

13 November 2023

Dr Warren Mundy

Independent Reviewer of the National Legal Assistance Partnership 2020-2025

By email: submissions@nlapreview.com.au

Re: Independent Review of the National Legal Assistance Partnership

Dear Dr Mundy,

Thank you for meeting with staff from the SNAICC Child Safety and Wellbeing team on 1 November 2023. We appreciate the opportunity to make a written submission to the Independent Review of the National Legal Assistance Partnership.

About SNAICC

SNAICC – National Voice for our Children (SNAICC) is the national non-government peak body for Aboriginal and Torres Strait Islander children. SNAICC works for the fulfilment of the rights of our children, in particular to ensure their safety, development and well-being.

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

SNAICC leads national advocacy for practice, policy, and legislative change to the child protection system and the enduring impact it has on the lives of Aboriginal and Torres Strait Islander children, families, and communities.

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

SNAICC is a key partner in *Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031* (Safe and Supported). Safe and Supported is a national, inter-governmental policy framework that aims to address children's safety and wellbeing. Safe and Supported was developed in partnership between the Aboriginal and Torres Strait Islander Leadership Group and state, territory and Commonwealth governments. The first Action Plans for Safe and Supported were released in January 2023.

About the national scoping study of legal supports for Aboriginal and Torres Strait Islander children and families in contact with child protection

Working in partnership with the National Aboriginal and Torres Strait Islander Legal Services (NATSILS), SNAICC is delivering action 6a. in the Aboriginal and Torres Strait Islander First Action Plan for Safe and Supported. Action 6 in the Action Plan commits to "*Improve availability*

and quality of legal support for Aboriginal and Torres Strait Islander children and families engaged with child protection systems“.

SNAICC, along with our members, recognises the impact unmet legal needs have on the lives of Aboriginal and Torres Strait Islander children and families. Most significantly this includes the ongoing and unnecessary removal of Aboriginal and Torres Strait Islander children, severing connection to community, language, country, and kin. This not only devastates families but continues the cycle of intergenerational trauma. The impact of intergenerational trauma impacts engagement in the child protection and legal systems, as does the ongoing systemic racism experienced by Aboriginal and Torres Strait Islander people within these systems.

To understand the issue further and develop evidence-based recommendations SNAICC and NATSILS will undertake a scoping study - *Barriers experienced by Aboriginal and Torres Strait Islander Children and Families Accessing Legal Supports*. The study will be a key initiative contributing to improved outcomes for Aboriginal and Torres Strait Islander children and families by identifying opportunities and options to address systemic discrimination and barriers, improve legal and related supports, and reduce overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care.

The study will have a mixed methodology design including the establishment of an Expert Advisory Group and a desktop review of previous inquiries and reviews, research, and publications. SNAICC and NATSILS will obtain qualitative and quantitative data from governments, and will undertake stakeholder consultation to obtain qualitative feedback. A final report will be developed and will outline findings and recommendations relating to barriers experienced by Aboriginal and Torres Strait Islander children and families in contact with child protection systems in accessing legal support and solutions to address these barriers. This report is expected to be finalised by June 2024.

The study will include recommendations for governments to develop joint proposals to progress Action 6. These recommendations are likely to include the key funding mechanisms for legal supports for Aboriginal and Torres Strait Islander people, particularly the National Legal Assistance Partnership.

Desktop review: key findings

SNAICC engaged King & Wood Mallesons (KWM) to conduct the desktop review. There were significant gaps identified in legal supports for Aboriginal and Torres Strait Islander children and families in relation to child protection. Below is a summary of the issues and barriers identified in the desktop review:

- Culturally inappropriate service delivery models which do not facilitate culturally safe access to legal services

- Lack of Government funding to improve service delivery and tailor services for Aboriginal and Torres Strait Islander needs
- Issues associated with geography and remoteness limiting availability of and access to legal support
- A lack of legal education and therefore limited ability to identify legal problems and seek support
- A lack of legal assistance for families seeking to challenge child protection and other court orders
- Conflicts of interest within legal services, preventing parent/s from having timely and quality legal representation
- Complex and overlapping impacts of intergenerational trauma
- Institutional racism
- Structural barriers within court rooms
- Lack of trust in the legal system

Recommendation

The findings and recommendations from the study will be key in ensuring service and system improvements are appropriately developed and designed to meet the needs of Aboriginal and Torres Strait Islander children and their families.

SNAICC recommends that the NLAP review recommends that the Attorney-General's Department considers the findings and recommendations from the *Barriers experienced by Aboriginal and Torres Strait Islander Children and Families Accessing Legal Supports or Scoping study* in progressing changes to legal assistance resourcing nationally. This includes engaging with the Aboriginal and Torres Strait Islander community-controlled ACCO sector to develop implementation approaches for provisions that will address the unmet legal needs of Aboriginal and Torres Strait Islander children and families engaged with child protection systems.

For further information please contact SNAICC Manager, Child Safety and Wellbeing, Rashmi Kumar, at rashmi.kumar@snaicc.org.au.

Kind Regards,



Catherine Liddle
Chief Executive Officer