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21<sup>st</sup> February 2024

Kate Norsgaard  
Principal Policy Officer  
Department of Premier and Cabinet  
PO Box 15185  
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By email: [pqkfconsultation@premiers.qld.gov.au](mailto:pqkfconsultation@premiers.qld.gov.au)

Dear Ms Norsgaard,

**Re: Consultation relating to the Draft Plan entitled *Putting Queensland Kids First: Giving our kids the opportunity of a lifetime***

Thank you for the opportunity to provide comments on the Department of Premier and Cabinet's Draft Plan entitled, *Putting Queensland Kids First: Giving our kids the opportunity of a lifetime (Draft Plan)*, which contains a framework that aims to deliver better outcomes for young Queenslanders. Unfortunately, as identified by the Productivity Commission in its recent review of the progress towards the Priority Reforms in the National Agreement to Closing the Gap (**NACTG**), there is still a long way to go before the inequities between Aboriginal and Torres Strait Islander children and their non-Indigenous counterparts will be levelled. Whilst we broadly support the Draft Plan, we note that it is a high-level document (perhaps intentionally so) and, therefore, the real measure of success of the Draft Plan will be in its implementation. We agree that partnership with Aboriginal and Torres Strait Islander community-controlled organisations will be the keystone to success and we are hopeful that there will be meaningful and coordinated engagement in this regard so that the outcomes sought in the Draft Plan might be given the best chance of being realised.

## **Preliminary consideration: Our background to comment**

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional and culturally competent legal services for Aboriginal and Torres Strait Islander peoples across Queensland. The founding organisation was established in 1973. We now have 25 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander peoples.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by over five decades of legal practise at the coalface of the justice arena and we, therefore, believe we are well placed to provide meaningful comment, not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

## **Introductory comments**

Aboriginal and Torres Strait Islander children possess incredible strengths and resilience, despite the unique challenges that many of them they face, where born into an environment of multifarious inequality when compared with their non-Indigenous counterparts in relation to health outcomes, housing, education outcomes, future employment outcomes and the impacts of systemic discrimination which, unfortunately, persist.

The inequalities faced by many Aboriginal and Torres Strait Islander families and children are those which are sought to be addressed in the Priority Reforms and associated 17 socio-economic outcomes (SEOs) that are contained in the National Agreement on Closing the Gap (NACTG). The following SEOs address children and young people specifically:

- Outcome 2 - Children are born healthy and strong;
- Outcome 3 - Children are engaged in high quality culturally appropriate early childhood education in their early years;

**Legal Submission:** *Consultation on Draft Plan - Putting Queensland Kids First: Giving our kids the opportunity of a lifetime*

- Outcome 4 – Children thrive in their early years;
- Outcome 5 – Students achieve their full learning potential;
- Outcome 6 – Students reach their full potential through further education pathways;
- Outcome 7 – Youth are engaged in employment or education;
- Outcomes 11 and 12 – Children and young people are not overrepresented in the criminal justice system; and
- Outcome 13 – Families and households are safe.

The remaining SEOs, listed below, also have the potential to significantly improve outcomes for children now and into their future as an adult:

- Outcome 1 – Everyone enjoys long healthy lives;
- Outcome 8 – Strong economic participation and development of people and their communities;
- Outcome 9 – People can secure appropriate, affordable housing that is aligned with their priorities and need;
- Outcome 14 – People enjoy high levels of social and emotional wellbeing;
- Outcomes 15 and 16 – People maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters and that cultures and languages are strong, supported and flourishing; and
- Outcome 17 – People have access to information and services enabling participation in informed decision-making regarding their own lives.

The Productivity Commission recently undertook its first review of Australia’s progress towards the Closing the Gap Priority Reforms<sup>1</sup> and, in its report of January 2024, found that whilst all jurisdictions within Australia, including Queensland, had committed to “mobilising all avenues available to them to achieve the objective of the Agreement – which is ‘to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to those of all Australians’”, that “governments are not adequately delivering on this commitment” and “despite some pockets of good practice, progress in implementing the Agreement’s Priority reforms has, for the most part, been weak and reflects tweaks to, or actions overlaid onto, business-as-usual approaches”<sup>2</sup>. Unfortunately, it was found that since the NATCG was entered into, there has not been noticeable or meaningful improvements in the lives of Aboriginal and Torres Strait Islander peoples<sup>3</sup>, which is a disappointing and disheartening result, to say the least.

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<sup>1</sup> The Productivity Commission (Cth), *Review of the National Agreement on Closing the Gap*, Study Report (Jan 2024).

<sup>2</sup> Note 1, Volume 1, page 3.

<sup>3</sup> Note 2.

## Comments on the consultation

The Draft Plan is a high-level document that broadly contains the language and commitments that we would expect in such a plan. However, the true measure of success of the Draft Plan will be in its implementation, i.e., in the more detailed strategies that stem from it.

To demonstrate this point, we note that the Draft Plan:

- on page 10, in relation to “outcomes”, states that “Through consultation, we will develop robust measures and indicators that contribute to Closing the Gap targets and monitor our progress towards outcomes”, but does not state how this will occur;
- on page 10, in the map entitled “Our plan”, includes as one of the elements, “A reframed relationship and empowered First Nations peoples”, but does not state how such a reframed relationship will be achieved;
- on page 11, when setting out the core principles underpinning what is titled “Our approach”, under the heading “Culture, equity and inclusion”, states that there will be a focus on “equity in outcomes” including for First Nations People, but does not state how such equity is proposed to be achieved;
- on page 12, when mapping out risk factors and protective factors under the heading “Strengthening protective factors at key intervention and transition points improves life trajectories”:
  - there does not appear to be specific reference to poverty as a risk factor despite poverty being widely recognised as such on the basis that it can significantly impact a child’s physical and emotional well-being as well as other long-term outcomes for a child; and
  - on page 13, whilst “experiences of racism” is listed as a risk factor, there is no corresponding protective factor that addresses this risk.

In our view, it is integral that the Draft Plan is not a mere aspirational document. We are hopeful that it will deliver meaningful improvements in the lives of children, including Aboriginal and Torres Strait Islander children. As per the Queensland Government’s commitment under the NACTG, harnessing the Aboriginal community-controlled sector through shared-decision making to co-design and deliver appropriately funded prevention and early intervention initiatives for Aboriginal and Torres Strait Islander communities, families and children will be the keystone for

success. To this end, we welcome the inclusion of “Partnering for integrated, place-based and First Nations-led delivery” as an investment priority under the Draft Plan<sup>4</sup>.

### *Other comments*

We also take this opportunity to express our significant concerns regarding the human rights of children in Queensland that are being detained in police watch houses. In our view, if the Queensland Government is serious about “Putting Queensland Kids First”, as is the title of the Draft Plan, the Queensland Government should demonstrate its commitment by removing, as a matter of urgency, the legislative override of the *Human Rights Act 2019* (Qld) in relation to the detention of children in police watch houses that was enacted pursuant to the *Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2022 (CPOLA Act)*, which commenced on 1 September 2023. We are aware of numerous instances since the enactment of the CPOLA Act where children detained in watch houses have not been separated from adults, genders have not been separated from each other, watch house officers have failed to provide clean clothes, adequate food, sheets, blankets and/or soap to children and watch house officers delaying facilitating calls to a child detainee’s lawyer. We are also aware of cleanliness issues within the watch house cells themselves. We have been advised of a male child being strip searched in an undignified way in a watch house, a female child that was not separated from adults in a watch house who was flashed and propositioned by other adult inmates during her time in a watch house and a child that slipped on phlegm on the floor of a watch house cell and injured himself. We continue to hold significant concerns regarding the welfare children being detained in these circumstances.

We recommend that, consistent with Rule 13.2 of the Beijing Rules which states: “Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home”, that children should be placed in alternative forms of accommodation, including, for example, supported bail accommodation, community based supervision, home detention, pre-trial diversion programs, group homes or residential facilities. In our view, this is consistent with putting children first.

Additionally, we reiterate that impactful investment in housing, employment, education and health is crucial to addressing the social and economic inequities that Aboriginal and Torres Strait Islander families face and will, in turn, significantly improve outcomes for Aboriginal and Torres Strait Islander children.

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<sup>4</sup> Draft Plan, pages 14 and 19.

We thank you for the opportunity to provide feedback on the Draft Plan.

Yours faithfully,

Shane Duffy  
Chief Executive Officer