NAAJA
DIGNITY · RESPECT · JUSTICE

22 May 2026

Secretary, Legislative Scrutiny Committee
Norther Territory Parliament
Via Email: LA.Committees@nt.gov.au

Dear Members

Submission to the Inquiry into the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026

The North Australian Aboriginal Justice Agency (**NAAJA**) provides high quality, culturally appropriate legal advice, representation and justice related services to Aboriginal people throughout the Northern Territory (**NT**). For over 50 years, NAAJA has played a leading role in policy and law reform in areas affecting Aboriginal peoples' legal rights and access to justice. NAAJA provides legal advice, representation and Aboriginal-led family support services to parents and family members encountering the child protection system, including legal representation in proceedings under the *Care and Protection of Children Act 2007* (NT) (**Care Act**).

We welcome the opportunity to make a submission to the Legislative Scrutiny Committee in relation to the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (**Bill**). NAAJA submits that the proposed amendments to the Care Act will not make Aboriginal children safer.

The Bill will:

- expand the ability of government to interfere in ordinary family life;
- unnecessarily and unfairly bring families struggling with disability, mental health, developmental delay, homelessness or overcrowding and poverty into contact with the child protection system;
- interfere with the role of courts to make careful case-by-case decisions on complex matters;
- make it substantially more difficult for Aboriginal families to be reunified with their children, despite their best efforts;
- damage the internationally recognised right of Aboriginal children to grow up connected to Country, language and culture, which will lead to long-term harm for those children;
- distract from addressing the government's system failures that continue to place Aboriginal children and families at risk; and

- create a substantially more expensive and less efficient child protection legal system.

NAAJA adopts and endorses the submission made by the Northern Territory Legal Assistance Forum (**NTLAF**). This submission supplements the NTLAF submission. NAAJA is strongly opposed to the Bill and submits that the NT Legislative Assembly should not pass this Bill. There are substantial failings in the current NT Child Protection system, however those failings are departmental operational and implementation failings, not legislative failings.

Do not politicise Kumanjayi Little Baby's passing – Respect the time for sorry business

At the outset, we acknowledge the passing of Kumanjayi Little Baby. We stand in solidarity with Kumanjayi's family. No words can properly acknowledge the profound loss and deep sorrow felt by Kumanjayi's family. The tragedy of the last few weeks will leave an indelible mark on Kumanjayi's family and the Alice Springs community.

We acknowledge the family's request to respect their time for sorry business, and their pleas not to politicise this tragic event. This Bill has clearly been in development for more than a year. It is deeply troubling that this Bill has been introduced in the wake of Kumanjayi's passing, without any consultation with Aboriginal communities and leaders, families most affected by the child protection system, or legal experts. The politicisation of this moment is not genuine partnership or leadership. It disregards the NT Government's Closing the Gap commitments to shared decision-making with Aboriginal people, communities and organisations, and exposes its unwillingness to walk and work with Aboriginal people, families and communities in decisions that affect their lives.

The disrespectful approach taken by the NT Parliament has forced many Aboriginal people and organisations to choose between respecting the time for sorry business and engaging in public debate and legislative scrutiny committee submissions.

NAAJA supports genuine accountability for every system failure that contributed to this tragedy. But accountability is not achieved by using sorry business to rush through harmful reforms that Aboriginal communities have not been properly consulted on.

The Bill distracts from failures across government systems

All children deserve to grow up safe, loved and free from harm. This has always been the priority of Aboriginal families and communities. Aboriginal people have cared for children through strong systems of family, kinship, culture, community and Country for thousands of years. Those systems have been repeatedly disrupted by colonisation, forcible child removal, racism and government control. It is offensive for the NT Government to use the language of child safety while ignoring the Aboriginal families, communities and organisations that have always fought to keep Aboriginal children safe and ignoring the deep harm the child protection system has caused, and continues to cause, for Aboriginal families. This is why the Aboriginal and Torres Strait Islander Child Placement Principle (**ACPP**) is so important because it recognises that family, culture, community and Country are protective factors which promote children's wellbeing.[1] This is not simply a values-based statement, it is an evidence-based proven reality.

[1] Chay Brown et al, 'Sharing the Care: One Aboriginal Community-Controlled Organisation's Approach to Out-of-Home Care of Aboriginal and Torres Strait Islander Children' (2024) 77(4) *Australian Social Work* 513, 516–17.

The problem is not that the current Care Act fails to value child safety. The problem is that government systems around Aboriginal children and families are failing.[2] Aboriginal families are being pushed into the child protection system through the Government's failure to address poverty, unsafe and over-crowded housing, domestic, family and sexual violence, unmet disability and mental health needs, substance use, criminalisation, incarceration, racism, service gaps and the absence of properly funded Aboriginal-led supports.[3] This Bill does not address those failures. It distracts from them. The Government should not use those failures to justify expanding child protection powers instead of fixing the broken systems it controls and being accountable to Territorians for those failures.

NAAJA rejects any suggestion that this Bill is necessary to give effect to child safety. Child safety already matters and is at the centre of the current legislation. It matters deeply to Aboriginal families and communities. The question is whether this Bill will make children safer. It will not. The Bill is driven by politics and ideology rather than evidence, and it will cause further harm to Aboriginal children, families and communities. Safety is not achieved by giving the state more power to remove Aboriginal children. Safety is achieved by investing in the families, communities and services that keep children safe before crisis point.

The child protection system is already unfair – these changes will make it more unfair

The operation of the current child protection system is already unfair, particularly for many Aboriginal people. Many Aboriginal parents experience poor child protection outcomes because of circumstances beyond their control and no fault of their own.

For example, Aboriginal people may be prevented from becoming a kinship carer or achieving reunification with their children because of;

- their name not being formally on the lease of the house they live in
- living in an overcrowded house
- being homeless and placed on an 8-10 year housing waitlist
- living with people who are experiencing family violence
- not having enough bedrooms in their house
- struggling to navigate the administrative hurdles of obtaining ochre cards
- living with people who have a DVO in place, even though the DVO is for non-violent matters that are not related to the child in question
- living in a house that is in a 'state of disrepair' despite the fact that NT Government is the landlord and is responsible for providing housing maintenance
- being unable to access mental health or alcohol and drug rehabilitation programs due to long waitlists or living remotely
- not having reliable access to a phone and being 'uncontactable' by the Department of Children and Families (**DCF**)

[2] William Tilmouth et al, 'Apmerengentyele — Our Systems, Our Children, Our Safety, Our Wellbeing' (2025) 9(3) *Genealogy* 95, 1–2.
[3] Ibid 1-2.

- speaking English as an additional language and being uncertain how to navigate high-stress and high stakes interactions with departmental staff.

Any one of these factors may prevent an Aboriginal child in temporary care from being placed with a kinship carer or reunified with their parents; many Aboriginal people experience multiple factors, which highlights some of the unfairness of the current system.

Because the existing system is unfair and many Aboriginal people experience a clear power imbalance when interacting with DCF, the legislation must proactively protect the right of a child to be connected to country, language and culture in order to prevent systemic failures and barriers from being the dominant reason that a child is removed from family and prevented from being reunified.

NAAJA is particularly concerned about the weakening of provisions designed specifically to protect Aboriginal children. Our clients already talk about a Stolen Generation in the here and now. Connection to culture, community and Country is fundamental to the long-term health, happiness and wellbeing of Aboriginal children.[4] The ACPP is substantially repealed by this Bill, even though it is one of the few legal safeguards that recognises Aboriginal children's right to remain connected to family, kinship, language, culture, community and Country.[5] Other rights and safeguards for Aboriginal children are also watered down or removed.

The ACPP is not just a placement hierarchy. It is a safeguard against the ongoing removal of Aboriginal children from their families, kinship, communities, language, culture and Country. Its five elements, prevention, partnership, placement, participation and connection, recognise that Aboriginal children are safest when their families, kinship systems, communities and Aboriginal community-controlled organisations are properly involved in decisions about their care.[6]

The Bill moves the NT in the wrong direction. Instead of strengthening the ACPP and requiring compliance by DCF with all five elements, it substantially repeals the existing Aboriginal-specific protections and replaces them with a weaker, universalised placement principle. That approach treats Aboriginal children as though their connection to family, kinship, language, culture, community and Country is optional, rather than central to their safety, identity and long-term wellbeing.[7]

It is a tragedy to see the NT go from leading the nation on legislating the ACPP to effectively repealing it and weakening the existing legal safeguards in the Care Act designed specifically to protect Aboriginal children from government harm caused by disconnection and removal. These protections exist because Aboriginal children have been removed from their families, communities and Country for generations in ways that caused deep and lasting harm. Weakening the ACPP will not make Aboriginal children safer. It will make it easier for the state to repeat that harm.[8]

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[4] Jacynta Krakouer, 'Journeys of Culturally Connecting: Aboriginal Young People's Experiences of Cultural Connection in and Beyond Out-of-Home Care' (2023) 28 *Child & Family Social Work* 822, 822–4.

[5] Dr Paul Gray, 'Beyond Placement: Realising the Promise of the Aboriginal and Torres Strait Islander Child Placement Principle' (2021) 33(10) *Judicial Officers' Bulletin* 99, 99–101.

[6] Gray (n 1) 100–1.

[7] Gray (n 1) 100–1; Wendy Hermeston, '"That Sense of Belonging That Comes from Within": Beyond Legal Permanence: Aboriginal Understandings of Cultural Connection, Belonging and Child Wellbeing, and Cultural Adaptation in Child Welfare Reform' (2026) 10(2) *Genealogy* 48, 1–2.

[8] Human Rights and Equal Opportunity Commission, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (Report, April 1997) 190, 235–9; Mahlia Garay, Lucy-Ann Kelley and Annaliese Gielingh, 'Recognising the Harms of Removal: Considerations of Culture in the Courtroom' (2024) 27(1) *Australian Indigenous Law Review* 63, 63–5.

"Proactive efforts" will be meaningless without workers and services

The "proactive efforts" provisions in the Bill are a missed opportunity to create real accountability for the NT Government to support families, prevent unnecessary removals and return children to their family. As drafted, the provisions are weaker than active efforts provisions in other jurisdictions and provide no real accountability or enforceability if DCF fails to do the work required. Instead of creating a strong duty to work with families, the Bill uses "proactive efforts" to support arbitrary and ineffective timeframes for reunification.

NAAJA's experience is that this is already an issue in practice and DCF commonly does not secure long-term orders in the Court because they cannot show that reunification is not a real possibility, or that they have properly investigated family placement options. All too often this is because DCF has not properly engaged with and worked with the family, notwithstanding that active efforts is already a policy requirement.

Active efforts cannot mean handing a family a referral and walking away. If the service does not exist, is not culturally safe, has a long waitlist, or is impossible for the family to access, then nothing meaningful has been done. Real active efforts require DCF to work with families, remove barriers, involve kin and community, and provide the practical support needed to keep children safely with family wherever possible.[9]

The workforce crisis within DCF is clear. In 2024, the NT Coroner heard evidence that 39.8% of DCF's child protection positions across the NT were vacant.[10] In 2025, the Coroner again found that staff vacancies and excessive caseloads in the Big Rivers Region meant vulnerable children in DCF's care were not receiving the casework they needed and suffering from case management neglect.[11]

The NT Government cannot legislate "proactive efforts" into existence without recruiting and funding the workers and services needed to meet that standard. Without that investment, the same system failures will continue to place children at risk and deepen the harms the child protection system is meant to prevent.

It is poor governance for the legislative arm of government to create a standard that the executive arm of government is unwilling or unable to implement. Ultimately, it is vulnerable families and children who suffer when there is a clear gap between the law and its implementation.

The answer is not more removal pathways

Removal may sometimes be necessary to secure immediate safety, but it must remain a last resort. For Aboriginal children, safety must be assessed holistically and cannot be separated from family, kinship, language, culture, community and Country. That is the purpose of the ACPP. The answer is not more removal pathways. It is Aboriginal-led intensive family support services, healing models and practical services that support families to address risk before separation occurs. Anything less risks compounding

[9] Gray (n 1) 101–2; SNAICC National Voice for our Children, *Family Matters Report 2025: Strong, Loved and Full of Potential* (Report, 2025) 34–5.
[10] Coroner's Court of the Northern Territory, *Inquests into the Deaths of Miss Yunupiŋu, Ngeygo Ragurrk, Malcolm Rabuntja and Chris Haywood* (Findings, 25 November 2024) [527].
[11] Coroner's Court of the Northern Territory, *Inquest into the Death of Didbala Anzac* [2025] NTLC 12, [103]–[112], [180]–[183]

existing trauma and deepening the intergenerational harm already experienced by Aboriginal children, families and communities.[12]

Child protection decisions are inherently complex. They involve weighing competing risks, balancing uncertainty and making difficult predictive assessments. Lowering the threshold for removal, prioritising immediate safety and placement stability shifts the focus of the legislation to immediate safety at the cost of the long-term safety, security and wellbeing of children. This legislation is about child removal, not child protection. It will cause harm to a generation of children.[13]

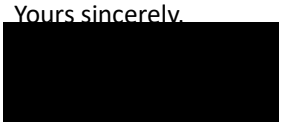
FRAs and FROs will expand surveillance of Aboriginal families

NAAJA adopts the concerns raised in the NTLAF submission about Family Responsibility Agreements (**FRA)** and Family Responsibility Orders (**FRO**). These provisions are particularly concerning because they expand state surveillance and control into the everyday lives of Aboriginal families and communities. Poverty, school disengagement, disability, housing stress, family violence and unmet service needs are not evidence of Aboriginal family or cultural failure. They are symptoms of broader government system failure. This Bill risks reframing those systemic failures as matters for statutory supervision and enforcement. It gives the state greater power to scrutinise Aboriginal family life, while failing to recognise and resource the strengths that already exist within Aboriginal families, kinship systems, communities and Aboriginal community-controlled organisations. Where families do need support, the Bill does not provide the practical, culturally safe services required to address concerns before they escalate.

NAAJA calls on the NT Government to withdraw this Bill and work with Aboriginal leaders, communities and Aboriginal community-controlled organisations to design real solutions that keep Aboriginal children safe, connected to family, kinship, language, culture and Country, and supported to thrive.

Given the complexity of this Bill and its wide-reaching impacts, the Bill should be subject to a public hearing and we request that NAAJA be invited to attend and give evidence at the hearing.

Yours sincerely,



Ben Grimes
Chief Executive Officer

[12] Chay Brown et al, 'Sharing the Care: One Aboriginal Community-Controlled Organisation's Approach to Out-of-Home Care of Aboriginal and Torres Strait Islander Children' (2024) 77(4) *Australian Social Work* 513, 513–15; Catherine Chamberlain et al, 'Supporting Aboriginal and Torres Strait Islander Families to Stay Together from the Start (SAFeST Start): Urgent Call to Action to Address Crisis in Infant Removals' (2022) 57(2) *Australian Journal of Social Issues* 252, 253–7.

[13] Mahlia Garay, Lucy-Ann Kelley and Annaliese Gielingh, 'Recognising the Harms of Removal: Considerations of Culture in the Courtroom' (2024) 18 *Court of Conscience* 63, 63–5, 68–9; Jacynta Krakouer, 'Journeys of Culturally Connecting: Aboriginal Young People's Experiences of Cultural Connection in and Beyond Out-of-Home Care' (2023) 28 *Child & Family Social Work* 822, 822–4.