ATSILS
Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd

Brisbane Office | ABN: 1111 6314 562
Level 5, 183 North Quay, Brisbane Qld 4000
PO Box 13035, George Street, Brisbane Qld 4003
07 3025 3888 | Freecall 24/7: 1800 012 255
07 3025 3800
info@atsils.org.au
www.atsils.org.au

21st September 2026

Committee Secretary
Education, Arts and Communities Committee
Parliament House
George Street
Brisbane Qld 4001

By email: eacc@parliament.qld.gov.au

Dear Committee Secretary,

Re: Queensland Protection Commission Bill 2026

Thank you for the opportunity to provide comments on the Queensland Protection Commission Bill 2026 (**Bill**) which proposes to: establish the Queensland Protection Commission (**QPC**), replacing the current Queensland Family and Child Commission (**QFCC**); and establish the office of the Queensland Protection commissioner. In this submission, we have expressed our support, in-principle, for the Bill subject to certain matters which are outlined herein including: concerns regarding an apparent narrowing of scope of the functions of the QPC when compared with the QFCC; the need for a dedicated Aboriginal and Torres Strait Islander commissioner given the significant overrepresentation of Aboriginal and Torres Strait Islander children and families impacted by the child protection system; the need for more rigour in the process for removal of a commissioner or deputy commissioner to ensure that the independence of the office is prioritised; the need for stronger regulatory powers of the QPC including with respect to information gathering, inspection and enforcement powers; and the need for an independent complaints handling function.

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

ATSILS formally appeared at the recent Child Safety Commission of Inquiry during which we observed evidence being given relating to a myriad of issues with the child protection system. Whilst we support this Bill in-principle, we expect that the establishment of the QPC is one part of a suite of measures to address key concerns raised in the Child Death Review Board's *In Plain Sight Report: Review into System Responses to Child Sexual Abuse*[1] (**In Plain Sight report**) along with the Child Safety Commission of Inquiry's *From Pressure to Purpose: Reforming Child Protection in Queensland* report[2] (**From Pressure to Purpose report**).

Comments on Bill

Functions of the Commissioner

The Bill proposes to establish the QPC and its functions, replacing the existing QFCC. However, we have observed that there are some notable differences between the existing functions of the QFCC, as set out in its governing legislation, the *Family and*

[1] Child Death Review Board, *In Plain Sight: Review into System Responses to Child Sexual Abuse* (Report, 8 December 2025).
[2] Child Safety Commission of Inquiry (Qld), *From Pressure to Purpose: Reforming Child Protection in Queensland* (Final Report, 22 May 2026).

Child Commission Act 2014 (Qld) (**FCC Act**), and the functions of the commissioner that are set out in the Bill.

Removal of express reference to children in the youth justice system

Section 9 of the FCC Act lists the functions of the QFCC including, at subsection(1)(b)(ii) to promote and advocate "the safety and wellbeing of children and young people, particularly children in need of protection or in the youth justice system".

The Bill does not appear to list the functions of the QPC as a commission, but rather take the approach of listing the functions of the commissioner at Section 7.

Section 7 of the Bill provides at subsection (1)(b)(ii) that one of the functions of the commissioner is to promote and advocate "the safety and wellbeing of children, young people and other vulnerable persons, particularly children in need of protection".

Accordingly, it appears that the express reference to the safety and wellbeing of children in the youth justice system has been removed. We cannot see that it has been referenced elsewhere in the Bill.

Whilst perhaps the intention was that all children, including children in the youth justice system, be included within the scope of section 7(1)(b)(ii), we strongly recommend that explicit reference to children in the youth justice system be included in that provision.

Children who are in contact with the youth justice system are significantly impacted by State intervention including in the context of arrest, detention, restrictive practices and separation from family and community. Additionally, as has been well-documented, there is a significant cohort of children that are impacted by the child protection system who are also in contact with the criminal justice system. Explicit reference to children in the youth justice system in section 7(1)(b)(ii) of the Bill will avoid ambiguity and ensure that the commissioner's mandate is clear in that respect.

"Other vulnerable persons"

Section 7 of the Bill provides at subsection (1)(b)(ii) that one of the functions of the commissioner is to promote and advocate "the safety and wellbeing of children, young people and other vulnerable persons, particularly children in need of protection".

However, neither the Bill nor the supporting materials extrapolate on what this phrase means for the purposes of the Bill. For example, the use of this term appears to

indicate that such would extend to adults in addition to children. It is not clear whether the phrase includes people living with disability and/or mental health challenges. In the absence of a definition for this term, "other vulnerable persons" could conceivably extend to those experiencing homelessness, domestic and family violence, poverty, those experiencing illnesses, etc.

Whilst we appreciate that establishing a safeguarding entity that includes within its purview "other vulnerable people" comes from the In Plain Sight report and associated recommendation, we are concerned that the effectiveness of the commissioner's role with respect to "other vulnerable people" might be hampered by the sheer scope of individuals within that umbrella. Whilst we are not suggesting that the scope be limited, there is a clear need for further detail in the Bill regarding the functions and responsibility of the commissioner with respect to "other vulnerable persons", which should involve careful consideration to avoid duplication of functions with other relevant bodies. The office of the commissioner will need to have (or establish, through its power to establish advisory councils under Part 2, Div 4 of the Bill) specialist expertise to ensure that oversight and safeguarding functions in relation to the wide range of people within scope is effective and meaningful.

Establishment of office

Clause 12(3) of the Bill provides as follows:

> *(3) At least 1 person recommended by the Minister for appointment as a deputy commissioner must—*
> *(a) be an Aboriginal or Torres Strait Islander person; or*
> *(b) have demonstrated ability or experience in working with Aboriginal or Torres Strait Islander children.*

In our view, the significant overrepresentation of Aboriginal and Torres Strait Islander children and families impacted by the child protection system warrants a dedicated Aboriginal and Torres Strait Islander commissioner.

Clause 12(3), as drafted, is not sufficient to meet this need.

We strongly recommend that the Bill be amended to ensure the appointment of a dedicated Aboriginal and Torres Strait Islander commissioner, similar to what is contained in the QFCC Act, or alternatively, that the Bill be amended to provide that where the commissioner is not an Aboriginal and/or Torres Strait Islander person, one

of the deputy commissioners must be an Aboriginal and/or Torres Strait Islander person.

Vacancy in office – clause 17, Bill

The Bill states that the Governor in Council may, at any time, remove the commissioner or a deputy commissioner from office on the recommendation of the Minister (see clause 17(2)), and that "the Minister may recommend the removal of the commissioner or deputy commissioner for any reason or none" (see clause 17(3)). No such provision appears to exist in the equivalent vacancy of office provision in the QFCC Act, being section 15. The effect of this provision is that removal of a commissioner or deputy commissioner could be influenced by political factors of the day, and such would impede the independence of the roles.

We do not support the ability to remove a commissioner or deputy commissioner for any reason or none and, accordingly, we recommend that clause 17(3) be deleted.

Advisory Councils – clauses 21 and 22

The Bill provides, at clause 21, that the commissioner has the power to establish advisory councils to advise on matters relating to the commissioner's functions and, at clause 22(2) that the commissioner must ensure that at least 1 member of each advisory council is an Aboriginal or Torres Strait Islander person. This is supported.

Notable things that the commissioner must do in performing particular functions - clause 27

We note our support, in particular, for the following matters which are listed in clause 27 of the Bill as being things that the commissioner must do in performing particular functions:

- "be sensitive to the ethnic or cultural identity and values of children, young people, vulnerable persons and their families", per clause 27(2)(b), Bill;
- "ensure the interests of Aboriginal peoples and Torres Strait Islander peoples are adequately and appropriately represented", per clause 27(2)(c), Bill; and
- "respect and promote the role of Aboriginal and Torres Strait Islander service providers in supporting Aboriginal and Torres Strait Islander families and communities to protect and care for their children, young people and vulnerable persons", per clause 27(2)(d), Bill.

Information Sharing - Part 4

Under clause 76 of the Bill, the commissioner has powers to ask a public entity to give information to the commissioner within a stated time. The public entity must comply with the request unless one of the listed circumstances apply per clause 76(3), which includes where the entity reasonably considers the giving of the information "is impracticable" (see clause 76(3)(b)). A robust information request framework is fundamentally important to the effectiveness of the QPC. Enabling public entities to not comply with a request for information by the commissioner merely because it giving the information is "impracticable" in the reasonable opinion of the entity does not accord with a robust information request framework or promote an effective independent oversight role of the commissioner.

Accordingly, we recommend that clause 76(3)(b) be deleted.

Furthermore, we note that there are no penalties for non-compliance with a request for information under clause 76 of the Bill. We recommend introducing penalties for non-compliance with clause 76 requests for information which, in our view, would enhance the information gathering powers of the commissioner, making the QPC more effective.

Inspectorate model

We observe that whilst the QPC has information-gathering powers, it does not appear to have an independent inspectorate role.

Recommendation 49 of the *From Pressure to Purpose* report called for the design of and feasibility review for a child protection inspectorate within 12 months of the government's response to the report. This recommendation is based on significant concerns that were raised during the Commission of Inquiry into the lack of effective oversight of service delivery in child protection. In its formal response to the recommendations of this report, the government accepted recommendation 49, commenting that "The Queensland Government recognises the importance of regular, proactive and independent oversight of service delivery in supporting improved outcomes for children and young people in care. The Queensland Government will undertake a feasibility review to consider the design, scope and implementation of a child safety inspectorate function."

In our view, it makes sense that the QPC, or an arm thereof, include within its functions an inspectorate role to enhance its regulatory functions and address serious deficiencies in regulation of service providers in child protection context.

We note that the Victorian Social Services Regulator (**SSR**) is an independent statutory authority that oversees social services and which, similar to the QPC, administers the Child Safe Standards, the Reportable Conduct Scheme and worker screening. In order to monitor compliance and investigate potential risks or breaches, the SSR and its authorised officers have a broad range of escalating inspection powers (with consent of the organisation, with a warrant and without a warrant or consent of the organisation for registered providers) pursuant to the *Child Wellbeing and Safety Act 2005* (Vic) and the Social Services Regulation 2021 (Vic). These powers include the ability to observe activities, inspect and copy documents, request information, take photographs or recordings, seize items or documents and conduct private interviews. The SSR also has broad ranging enforcement powers including issuing a notice to obtain information, documents and evidence, issuing improvement notices, ability to accept enforceable undertakings and issue infringement notices, along with the ability to apply to the Magistrates Court for a range of orders and civil penalties (enforcement order, a declaration of non-compliance. adverse publicity order).

In consideration of the recommendations of the *In Plain Sight* and *From Pressure to Purpose* reports and the calls for a safeguarding entity to consolidate regulatory and safeguarding functions to break down silos and more effectively safeguard children, we respectfully recommend that the committee consider amending the Bill to give the QPC entry and inspection powers along with enforcement powers to strengthen the regulatory role of the QPC. The Victorian SSR model could be used as a cross-jurisdictional example of a model of such.

Independent complaints handling function

The Commission of Inquiry found significant deficiencies in the existing complaint mechanisms for parents, carers, children and service users, including that they were viewed to be inaccessible, fragmented and not independent enough. Recommendation 44 of the *From Pressure to Purpose* report called for the Queensland government to, within 12 months of the government's response to the report, progress legislation to establish an independent, child-centred complaints and escalation framework for the child safety system. This recommendation was accepted by the government in their formal response to the report.

We strongly recommend that the Committee considers whether the QPC, or an arm thereof, should have an independent child-centred complaints handling function. We note that the Victorian Commission for Children and Young People provides independent advocacy complaints handling for children and young people in the context of child protection and out-of-home care services.

Thank you for the opportunity to provide feedback in relation to the Bill.

Yours faithfully,

Shane Duffy
Chief Executive Officer