estimates were based on calculations that attempted to approximate the total number of children in out-of-home care by including third-party responsibility orders and other supported placements. Given the significant jurisdictional variability in how these children were counted in out-of-home care statistics, previous calculations may have included additional noise that inflated the projected growth in the Aboriginal and Torres Strait Islander out-of-home care 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

out-of-home care 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 out-of-home care population. Drawing on more recent data (from 2017 onwards) also provides a more accurate representation of the out-of-home care 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 have to be interpreted with this shortcoming in mind. This is particularly relevant for figures that are projected further into the future.

## APPENDIX IV: METHODOLOGY FOR THE REPORT CARD TABLE

The Report Card table on [page X](#) 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 delivery 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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