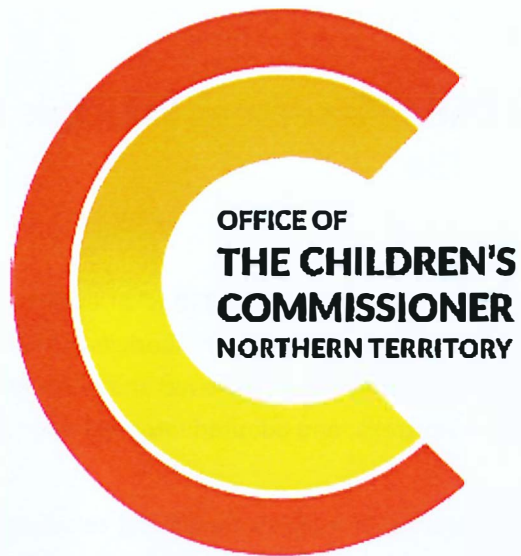




Why the Aboriginal Child Placement Principle is so important

*A comprehensive explanation prepared by the Office of the Children's
Commissioner, Northern Territory.*

May 2026

Executive Summary

Why the Aboriginal Child Placement Principle is so important

What is the ACPP

- The Aboriginal Child Placement Principle (the ACPP) is an evidence-based decision-making framework to promote the safety and well-being of Aboriginal children in need of care. It has been developed by Aboriginal communities, approved and promoted by every authoritative inquiry into child welfare in Australia, and adopted into legislation in every Australian State and Territory.
- The ACPP ensures the importance of a child's family and culture are taken into account in decision-making. It recognises that connections to culture are integral to safety and wellbeing and never requires a decision-maker to compromise the safety of a child.
- The ACPP comprises five inter-related elements: Prevention, Partnership, Participation, Placement and Connection. A sixth element, *Performance*, is increasingly recognised as essential to operational accountability. They are all interconnected and require each other for the ACPP to operate effectively.

How does the ACPP protect and improve outcomes for children?

- The ACPP has the status it has because the evidence shows that it works. It protects and improves the lives of Aboriginal children in need of care.
- Evidence clearly shows that when Aboriginal children are separated and disconnected from family, community and culture they experience adverse outcomes across their lives including high rates of harm in care, incarceration, homelessness, trauma, and self-harm.
- Conversely, cultural connections have been shown to contribute positively to social and emotional development, identity formation, and physical safety. Maintaining connections ensures the recognised protective strengths of Aboriginal cultural, community and kinship systems provide nurturing care, safety and support to children to thrive and succeed throughout life.
- Cultural continuity provides identity, belonging, intergenerational connection and resilience — each of which protects against the despair-related mental-health outcomes that drive high suicide rates for Aboriginal young people.
- The ACPP prioritises safe care connected to a child's Aboriginal family and community. It works to ensure the policies and practices that created the Stolen Generations and caused extensively documented harm to children are not repeated by contemporary child protection systems.

The Northern Territory is failing to apply the ACPP – that is the real problem

- Aboriginal children are 41.6% of the NT child population but 88.5% of NT children in out-of-home care as at 30 June 2024 — an over-representation rate of 11.2 times the non-Indigenous rate. Only 16.7% of Aboriginal children in NT out-of-home care are placed with Aboriginal kin — the second lowest culturally-matched kinship placement rate in Australia. The rate has declined every year since 2021 (27.3% → 25.5% → 23.8% → 16.7%).
- All Aboriginal children in the NT out-of-home care are to be supported by a cultural support plan. As at 30 June 2022, 76.8% did not have one.
- The NT Government allocated \$35.15 million to non-Indigenous purchased home-based care in 2023–24, against \$5.86 million for kinship care services. Only 3.9% of the NT’s child and family services funding is invested in Aboriginal Community Controlled Organisations.

The ACPP should be strengthened not repealed

- Every authoritative source — the Parliaments of NSW, Queensland and South Australia, NT Royal Commissions and Inquiries, NT Coroners, SNAICC, AIFS, the Family Matters Campaign and the OCC — supports strengthening the ACPP and moving to the “active efforts” standard that requires thorough, purposeful and timely efforts to keep children safely connected to family, community, culture and country.
- As data above demonstrates, the NT child protection system is already actively separating Aboriginal children from family, community and culture at higher rates than almost all other jurisdictions. Legislation that signals the reduced importance of these connections will reinforce poor practice and cause more harm to children.
- No evidence has been provided by the Government or anyone else which supports weakening let alone repealing the ACPP. To do so would be contrary to the recommendations of every authoritative inquiry into the contemporary Australian child protection system and the position of every other State or Territory Parliament.

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Glossary of Acronyms

ABS	Australian Bureau of Statistics
ACCO	Aboriginal Community Controlled Organisation
ACPP	Aboriginal (and Torres Strait Islander) Child Placement Principle
ACSASS	Aboriginal Child Specialist Advice and Support Service (Victoria)
AEDC	Australian Early Development Census
AFLDM	Aboriginal Family-Led Decision Making
AHRC	Australian Human Rights Commission
AIFS	Australian Institute of Family Studies
AIHW	Australian Institute of Health and Welfare
ARDS	Aboriginal Resource and Development Services (Yolngu organisation, NT)
ARO	Aboriginal Representative Organisation (Western Australia)
ATSICPP	Aboriginal and Torres Strait Islander Child Placement Principle (alternative form of “ACPP”)
CaPCA	Care and Protection of Children Act 2007 (NT)
CAPO	Cultural and Aboriginal Practice Officer (Australian Capital Territory)
CFCA	Child and Family Community Australia (information-exchange series of the Australian Institute of Family Studies)
CI	confidence interval (statistical)
CRC	Convention on the Rights of the Child (1989)
CSP	cultural support plan
CYDRP	Child and Youth Development Research Partnership (Menzies School of Health Research and NT Government)
DCF	Department of Children and Families (NT)
DFSV	domestic, family and sexual violence
DFV	domestic and family violence
ECM	Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026 (Serial 67) (NT)
FASD	Fetal Alcohol Spectrum Disorder
FRO	family responsibility order
FSS	Family Support Services
HR	hazard ratio (statistical)
HREOC	Human Rights and Equal Opportunity Commission (now the Australian Human Rights Commission)
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination (1965)
ICWA	Indian Child Welfare Act 1978 (USA)
IFSS	Intensive Family Support Services
IRR	incidence rate ratio (statistical)
KC	King’s Counsel
NAAFLS	North Australian Aboriginal Family Legal Service
NAPLAN	National Assessment Program — Literacy and Numeracy
NTLC	Northern Territory Local Court (used in coronial inquest citations)
OCC	Office of the Children’s Commissioner (NT)
OOHC	out-of-home care
OR	odds ratio (statistical)
PHBC	Purchased Home-Based Care

RATSIO	Recognised Aboriginal and Torres Strait Islander Organisation (South Australia)
RDA	Racial Discrimination Act 1975 (Cth)
SNAICC	Secretariat of National Aboriginal and Islander Child Care (SNAICC — National Voice for our Children)
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples (2007)
VACCA	Victorian Aboriginal Child Care Agency

1. Why is the Children's Commissioner so concerned?

The Children's Commissioner is an independent statutory officer appointed in accordance with the Children's Commissioner Act 2013 (NT) (the Act) to ensure the safety and wellbeing of children in care and detention, and to promote continuous improvement and innovation in the policies, practices and services relating to their safety and wellbeing.

The Children's Commissioner has functions and responsibilities directed to the safety and well-being of vulnerable children, disproportionately Aboriginal children in the Territory. Section 9 of the Act expressly promotes the appointment of an Aboriginal person to hold the office, and the Minister cannot recommend a person for appointment unless satisfied that the person has the knowledge and experience to understand and respond to the needs of, and issues facing, vulnerable Aboriginal children. These provisions reflect a settled understanding that the work of the Children's Commissioner and staff in their Office cannot be done in isolation from the lived experience and cultural reality of Aboriginal children, who comprise the great majority of children in out-of-home care and in youth detention in the Northern Territory.

The standing, functions and powers of the Children's Commissioner have evolved through successive inquiries that have found repeated failures by Territory agencies to protect children: the Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse (Little Children are Sacred, 2007); the Report of the Board of Inquiry into the Child Protection System in the Northern Territory (Growing them strong, together, 2010); and the Final Report of the Royal Commission into the Protection and Detention of Children in the Northern Territory (2017). Each inquiry has reinforced the need for an independent statutory officer and staff operating under their direction, that both reviews specific decisions affecting individual children and identifies the systemic conditions that produce them. The Aboriginal Child Placement Principle — its origins in the response to the Stolen Generations, its codification across Australian jurisdictions, the evidence supporting it, and the persistent gap between its legislative form and its operational reality in the Northern Territory — sits at the centre of the Children's Commissioner and the OCC's work because it sits at the centre of the systemic failures affecting the children for whom the Commissioner has statutory responsibility.

This document has been produced at some speed to meet the Government's timetable for the consideration of the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026. Although every effort has been made in the time available to check and confirm all references, it is possible that some errors remain. The OCC will be reviewing and updating this document from time to time to ensure as far as possible that it remains both current and accurate.

2. What is the Aboriginal Child Placement Principle?

2.1. Definition

The Aboriginal and Torres Strait Islander Child Placement Principle (ACPP) is a decision making framework that operates within the child protection system. It applies whenever a decision is made about an Aboriginal or Torres Strait Islander child — particularly decisions about removal, placement, contact, care planning and case closure. Its purpose is to ensure that the child's connection to family, community, culture, language and country is preserved and, where possible, strengthened.

2.2. The four broad aims

SNAICC, the national peak body for Aboriginal and Torres Strait Islander children and families, describes the ACPP's four broad aims as follows:

1. Embed culture as central to safety and wellbeing — ensure an understanding that culture underpins and is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children, and that this understanding is embedded in policy and practice.
2. Recognise and protect rights — of Aboriginal and Torres Strait Islander children, family members and communities in child welfare matters.
3. Strengthen self-determination — increase the level of self-determination of Aboriginal and Torres Strait Islander people in child welfare matters.
4. Reduce over-representation — reduce the over-representation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care systems.¹

2.3. The five elements

The ACPP comprises five inter-related elements.

2.3.1 Prevention

Prevention establishes a foundational right: each Aboriginal and Torres Strait Islander child has the right to be brought up within their own family and community. The element operates to condition child protection involvement, requiring that the causes of removal — domestic and family violence, poverty, lack of access to services, intergenerational trauma — be addressed before removal is contemplated. The Australian Institute of Family Studies (AIFS) 2015 paper *Enhancing the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Policy and practice considerations* describes the element as recognising that each Aboriginal and Torres Strait Islander child “has the right to be brought up within their own family and community”.² In the Northern Territory, the Prevention element is most directly given effect by s 12(2B) of the Care and

¹ See also SNAICC, The Family Matters Report 2025, p 22.

² p. 5, Table 1 (AIFS 2025 Paper).

Protection of Children Act 2007, which provides that “an Aboriginal child has the right to be brought up within the child’s own family and community and on the child’s own country”.

2.3.2 Partnership

Partnership is the recognition that Aboriginal community representatives — including Aboriginal Community Controlled Organisations (ACCOs) — must participate in child protection decision-making at every stage, including intake, assessment, intervention, placement, care, and judicial decision-making.³ The Partnership element is given effect by current s 12(1) of the Care and Protection of Children Act 2007, which recognises that “Kinship groups, Aboriginal community-controlled organisations and communities of Aboriginal people have a major role, through self-determination, in promoting the wellbeing of Aboriginal children.”

The Partnership element operates as the practical bridge between the substantive content of the ACPP and the right to self-determination as recognised, for example, in Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples. It is the element that ensures the system is not simply something done to or for Aboriginal children, but something done with and through their communities.

2.3.3 Participation

Participation operates at the level of the individual child and family. It requires that Aboriginal children, parents and family members be entitled to participate in all child protection decisions affecting them — including decisions about intervention, placement and care, and judicial decisions in the Local Court. Participation includes the right of the child themselves to participate in decisions about them in accordance with their age and understanding, consistent with Article 12 of the Convention on the Rights of the Child.

The Participation element is given effect in the NT by current ss 11 and 12(2) of the Care and Protection of Children Act 2007, which establish rights for the child and family to participate in administrative and judicial decisions, to identify persons of cultural authority to participate in those decisions, and to have those persons enabled to participate.

2.3.4 Placement

Where removal cannot be avoided, the Placement element establishes the order of priority in which an Aboriginal or Torres Strait Islander child should be placed. The hierarchy is as follows:

1. with Aboriginal and Torres Strait Islander relatives or extended family members, or other relatives or extended family members;
2. with Aboriginal and Torres Strait Islander members of the child’s community;
3. with Aboriginal and Torres Strait Islander family-based carers;
4. as a last resort, with a non-Indigenous carer or in a residential setting.

³ AIFS 2015 Paper, p 5.

Where the child is not placed at the highest available level, the placement should be in close geographic proximity to the child's family and community. The Placement element is given effect in the NT by s 12(3) and s 12(4) of the Care and Protection of Children Act 2007.

The Placement element never requires that placement decisions are made at the expense of a child's best interests or safety. It calls on decision-makers to recognise the value of family and cultural connection to a child's safety and wellbeing in assessing placement options. Together with the partnership and participation elements, it ensures a child's family and community are involved in placement decisions.

The Placement element is the most well-known feature of the ACPP. Sometimes it is mistakenly treated as if it were the whole of the principle. The SNAICC Guide, the AIFS 2015 Paper and the Family Matters Report 2025 each emphasise that Placement is only one of five inter-related elements. Compliance with the Placement hierarchy alone, in the absence of Prevention, Partnership, Participation and Connection, will not achieve the aims of the ACPP.

2.3.5 Connection

Connection operates following removal. It is the obligation, owed to every Aboriginal child in out-of-home care, to be supported to maintain their connection to family, community, culture, traditions, language and country — and particularly so when the child is placed with a person who is not a member of their community or kinship group. The Connection element is given effect in the NT by s 12(2C) of the Care and Protection of Children Act 2007.

Connection is promoted through cultural support plans, contact arrangements, supports for family reunification, return-to-country programs, and the involvement of ACCOs and kinship carers in the child's ongoing life. As at 30 June 2023, 76.8% of Aboriginal children in NT OOHC required to have a cultural support plan did not have one.⁴

2.4. The integration of the five elements

The five elements of the ACPP are not severable. SNAICC stresses that "the partnership and participation elements relate to self-determination through the participation of children, families and community representatives — including Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) — in processes and decision-making."⁵ The Placement element rests on, and is conditioned by, the Prevention element: a system that does not first prevent unnecessary removal by preventing avoidable harm cannot meaningfully apply a placement hierarchy.

2.5. The proposed sixth element — Performance

A sixth element, Performance, has been increasingly discussed in the sector. It is concerned with the transparency, accountability and measurable systemic reporting of compliance with the five

⁴SNAICC, Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle Northern Territory 2021-23 p.6 (2024).

⁵SNAICC, Understanding and Applying the ATSICPP: A Guide to Support Implementation (2017), p. 6.

substantive elements. SNAICC's Family Matters Report 2025 emphasised the importance of "ongoing initiatives to improve practice, knowledge, responsiveness and accountability to Aboriginal and Torres Strait Islander people in government agencies, in accordance with Priority Reform 3 under the National Agreement on Closing the Gap", of providing "Governments and services are accountable to Aboriginal and Torres Strait Islander people" and of establishing and resourcing "peak bodies that support and enable greater participation of Aboriginal and Torres Strait Islander people in shared decision making and partnership for policy and service design, and in the oversight of systems impacting children, in accordance with the National Agreement on Closing the Gap Priority Reform 1".⁶ The importance of these initiatives in Closing the Gap is explicit.

⁶ SNAICC's Family Matters Report 2025, Building Blocks 3 (11) and 4(12), pp8-9.

3. Historical background

The standing and importance of the ACPP cannot be fully understood without understanding its history.

3.1. The Stolen Generations and the pre-ACPP era

From the late 19th century until the early 1970s, Australian governments — Commonwealth, State and Territory — operated a coordinated policy of forcibly removing Aboriginal and Torres Strait Islander children from their families. The policy was authorised by successive parliamentary Acts and administered through state welfare agencies, missions and government-run institutions. AIFS records that the practice “persisted for 150 years up to the early 1970s”.

As found subsequently by the 1997 Report of the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* and drawing on evidence from 535 Aboriginal and Torres Strait Islander people, the forced removal of Aboriginal children was racially discriminatory and genocidal in intent, aimed at wiping out Aboriginal families, communities, cultures and languages and caused enormous harm. The report documented widespread physical, psychological and sexual abuse after removal, and the resulting spiritual, emotional and physical trauma, as a direct result of the broken connection to traditional land, culture and language and the separation of families.

3.2. The 1970s and 1980s — Aboriginal activism

The ACPP grew from a grassroots movement initiated by Aboriginal and Islander Child Care Agencies (AICCAs) during the 1970s. AICCAs were advocating “for the best interests of Aboriginal and Torres Strait Islander children” and aiming “to abolish the harsh practices of forced removal”. AICCAs “generally provide support to families including family support and family preservation services which aim to keep families together and prevent child removal, advocacy for children and families, as well as keeping children connected to family and culture if they are to be removed.”⁷

The first AICCAs were established in NSW and Victoria in the mid-1970s. By the mid-1980s a national federation of AICCAs had been established, and the Aboriginal Child Placement Principle had been formally articulated by Aboriginal organisations.

SNAICC records that the ATSICPP “was established in 1984, as a result of years of activism by Aboriginal and Torres Strait Islander peoples, ACCOs and others to address the growing disproportionate rate of Aboriginal and Torres Strait Islander children being adopted by or placed in out-of-home care with non-Indigenous carers, and to prevent past practices from continuing or being repeated.”⁸

⁷ Child Family Community Australia, *Enhancing the Implementation of the ATSICPP*, CFCA Paper No 34 (2015) p. 4, fn 1.

⁸SNAICC, *Understanding and Applying the ATSICPP: A Guide to Support Implementation* (2019), p. 2.

SNAICC itself was founded in 1981. The organisation describes its founding ethos in its 2 May 2025 submission to the NT CaPCA Review in this way: “Since 1981, SNAICC has been a passionate national voice representing the interests of Aboriginal and Torres Strait Islander children and families.”⁹

3.3. The Indian Child Welfare Act 1978 as model

The ACPP was inspired in significant part by the Indian Child Welfare Act of 1978 (USA), a federal statute enacted in response to the same pattern of forced removal of Indigenous children that Australia was experiencing at the same time. CFCA records that the ACPP “was inspired by the success of the Indian Child Welfare Act 1978 for Native American Indians in the United States during this period” and “similarly sought to establish distinct national child welfare legislation and policy focused on reducing rates of child removal, and enhancing and preserving children’s connections to family and community as well as their sense of cultural identity.”¹⁰

The Indian Child Welfare Act also provides the conceptual root for “active efforts” — the implementation standard now adopted in NSW, Queensland and South Australia (see Part 6 below). SNAICC records that “the active efforts concept is drawn from the Indian Child Welfare Act, which aims to ensure safety and connection for Indigenous children in the United States.”¹¹ The Act’s implementing regulations require: family preservation as the preferable choice unless there is a risk of imminent physical damage or harm; a State duty to make active efforts to promote family preservation through remedial and rehabilitative services; and a State duty to demonstrate to the court that active efforts have been provided but unsuccessful prior to seeking an order for removal.

3.4. Bringing Them Home (1997)

The most authoritative public investigation of the harms produced by forced child removal in Australia was the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, which reported in 1997 as *Bringing Them Home*. The Inquiry was conducted by the Human Rights and Equal Opportunity Commission and its findings were transformative for the public understanding of this issue.

The Inquiry recognised the ACPP as “the single most significant change affecting welfare practice since the 1970s”.¹² The report recommended self-determination in Indigenous child welfare and the entrenchment of the ACPP in law.

The Bringing Them Home report also documented in detail the lived experience of those who had been removed. It is, with the 2017 NT Royal Commission (see section 8.7 below), the principal documentary record of the harm the ACPP is intended to address.

⁹SNAICC, Submission to the Review of the Care and Protection of Children Act 2007 (NT) (May 2025), p. 3.

¹⁰AIFS 2015 Paper, p. 4.

¹¹SNAICC, Understanding and Applying the ATSICPP: A Guide to Support Implementation (Melbourne, 2018), p. 4.

¹²Human 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* (HREOC, Sydney, April 1997), p. 379.

3.5. Jurisdictional adoption

Following the early implementation in NSW and Victoria, the ACPP has been adopted in legislation and policy in all Australian states and territories. Implementation, content and statutory specificity vary across jurisdictions. The principal contemporary milestones are:

3.5.1. New South Wales

The Children and Young Persons (Care and Protection) Act 1998 (NSW), s 12A, spells out each of the five elements of the ACPP and defines the Partnership element as “recognising that Aboriginal and Torres Strait Islander community representatives should participate in the design and delivery of services for children and young persons and in individual decisions about children and young persons”. NSW has gone further in enacting “active efforts” (s 9A), requiring active efforts to prevent a child entering OOHC, to reunify them with family or to place them with family, kin or community. Active efforts are defined as “timely, practicable, thorough and purposeful”. They are required to address the factors that led to the child being in need of care and protection, and are to be conducted in partnership with the family, kin and community of the child. The NSW model is widely cited as the leading domestic implementation of the active efforts concept.

3.5.2. Queensland

The Child Protection Act 1999 (Qld) embeds the five elements (ss 5C) and the active efforts standard (s 5F). Section 5C(2)(b) recognises that Aboriginal and Torres Strait Islander people have a right to participate in significant decisions about Aboriginal and Torres Strait Islander children, and to participate in decisions relating to the development and delivery of services. Active efforts are defined as “purposeful, thorough and timely”, and are required to be undertaken in partnership with an independent Aboriginal and Torres Strait Islander entity: s 5F(6).

3.5.3. Victoria

The Children, Youth and Families Act 2005 (Vic) embeds the ACPP at s 13 (and at Part 1.1B, which contains the Recognition Principles). Section 13(2) provides that “as a priority, wherever possible, the child must be placed within the Aboriginal extended family or relatives and where this is not possible other extended family or relatives”. Section 18 of the Act enables the Secretary of the Department to delegate, by instrument, all functions and powers in relation to a court order in respect of an Aboriginal child to the principal officer of an Aboriginal agency. The Victorian model is the leading delegated-authority model in Australia. It is reflected operationally in initiatives such as the Victorian Aboriginal Child Care Agency’s Nugel program that has demonstrated significantly higher rates of safe and successful reunification of Aboriginal children with their families and communities than government services.¹³

¹³ SNAICC (2025) Family Matters Report.

3.5.4. Northern Territory

In the Northern Territory the legislative recognition of the ACPP has followed a distinctive and contested path. The predecessor statute, the Community Welfare Act 1983 (NT), did not include an Aboriginal Child Placement Principle and contained no dedicated provisions for Aboriginal children, despite the disproportionate involvement of Aboriginal children with the Territory's welfare system. The first comprehensive recognition of the ACPP in Territory law came with the Care and Protection of Children Act 2007 (NT) (the CaPCA). The Care and Protection of Children Bill 2007 was already in draft when the 2007 Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse (Ampe Akelyernemane Meke Mekarle: "Little Children are Sacred") was tabled in June 2007. That Inquiry, conducted by Commissioners Rex Wild KC and Pat Anderson, recorded the proposal in the draft Bill to establish a Children's Commissioner for the Territory, supported that proposal, and recommended that the new Act "must include, as an explicit priority for the Commissioner, the interests and needs of Aboriginal children and young people".

The CaPCA commenced on 7 May 2008. Section 12 of the CaPCA gave statutory recognition to the ACPP. Part 5.1 of the CaPCA established the role and functions of the Children's Commissioner and staff, provided for the Commissioner's independence and authority to deal with complaints and to report on the operation of Part 5.1.

Within a short period the CaPCA was found to be insufficient to address the systemic failures of the Territory's child protection system. In December 2009 the Chief Minister appointed a Board of Inquiry into the Child Protection System in the Northern Territory, comprised of M Bamblett, H Bath and R Roseby. The Board's 2010 final report — Growing them strong, together — was produced "amidst the turmoil of people and systems struggling under heavy workloads while experiencing extreme pressure as they attempted to respond to constant ongoing needs and manage crises at the same time as rectifying problems and addressing recommendations identified in earlier inquiries". Chapter 13 of the report recommended enhanced functions and powers for the Children's Commissioner, including the power to commence "own motion" complaints, and (Recommendation 138) that the Office of the Children's Commissioner be funded to employ an Aboriginal person dedicated to investigating issues raised by, and affecting, Aboriginal children. In response the Territory Parliament passed the Care and Protection of Children (Children's Commissioner) Amendment Act 2011, which commenced on 1 July 2011 and conferred the Commissioner's own-motion investigation power and re-established as a standalone statutory office alongside the Children's Commissioner Act 2013 (NT).

That new Act commenced on 1 January 2014 and expressly required the Commissioner to evaluate the ongoing effectiveness of the CaPCA as far as it relates to vulnerable children. It was described in the responsible Minister's second reading speech as "permanently embed[ding] improved oversight and increased accountability through the Office of the Children's Commissioner".

Notwithstanding the new legislative scheme, conditions in the Territory's child protection and youth detention systems further deteriorated. On 1 August 2016 a Royal Commission into the Protection and Detention of Children in the Northern Territory was established by Letters Patent. The Honourable Margaret White AO and Mick Gooda were appointed as Commissioners. The

Commissioners observed in their Interim Report that “the children and young people in detention and care in the Northern Territory are overwhelmingly from Aboriginal communities”. The Final Report, delivered in November 2017, contained detailed proposals for the Children’s Commissioner and OCC in Chapter 22 (detention oversight) and Chapter 37 (child protection oversight). Chapter 40 sets out a framework of recommendations for an enhanced or replacement oversight body. Recommendation 40.1 was that the Children’s Commissioner Act 2013 be repealed and legislation passed establishing a Commission for Children and Young People; Recommendation 40.2 was that the new Commission have “two Commissioners, one of whom will be an Aboriginal person”, with a minimum staffing of 20 FTE.

Implementation of the Royal Commission’s recommendations has been progressive and, in important respects, incomplete. The Care and Protection of Children Amendment Act 2023 (NT) amended s 12 of the CaPCA in response to recommendations of the Royal Commission and to coronial inquests into the deaths of six Aboriginal children in remote communities in 2020. The 2023 amendments inserted requirements that decisions involving an Aboriginal child be “healing-focused and trauma-informed,” and recognised the rights of an Aboriginal child to grow up in their own family, community and country and to develop and maintain cultural connection.

The ACPP is now embedded across ss 10(2)(ha), 12(1), 12(2), 12(2A), 12(2B), 12(2C), 12(3) and 12(4) of the NT Act:

- s 12(1): Kinship groups, Aboriginal community-controlled organisations and communities of Aboriginal people have a major role, through self-determination, in promoting the wellbeing of Aboriginal children — the Partnership element.
- S 12 (2): the right of Aboriginal family, kin, community persons and organisations members to participate in significant decisions involving an Aboriginal child— the Participation element.
- s 12(2A): the requirement that decisions involving an Aboriginal child should be healing-focused and trauma-informed.
- s 12(2B): the right of an Aboriginal child to be brought up within the child’s own family and community and on the child’s own country — the Prevention element.
- s 12(2C): the right to be supported to maintain a connection with family, community, culture, traditions, language and country — the Connection element.
- s 12(3): the placement hierarchy — the Placement element.
- s 12(4): the geographic-proximity requirement.
- s 10(2)(ha): the general best-interests provision requiring consideration of an Aboriginal child’s right to enjoy Aboriginal culture and tradition.

The 2023 amendments also legislated the Child Wellbeing and Safety Partnership Framework (Part 5.1B of the CaPCA), originally established administratively in 2020. The 2023 amendments were broadly welcomed by SNAICC, the OCC and ACCOs. A further first tranche of reforms responding to Part 40 of the Royal Commission’s Final Report was introduced by the Children’s Commissioner Amendment Act 2024 (NT). Rather than repealing and replacing the Children’s Commissioner Act

2013 and establishing a new oversight body as the Royal Commission had recommended, the 2024 amendments inserted into the Act a legislative emphasis in favour of appointing an Aboriginal person as the Children’s Commissioner (responding to Recommendation 40.2), expanded the Commissioner’s functions in relation to advocacy, consultation, advice and research, and strengthened protections for informants and complainants. The Commissioner’s coercive powers — including the power to compel the provision of information from Government — were not enhanced. In particular, the amendments did not include the power, recommended at the fifth dot point of Recommendation 40.5 of the Royal Commission, “to be able to access documents while undertaking an investigation or inquiry, which otherwise may be subject to a legal professional privilege claim”.

The cumulative legislative effect of these reforms is that the Northern Territory framework today contains a structured ACPP across the requisite five elements; an independent statutory Children’s Commissioner with a legislated preference for an Aboriginal appointee; and (in the CaPCA) the Child Wellbeing and Safety Partnership Framework. The framework does not, however, embed an enforceable “active efforts” standard or formal delegated-authority mechanisms equivalent to s 18 of the Victorian Children, Youth and Families Act 2005 or s 5F(6) of the Queensland Child Protection Act 1999. The history summarised in this section also makes plain that successive Territory Parliaments have responded to repeated inquiry findings by extending, not contracting, the legislative recognition of the ACPP and the standing of the Children’s Commissioner.

3.5.5. Other Australian jurisdictions

Children and Young People (Safety and Support) Act 2025 (SA) introduced the “active efforts” requirement in South Australia alongside the ACPP which was already there. Importantly, the 2025 amendments in South Australia remove references to “safety” as a “paramount principle” in the Act responding to recent inquiry findings that separating safety from broader considerations of a child’s best interests had caused harm to Aboriginal children in South Australia.¹⁴ The amendments which take effect in 2027 do not diminish the priority on the safety of the child, but recognise that a child’s safety, wellbeing, best interests and relationships are interconnected and must be considered concurrently. The ACT has proposed amendments to their existing child-protection legislation, the Children and Young People Act 2008 (ACT) to further strengthen already existing ACPP requirements. The Western Australian provisions in the Children and Community Services Act 2004 (WA), and the Tasmanian provisions in the Children, Young Persons and Their Families Act 1997 (Tas) both contain the ACPP but do not currently include an enforceable active-efforts standard.

¹⁴ Lawrie, A (2024) Holding onto our Future: Final report of the inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principle in the removal and placement of Aboriginal children and young people in South Australia.

4. The five elements in detail

This Part describes each of the five elements of the ACPP — Prevention, Partnership, Participation, Placement and Connection. The treatment in this Part is intended to be more detailed than the introductory definitions in section 1.3 above, drawing on the SNAICC Guide (2018), the CFCA 2015 paper and the NT-specific implementation reviews.

4.1. Prevention

Prevention establishes the principle that, before any contemplation of removal, the child protection system must address the underlying causes that have brought an Aboriginal or Torres Strait Islander child and family to the system's attention. The element gives expression to the right of every Aboriginal and Torres Strait Islander child to be brought up within their own family and community.

SNAICC frames Prevention in terms of "protecting children's rights to grow up in family, community and culture by redressing causes of child protection intervention". The operational expression of the Prevention element includes:

- the availability of accessible, culturally safe and adequately resourced family support services in the communities where Aboriginal children live;
- early intervention services responsive to family violence, mental health, substance use, housing instability and disability;
- parenting programs developed and delivered by ACCOs or with significant ACCO involvement;
- cultural strengthening programs that build identity and resilience for children at risk of system involvement; and
- the addressing of structural drivers — over-policing, housing inadequacy, and intergenerational poverty.

Prevention is intimately linked to the accepted position, developed in Part 4 below, that culture itself is a protective factor. The AIFS 2015 paper records that "Connection to family, community and culture is essential for Aboriginal and Torres Strait Islander children in their social and emotional development, identity formation, and physical safety".

Prevention is the least developed of the five elements in the Northern Territory. SNAICC records that "the NT had the highest rate of homelessness in Australia in 2021 — 13,104 people on Census night, 12 times the national average,"¹⁵ with children and young people making up almost 50% of the NT's homeless population.

¹⁵ Australian Bureau of Statistics, Estimating Homelessness: Census 2021 (ABS, 2023) (cat no 2049.0); SNAICC, Reviewing Implementation of the Child Placement Principle: Northern Territory 2025 (2025), p. 15.

4.2. Partnership

Partnership operates at the structural level: it requires Aboriginal and Torres Strait Islander community representatives, including ACCOs, to participate in child protection decision-making at every stage. AIFS describes the Partnership element as requiring “the participation of Aboriginal and Torres Strait Islander community representatives, external to the statutory agency, ... in all child protection decision-making, including intake, assessment, intervention, placement and care, and judicial decision-making”.¹⁶

Partnership is conceptually distinct from Participation (section 3.4 below). Participation operates at the level of the individual child and family — their right to be heard and to participate in decisions about them. Partnership operates at a systemic level — the obligation on the system to be designed and delivered in genuine collaboration with the community.

In legislation, Partnership is expressed through three main mechanisms:

1. recognition of ACCOs and persons of cultural authority in the principles and objects of child protection legislation (e.g. current s 12(1) of the NT Act, which recognises that “Kinship groups, Aboriginal community-controlled organisations and communities of Aboriginal people have a major role, through self-determination, in promoting the wellbeing of Aboriginal children”);
2. the formal recognition of “recognised entities” (in some jurisdictions called “independent Aboriginal and Torres Strait Islander entities”) with statutory rights to participate in proceedings and decisions, such as the ACSASS model in Victoria, AROs in Western Australia, CAPOs in the ACT and RATSIOs in South Australia; and
3. the delegation of statutory functions and powers to ACCOs under provisions such as s 18 of the Children, Youth and Families Act 2005 (Vic) and the equivalent Queensland delegated-authority provisions.

In the Northern Territory, the Child Wellbeing and Safety Partnership Framework (CWSPP - Part 5.1B of the Care and Protection of Children Act), introduced by the 2023 amendments, was a step towards establishing a framework for Government, Aboriginal community and service organisations to work in partnership “to ensure the Northern Territory Government and service organisations are providing a coordinated response to the risks to the safety and wellbeing of children” and “to make the Northern Territory Government and service organisations accountable for partnering with community leaders to ensure children and families are safe and thriving” (s 293M(2)). However, whilst some partnerships have been established and continue to operate in some communities, there is inconsistency in practice, engagement, cooperation and effectiveness.

4.3. Participation

Participation reflects the elemental requirements of agency and natural justice for Aboriginal children and their families. It requires that Aboriginal children, parents and family members be

¹⁶CFCA, Enhancing the Implementation of the ATSICPP (CFCA Paper No 34, 2015), p. 5.

entitled to participate in all child protection decisions affecting them. The AIFS 2015 Paper describes the Participation element as the obligation that “Aboriginal and Torres Strait Islander children, parents and family members are entitled to participate in all child protection decisions affecting them regarding intervention, placement and care, including judicial decisions”.¹⁷

Participation is given effect in the NT by s 12(2), 12(2)(a), (b) and (c) of the Care and Protection of Children Act:

- s 12(2)(a) — the child’s family members have a right to participate, and to be enabled to participate, in an administrative or judicial process for making the decision;
- s 12(2)(b) — the child and family have a right to identify any of a list of persons (a person with cultural authority, a member of a kinship group, a member of an Aboriginal community-controlled organisation, a member of a community of Aboriginal people) to participate in the making of the decision; and
- s 12(2)(c) — a person identified in accordance with paragraph (b) has the right to participate in the making of the decision.

Participation is intended to be reinforced operationally through Aboriginal Family-Led Decision Making (AFLDM) processes (see Part 7 below), mediation conferences, family conferences and the appointment of independent legal representatives for children in protection proceedings.

4.4. Placement

Placement is the consequence under the framework when removal is unavoidable. It sets the order of priority for placement of an Aboriginal or Torres Strait Islander child in care. As set out in section 1.3.3 above, the SNAICC hierarchy is:

1. with Aboriginal and Torres Strait Islander relatives or extended family members, or other relatives or extended family members;
2. with Aboriginal and Torres Strait Islander members of the child’s community;
3. with Aboriginal and Torres Strait Islander family-based carers;
4. as a last resort, with a non-Indigenous carer or in a residential setting.

Where the highest priority is not available, the placement should be made in close geographic proximity to the child’s family and community.¹⁸

In the Northern Territory the Placement hierarchy is given effect by s 12(3) of the Care and Protection of Children Act 2007, which adopts the SNAICC hierarchy reproduced in section 1.3.3 above. Section 12(3) says:

“An Aboriginal child should, as far as practicable, be placed with a person in the following order of priority: (a) a member of the child’s family; (b) an Aboriginal person in the child’s community in accordance with local community practice; (c) any other Aboriginal person; (d)

¹⁷CFCA, Enhancing the Implementation of the ATSICPP (CFCA Paper No 34, AIFS, November 2015), p. 5.

¹⁸SNAICC, Understanding and Applying the ATSICPP: A Guide to Support Implementation (Melbourne, 2018), p. 3.

a person who is not an Aboriginal person but, in the CEO's opinion, is sensitive to the child's needs and capable of supporting the child to develop and maintain a connection with the child's family, community, culture, traditions, language and country."

Section 12(4) adds that "an Aboriginal child should, as far as practicable, be placed in close proximity to the child's family and community".

Section 12(3) and (4) of the Act are applied in the context of section 10 of the Act that requires all decisions are made with the best interests of the child as the paramount concern, including the need protect the child from harm. Nothing in the existing legislation requires a decision-maker to prioritise placement of a child with an Aboriginal family member or carer where there is a known risk to child's physical safety – in fact the Care and Protection of Children Act 2007 forbids this through multiple and clear requirement to protect children from unacceptable risks of harm. While the practice of placing children in unsafe placements has been cited as a primary reason for the current proposal to remove the placement hierarchy from the Care and Protection of Children Act 2007, it is evident that if and where this occurs it is the result of poor practice and implementation rather than the requirements of the legislation.

In fact, the Placement element of the ACPP is a striking example of the gap between legislative ambition and practical reality in the Northern Territory. As at 30 June 2024, only 16.7% of Aboriginal and Torres Strait Islander children in care were placed with Aboriginal and Torres Strait Islander relatives or kin — against a national average of 32.1%.¹⁹ The rate has declined steadily: 27.3% in 2021; 25.5% in 2022; 23.8% in 2023; 16.7% in 2024.²⁰

4.5. Connection

Connection operates following removal, where prevention has not been possible or successful. It is the obligation, owed to every Aboriginal and Torres Strait Islander child in out-of-home care, to be supported to maintain their connection to family, community, culture, traditions, language and country — particularly where the child is placed with a person who is not a member of their community or kinship group. AIFS 2015 Paper describes the Connection element as the proposition that "Aboriginal and Torres Strait Islander children in out-of-home care are supported to maintain connection to their family, community and culture, especially children placed with non-Indigenous carers".²¹ SNAICC highlights that effective implementation of the Connection element focuses on the safe reunification of children with their parents and kin where they have been separation, including the provision of supports to parents and family members to address the circumstances that have led to removal of the child.²²

In the NT, Connection is given effect by s 12(2C) of the Care and Protection of Children Act 2007 which says:

¹⁹ SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 19 and Table 6.

²⁰ SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 19, Table 6.

²¹ AIFS 2015 Paper, p. 5.

²² SNAICC (2018) Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation.

“An Aboriginal child has a right to be supported to develop and maintain a connection with the child’s family, community, culture, traditions, language and country, particularly when the child is placed with a person who is not from the child’s community or kinship group.”

The operational expression of Connection is the cultural support which ought to be in the care plan which the Care and Protection of Children Act 2007 mandates. Section s 70(5) requires that care plans for Aboriginal children include “reasonable actions” to maintain and develop the child’s Aboriginal identity and to encourage the child’s connection to Aboriginal culture, tradition, language and country.

The implementation of Connection in the Northern Territory is poor. The 2025 SNAICC NT review reports that “a significant number of children in the NT lack cultural support plans, reflecting systemic failures in preserving and building these essential ties” and that DCF was unable to “produce data on these plans due to changes in their data systems” — undermining oversight and accountability.²³ The OCC Annual Report 2023–24 separately records that 76.8% of Aboriginal children in NT OOHC required to have a cultural support plan did not have one as at 30 June 2023.

4.6. Why the elements must be implemented together

The five elements operate together and cannot be substituted for one another. Compliance with the Placement hierarchy in the absence of Prevention will mean that more Aboriginal children enter care than need to. Compliance with the Placement hierarchy in the absence of Partnership will mean that the placement-decision process is administered by a system without genuine community oversight and hence an enhanced risk of failure. Compliance with the Placement hierarchy in the absence of Connection will mean that children placed at the third or fourth tier of the hierarchy will lose cultural connection over time. CFCA makes the same point: “Including a focus on the child’s Aboriginal and/or Torres Strait Islander culture as a protective factor, rather than the current conceptualisation of Aboriginality as a risk factor, can strengthen cultural identity and promote links to cultural practices which will promote safety and security for children”.

²³SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), pp. 25–26; AIHW, ATSICPP Indicators 2021–22 (AIHW, Canberra, 2023).

5. Why the ACPP matters: the evidence base

The case for the ACPP is supported by a substantial and consistent body of evidence.

5.1. Culture as a protective factor

The orthodox understanding in contemporary Australian and international child protection research is that cultural connection — for Aboriginal and Torres Strait Islander children specifically — is a protective factor, not a risk factor. The AIFS 2015 paper records the proposition unambiguously, and develops the point with reference to the “many eyes” of community oversight that traditional Aboriginal child rearing provides:

“A community with many eyes watching over each other’s children allows the children to explore, grow and develop both through independent experience, safe in the knowledge that they are being looked out for, and adopting positive behaviours modelled by their family and community members. A strong sense of community connection enables children to develop a positive self-identity, as well as strengthening their resilience and emotional strength”.²⁴

CFCA recommends a fundamental reframing: “Including a focus on the child’s Aboriginal and/or Torres Strait Islander culture as a protective factor, rather than the current conceptualisation of Aboriginality as a risk factor, can strengthen cultural identity and promote links to cultural practices which will promote safety and security for children”.²⁵

5.2. Cultural continuity and youth suicide

One of the most cited international evidence on the protective effect of cultural continuity is the Canadian research of Chandler and Lalonde and others that linked cultural continuity factors with reduced rates of youth suicide in First Nations communities in British Columbia.

“... individual and cultural continuity are strongly linked, such that First Nations communities that succeed in taking steps to preserve their heritage culture, and that work to control their own destinies, are dramatically more successful in insulating their youth against the risks of suicide.”²⁶

Analogous findings have been observed in studies of Indigenous communities in other settings. The mechanism is well-established: cultural continuity provides identity, belonging, intergenerational connection and resilience — each of which protects against the despair-related mental-health outcomes that drive young Indigenous suicide.

The NT specific evidence is consistent with the Canadian work. A study of 6,467 Aboriginal children born in the Northern Territory between 1999 and 2003 found that, after adjusting for socio-

²⁴ F Arney et al, Enhancing the Implementation of the ATSICPP (AIFS, 2015), p. 3.

²⁵ F Arney et al, Enhancing the Implementation of the ATSICPP (AIFS, 2015), p. 14.

²⁶ Chandler, M. J. & Lalonde, C. E.; *Cultural Continuity as a Protective Factor against Suicide in First Nations Youth. Horizons -A Special Issue on Aboriginal Youth, Hope or Heartbreak: Aboriginal Youth and Canada's Future*. 10(1), (2008) 68-72. p 6.

demographic and perinatal risk factors, contact with the NT child protection system was associated with a three- to nine-fold increase in the relative risk of hospitalisation for self-harm in adolescence. The risk was greatest for Aboriginal children with a record of substantiated maltreatment in both early and middle childhood, and 6.72 times higher for children who experienced notifications in early childhood and substantiated maltreatment in middle childhood. The variable “level and timing of child protection contact” alone accounted for approximately half of the total variation in adolescent self-harm explained by the full statistical model.²⁷

The authors of the study — researchers at the Menzies School of Health Research — drew the policy implication directly: “Aboriginal specific trauma-informed approaches to the reform of child protection programs and services are required at all levels of responses to ensure the culturally-specific unmet needs of Aboriginal families and children are better recognised and addressed.” That is, in substance, the case for the Aboriginal Child Placement Principle, expressed as a public-health proposition supported by NT-specific longitudinal data.²⁸

5.3. Harm caused by disconnection

The harm caused by disconnection from family, community and culture is the obverse of the evidence on culture as a protective factor. The Bringing Them Home report documented the harm in detail, recording the experiences of those who had been removed from their families during the Stolen Generations:

“[The Stolen Generations endured] physical, psychological and sexual abuse, in terms of spiritual, emotional and physical trauma, as a direct result of the broken connection to traditional land, culture and language and the separation of families.”²⁹

The intergenerational impacts of these policies remain visible in disproportionate rates of contact with both child protection and the youth justice systems.

5.4. Outcomes data on culturally-matched placements

A consistent pattern emerges from the Australian and international literature: children placed in culturally-matched kinship and community placements experience better outcomes on a range of measures than children placed in non-Indigenous foster care or residential care. The principal factors driving these outcomes are:

²⁷ B Leckning, V Y F He, J R Condon, T Hirvonen, H Milroy and S Guthridge, 'Patterns of child protection service involvement by Aboriginal children associated with a higher risk of self-harm in adolescence: A retrospective population cohort study using linked administrative data' (2021) 113 Child Abuse & Neglect 104931, abstract and Table 3.

²⁸ Ibid, Discussion, p 6 ('Aboriginal specific trauma-informed approaches to the reform of child protection programs and services are required at all levels of responses to ensure the culturally-specific unmet needs of Aboriginal families and children are better recognised and addressed', citing J Atkinson, Trauma-Informed Services and Trauma-Specific Care for Indigenous Australian Children (Closing the Gap Clearinghouse, Resource Sheet 21, AIHW/AIFS, 2012).

²⁹ 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 (1997), quoted in AIFS, Enhancing the implementation of the Aboriginal and Torres Strait Islander Aboriginal Child Placement Principle (2015), p. 2.

- identity formation and self-esteem;
- mental health and emotional regulation;
- educational engagement and outcomes;
- placement stability and avoidance of multiple placement breakdowns;
- reunification rates and post-reunification durability; and
- engagement with the youth justice system in adolescence.

Nationally, SNAICC reports that 83.7% of Aboriginal and Torres Strait Islander children who had been reunified in 2021–22 did not return to care within 12 months³⁰ — a strong indicator of the durability of reunification when it is supported. The NT figure for the equivalent period was poorer.

SNAICC also reports that 73.3% of Aboriginal and Torres Strait Islander children in OOHC at 30 June 2023 nationally were on long-term General Care Orders or Third Party Parental Responsibility Orders; the NT figure was 66.7%³¹. The Family Matters Report 2025 observes that “the high number of these orders indicates a systemic drive towards long-term and permanent care orders for Aboriginal and Torres Strait Islander children in predominantly non-Indigenous placements, over and above supporting successful and sustainable reunification”.³²

5.5. Education and early childhood outcomes

Positive early childhood developmental outcomes are dependent on family, community and service environments that wrap support around children to nurture their early growth, education, health and development. For Aboriginal children, early care grounded in their cultures, identities and languages is critical to supporting children to thrive in their early years and throughout life.³³

Separating children from family, community and culture contributes to poorer early developmental outcomes.

The 2025 SNAICC NT review records:

- only 16.4% of Aboriginal and Torres Strait Islander children in the NT were assessed as developmentally “on track” across all five Australian Early Development Census (AEDC) domains in 2021 — the lowest rate in Australia, against a national average of 34.3%;³⁴
- 25.7% of all NT children (Aboriginal and non-Aboriginal combined) were classified as developmentally vulnerable in two or more AEDC domains, against a national average of 11%;³⁵

³⁰AIHW, Child Protection Australia 2023–24 (AIHW, Canberra, 2025); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 24.

³¹AIHW, Child Protection Australia 2023–24 (AIHW, Canberra, 2025); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 25.

³²SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 25.

³³ SNAICC, Funding model options for ACCO integrated early years services (Melbourne, 2024), pp. 44–54.

³⁴SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 13.

³⁵SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 13. Australian Early Development Census National Report 2021 (Department of Education, Australian Government, 2022); Australian Curriculum, Assessment and Reporting Authority, NAPLAN National Report 2023 (ACARA, 2023).

- only 48% of Aboriginal and Torres Strait Islander children in the NT meet the ABS definition of “600-hour attendance” at preschool.³⁶

Underlying each of these statistics is a developmental cost that is highly responsive to family integrity, cultural continuity and community stability — each of which the ACPP is designed to protect.

The Menzies From Birth to Five study highlights that for Aboriginal children in the NT child protection intervention starts early in life and correlates with gaps in early developmental outcomes.³⁷ Full implementation of the ACPP is essential to ensure children grow up in family and community environments that nurture and support their early development.

5.6. Crossover with the youth justice system

The interaction between child protection involvement and subsequent youth justice involvement is well-documented in Australia and the Northern Territory specifically:

- 69.4% of children under youth justice supervision in the NT in 2022 had prior contact with child protection services in the five preceding years (2017–2021);³⁸
- in 2023–24, 91% of young people under youth justice supervision in the NT (664 of 727) were Aboriginal and Torres Strait Islander; and³⁹
- in OCC audit work in the 2021–22 reporting period, every child in NT detention aged under 14 reviewed by the OCC had had prior contact with the child protection system (OCC Annual Report 2021–22).

The relationship between child protection contact and later youth-justice involvement has been quantified in the Northern Territory in a series of peer-reviewed Menzies data-linkage studies. A 2021 study of 10,438 Aboriginal NT children born between 1999 and 2006 reported that the cumulative incidence of a first alleged offence by age 18 was 23.4% for boys with no child-protection contact before age 10, and 45.5% for boys with a history of out-of-home care; for girls the corresponding figures were 6.6% and 18.6%. The authors found that unsubstantiated notifications carried a similar risk of subsequent offending to substantiated ones, supporting the extension of early intervention to children with notifications that fall below the statutory substantiation threshold.⁴⁰

³⁶SNAICC, Reviewing Implementation of the ATSICPP Northern Territory 2021–23 (Melbourne, 2024), p. 12, fn 3; Australian Bureau of Statistics, Preschool Education, Australia, 2022 (cat no 4240.0).

³⁷V He, S Guthridge and B Leckning, From Birth to Five: A Multiagency Data-Linkage Study to Inform a Public Health Response to Child Protection in the Northern Territory (Menzies School of Health Research, Darwin, 2019), Executive Summary pp v–vii and Chapter 7.

³⁸AIHW, Youth Justice in Australia 2023–24 (AIHW, Canberra, 2025); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 14.

³⁹AIHW, Youth Justice in Australia 2023–24 (AIHW, Canberra, 2025); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 14; Australian Law Reform Commission, Pathways to Justice (ALRC Report 133, December 2017).

⁴⁰V Y F He, B Leckning, C Malvaso, T Williams, L Liddle and S Guthridge, 'Opportunities for prevention: a data-linkage study to inform a public health response to youth offending in the Northern Territory, Australia' (2021) 21 BMC Public Health 1600, abstract and Results (cumulative incidence of first alleged offence by age 18 — boys: no CP 23.4% [95% CI 21.0–26.1], OOHC 45.5% [37.0–54.9]; girls: no CP 6.6% [5.3–8.2], OOHC 18.6% [13.0–26.2]). For boys with substantiations in both early and middle childhood (SS group), HR at age 11 = 17.0 (95% CI

A 2025 Menzies study of NT children aged 10–13 added a further layer. Among NT government-school children who turned 10 in 2014–15, 10.3% had at least one alleged offence recorded in police data before age 14. The four-year period prevalence was 24.2% for Aboriginal boys, 12.3% for Aboriginal girls, 2.5% for non-Aboriginal boys and 1.0% for non-Aboriginal girls. Of children with an alleged offence, 87.8% had prior child-protection notifications, 64% had been recorded as exposed to family or domestic violence and 20% had a recorded mental-health event. Aboriginal children comprised 91.6% of children with alleged offences despite representing 50.8% of the cohort. The authors described the persistence of that disparity after multivariable adjustment for socio-economic and family factors as evidence of “the enduring legacy of historical policies (including child removal policies) and a higher likelihood of encountering individual, family, social and contextual circumstances that raise the risk of justice system involvement”, and called for “a paradigm shift towards multifaceted, prevention-focused and culturally responsive interventions”.⁴¹

The increased risk of hospitalisation for mental health problems among NT adolescents with child protection involvement is similarly stark. A 2023 Menzies cohort study of 14,972 NT adolescents found that, after adjustment for confounding, the odds of mental-health-related hospitalisation were 12.06 times higher for those who had been placed in out-of-home care, and 11.82 times higher for those who had been in detention, compared to those with no such involvement. Of these, only out-of-home care was independently associated with a higher incidence of repeated hospitalisations. Substance-use disorder was the dominant diagnostic category in those with child-protection or youth-justice involvement who were hospitalised. The authors concluded that “trauma-informed services in the child protection and youth justice systems require better coordination and integration”, with “special attention to the unmet needs of young people in OOHC and detention”.⁴²

These findings make apparent, in NT-specific peer-reviewed data, the harm pathway the Aboriginal Child Placement Principle is designed to interrupt. They also show that the cost of failing to implement it falls hardest on the very children whose welfare is invoked in support of the Care and Protection of Children Legislation Amendment (Every Child Matters) Bill 2026.

9.6–30.0); for girls in the SS group, HR at age 11 = 54.1 (95% CI 18.1–162). The conclusion at pp 11–12 states that the higher risk among children with unsubstantiated notifications ‘supports their inclusion in targeted preventive interventions’.

⁴¹ V Y F He, S Roche, J Williams, T Williams and S Guthridge, ‘Prevalence and Factors Associated With Alleged Offending Among Children Aged 10–13 Years in the Northern Territory of Australia’ (2025) *Australian Journal of Social Issues* (advance access, DOI 10.1002/ajs4.70034), abstract and §4.3. The four-year period prevalence of alleged offending was 10.3% in the cohort overall, with sub-rates of 24.2% (Aboriginal males), 12.3% (Aboriginal females), 2.5% (non-Aboriginal males) and 1.0% (non-Aboriginal females). 87.8% of alleged offenders had prior child-protection notifications; 64% had been recorded as exposed to family/domestic violence; 20% had a recorded mental-health event. Aboriginal children were 91.6% of alleged offenders but 50.8% of the cohort.

⁴² B Leckning, J R Condon, S K Das, V He, T Hirvonen and S Guthridge, ‘Mental health-related hospitalisations associated with patterns of child protection and youth justice involvement during adolescence: A retrospective cohort study using linked administrative data from the Northern Territory of Australia’ (2023) 145 *Children and Youth Services Review* 106771, abstract and Table 4. Cohort: 14,972 NT adolescents who turned 10 in 2004–2009. After adjustment for confounding, OR for any mental health-related hospitalisation: out-of-home care 12.06 (95% CI 5.64–25.53), detention 11.82 (3.06–45.15). IRR for incidence (in those with any such hospitalisation). out-of-home care 2.67 (1.73–4.11) — the only category to retain an elevated incidence after adjustment.

5.7. The cost of disconnection over a lifetime

The cumulative cost of the failure to implement the ACPP — across a lifetime, and across generations — is substantial. The OCC and the NT Coroner have repeatedly identified a chain of harm that begins with removal, continues through placement instability and cultural disconnection, and ends in adolescent and adult contact with the criminal justice system, mental health crises and family separation in the next generation. The 2024 NT Coronial inquests into the deaths of four Aboriginal women in domestic and family violence contexts recorded that since 2000 at least 87 women have died from DFSV in the NT, 82 of them Aboriginal⁴³. The 2017 Royal Commission, the 2024 Coronial inquest into the death of Baby G, and the 2025 Coronial inquest into the death of Kailab Moir each independently link present harm with failures in the child protection system.

The lifetime cost is now NT-quantifiable. Out-of-home care, on the most recent Menzies adjusted analysis, is independently associated with a twelve-fold increase in the odds of mental-health-related hospitalisation in adolescence; and substantiated maltreatment in both early and middle childhood is associated with a nine-fold increase in the risk of adolescent self-harm. Each of those pathways is a measurable harm, each falls overwhelmingly on Aboriginal children, and each is in part attributable to failures to implement the five elements of the ACPP — Prevention, Partnership, Placement, Participation and Connection.

⁴³Inquests into the deaths of Miss Yunupingu, Ngeygo Ragurk, Kumarn Rubuntja and Kumanjayi Haywood [2024] NTLC 14 (Coroner Armitage); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, pp. 14–15.

6. International legal foundations

The ACPP gives effect to a network of international human rights instruments binding on Australia, and is embedded in domestic legislation in every state and territory. This Part describes the principal legal foundations.

6.1. The Convention on the Rights of the Child (CRC)

The CRC, adopted by the UN General Assembly in 1989 and ratified by Australia in 1990, establishes the foundational rights of children in international law. The rights most directly engaged by the ACPP are:

- Article 3 — the best interests of the child as a primary consideration in all decisions affecting children;
- Article 8 — the right of the child to preserve their identity, including nationality, name and family relations;
- Article 12 — the right of the child to express their views freely in matters affecting them and to have those views given due weight in accordance with their age and maturity;
- Article 20 — protection of children deprived of their family environment, with a requirement that “due regard ... shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background”; and
- Article 30 — the right of an Indigenous child to enjoy their own culture in community with other members of their group, profess and practise their religion, and use their own language.

Article 30 is the most direct statement of the international right that the ACPP exists to give effect to. The right is held in community with others of the same group — it is not solely an individual right. This communal element of the right is critical: it is what makes the integrity of the kinship network, the cultural community and the connection to country a matter of legal obligation under the CRC.

6.2. CRC General Comment No. 11 (2009) — Indigenous children

The Committee on the Rights of the Child issued General Comment No. 11 on Indigenous children and their rights under the Convention in 2009. The General Comment is the authoritative interpretive instrument on the application of the CRC to Indigenous children, and it elaborates Article 30 in detail.

At [16] the Committee notes that “[t]he right established is conceived as being both individual and collective and is an important recognition of the collective traditions and values in indigenous cultures” — capturing the essential point that the right is communal.

At [16] the Committee also notes that “the right to exercise cultural rights among indigenous peoples may be closely associated with the use of traditional territory and the use of its resources”.

This is the foundation of the legal proposition, accepted in the ACPP, that placement decisions for Aboriginal children must consider connection to land and country.

SNAICC describes the General Comment as providing “further guidance to states on protecting the rights of Indigenous children. Of significant importance are the comments regarding the best interests and views of the child, and how to protect the individual rights of the child while also upholding the collective right of Indigenous children as a group”.⁴⁴

6.3. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

UNDRIP, adopted by the UN General Assembly in 2007 and endorsed by Australia in 2009, sets out the rights of Indigenous peoples in international law. While not a treaty in the same sense as the CRC, it is a key interpretive instrument and a statement of international consensus. The Articles most directly engaged by the ACPP are:

- Article 3 — the right of Indigenous peoples to self-determination;
- Article 4 — the right of Indigenous peoples to autonomy or self-government in matters relating to their internal and local affairs;
- Article 7 — the right to live in freedom, peace and security as distinct peoples;
- Article 8(1) — the right of Indigenous peoples not to be subjected to forced assimilation or destruction of their culture; Article 8(2) — state obligation to provide effective mechanisms to prevent and redress, including against actions which have the aim or effect of “depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities”;
- Article 9 — the right to belong to an Indigenous community or nation;
- Article 18 — the right of Indigenous peoples to participate in decision-making in matters which would affect their rights;
- Article 19 — the obligation on States to consult with Indigenous peoples in good faith through their own representative institutions in order to obtain free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them;
- Article 21 — the right to the improvement of economic and social conditions, with particular attention to “the rights and special needs of indigenous elders, women, youth, children and persons with disabilities”; and
- Article 22 — paragraph 1, the requirement that “particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration”.

⁴⁴Committee on the Rights of the Child, General Comment No 11 (2009): Indigenous Children and Their Rights under the Convention, UN Doc CRC/C/GC/11 (12 February 2009), [30]–[48]; Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3, Art 30; SNAICC, Submission to the Review of the Care and Protection of Children Act 2007 (NT) (2 May 2025), p. 8.

UNDRIP gives the ACPP a structural justification at the level of the right of Indigenous peoples to self-determination. The Partnership and Participation elements of the ACPP are the operational expressions of UNDRIP Articles 18 and 19. The Prevention, Placement and Connection elements give effect to Articles 7, 8 and 9.

6.4. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

ICERD, adopted by the UN General Assembly in 1965 and ratified by Australia in 1975, is given domestic effect by the Racial Discrimination Act 1975 (Cth). The ICERD rights most directly engaged are:

- Article 5(d)(vii) — the right to freedom of thought, conscience and religion (relevant to the spiritual dimension of Aboriginal culture and country);
- Article 5(e)(vi) — economic, social and cultural rights, including the right to equal participation in cultural activities; and
- Article 1(4) — the provision of permission for “special measures” taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms.

The Committee on the Elimination of Racial Discrimination has elaborated the ICERD’s application to Indigenous peoples in General Recommendation No. 23 (1997). At paragraphs 4 and 5, the Committee calls upon States parties to:

- “recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State’s cultural identity and to promote its preservation”; and
- “ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent”.

7. Closing the Gap and Safe and Supported

The legal and policy foundation of the ACPP is reinforced by the National Agreement on Closing the Gap (2020) and the Safe and Supported: National Framework for Protecting Australia's Children 2021–2031.

The National Agreement on Closing the Gap operates through 19 socio-economic targets and four Priority Reforms. Target 12 — the most directly relevant to the ACPP — commits all governments “[b]y 2031, [to] reduce the rate of over-representation of Aboriginal and Torres Strait Islander children (0–17 years) in out-of-home care by 45 per cent.” The four Priority Reforms operationalise self-determination at a system level:

- formal partnerships and shared decision-making between Aboriginal and Torres Strait Islander people and governments;
- building the community-controlled sector;
- transformation of government organisations to improve responsiveness and accountability to Aboriginal and Torres Strait Islander people; and
- shared access to data and information at a regional level to support shared decision-making.

Safe and Supported is the national children's policy framework against which jurisdictional performance is measured. Its Aboriginal and Torres Strait Islander First Action Plan 2023–2026 contains a series of actions to give effect to Target 12. Action 5 (within the First Action Plan) addresses Commissioners for Aboriginal and Torres Strait Islander Children and Young People, supports the establishment of a National Commissioner, and commits parties to “implementing the Aboriginal and Torres Strait Islander Child Placement Principle to the standard of active efforts”.⁴⁵

The Family Matters Report 2025 records that the NT was “going backwards on eight of 19 [Closing the Gap] targets, performing the worst in Australia against the priority reforms and social economic outcome areas.”⁴⁶ The most recent Closing the Gap Annual Data Compilation Report reveals that “only four out of 19 targets are on track to be met, with the NT being the worst-performing jurisdiction in the country”.⁴⁷

⁴⁵Commonwealth of Australia, Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031 (DSS, Canberra, 2021), Aboriginal and Torres Strait Islander First Action Plan 2023–2026, Action 5; Office of the Children's Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024), p. 6.

⁴⁶Productivity Commission, Closing the Gap Annual Data Compilation Report, July 2024 (Canberra, 2024); Office of the Children's Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024), p. 9.

⁴⁷Productivity Commission, Closing the Gap Annual Data Compilation Report, July 2024 (Canberra, 2024); SNAICC, The Family Matters Report 2025 (Melbourne, November 2025), p. 105.

8. Contemporary implementation in the Northern Territory

The Northern Territory has the highest concentration of Aboriginal and Torres Strait Islander children in the Australian child protection system, and the strongest illustration of the difference between ACPP in legislation and ACPP in reality. This Part summarises the contemporary NT-specific data — drawn from the SNAICC NT 2021–23 and 2025 reviews, the Family Matters Report 2025, the OCC Annual Report 2023–24 and Productivity Commission Closing the Gap reporting.

8.1. Over-representation in care

Headline data — Aboriginal and Torres Strait Islander children in NT OOHC

41.6% — the proportion of the NT child population who are Aboriginal and Torres Strait Islander (2024).

88.5% — the proportion of NT children in out-of-home care who are Aboriginal and Torres Strait Islander as at 30 June 2024 (750 of 847 children).

(The same population aggregated over the 2023–24 financial year is reported by the OCC Annual Report 2023–24 at p. 9 as 89%; the 88.5% point-in-time figure is consistent with this annual-aggregate figure.)

11.2 times — the rate ratio at which Aboriginal and Torres Strait Islander children in the NT are placed in OOHC compared with non-Indigenous children as at 30 June 2024, calculated by the Productivity Commission (SCRGSP, Report on Government Services 2025, Pt F, Table 16A.8). The OCC’s own calculation in the Annual Report 2023–24 (p. 9) is 12.1 times; the difference reflects the OCC using NT administrative data while SCRGSP uses standardised population denominators.

The trajectory of the rate ratio in the Northern Territory is set out below.⁴⁸

Year (30 June)	Rate ratio Aboriginal:non-Indigenous
2020	11.0
2021	13.7
2022	15.5
2023	12.2
2024	11.2

⁴⁸SCRGSP, Report on Government Services 2025 (Productivity Commission, Canberra, 2025), Pt F, s 16, Tables 16A.2, 16A.3, 16A.42; ABS, Census of Population and Housing — Counts of Aboriginal and Torres Strait Islander Australians, 2021 (cat no 2075.0); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 8, Fig 1.

The downward trend from 2022 reflects partly increasing non-Indigenous rates (admission rates of 1.0 per 1,000 in 2022–24 versus 0.8 per 1,000 in 2020–21) rather than a reduction in Aboriginal contact.⁴⁹

Notifications, investigations and substantiations of abuse and neglect concerning Aboriginal and Torres Strait Islander children in the NT have continued to rise. The rate ratios (Aboriginal:non-Indigenous) for each are set out below.⁵⁰

	2020–21	2021–22	2022–23	2023–24
Notifications	4.7	4.6	5.2	5.5
Investigations	7.2	6.7	7.7	8.0
Substantiations	10.5	7.7	10.3	10.5

In 2023–24, Aboriginal and Torres Strait Islander children in the NT were subject to notifications at 343.4 per 1,000, compared with 62.4 per 1,000 for non-Indigenous children. 28.4 Aboriginal and Torres Strait Islander children per 1,000 were the subject of substantiations in 2023–24, against 2.7 per 1,000 for non-Indigenous children⁵¹. In 2022–23, 88.5% of substantiated claims of abuse or neglect in the NT were of Aboriginal and Torres Strait Islander children.⁵²

8.2. The kinship placement problem

Kinship placement data

16.7% — Aboriginal and Torres Strait Islander children in NT OOHC placed with Aboriginal and Torres Strait Islander relatives or kin as at 30 June 2024 — the second-lowest rate in Australia, behind Tasmania.

32.1% — the national average for placement with Aboriginal and Torres Strait Islander relatives or kin (2024).

62.2% — the proportion of NT placements of Aboriginal and Torres Strait Islander children with non-Indigenous, non-relative carers (2024).

The NT's rate of placement with Aboriginal kin has declined steadily and substantially: 27.3% in 2021; 25.5% in 2022; 23.8% in 2023; 16.7% in 2024.⁵³ The OCC public explainer notes that only Tasmania, among Australian jurisdictions, has a lower rate.

⁴⁹SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 8; SCRGSP, Report on Government Services 2025, Pt F, s 16, Table 16A.4 (entries and exits).

⁵⁰SCRGSP, Report on Government Services 2025 (Productivity Commission, Canberra, 2025), Pt F, s 16, Tables 16A.1 and 16A.8; AIHW, Child Protection Australia 2023–24 (AIHW, Canberra, 2025); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 10, Table 2.

⁵¹AIHW, Child Protection Australia 2023–24 (AIHW, Canberra, 2025); SCRGSP, Report on Government Services 2025, Pt F, s 16, Tables 16A.1 and 16A.8; SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 10.

⁵²AIHW, Child Protection Australia 2023–24 (AIHW, Canberra, 2025); SCRGSP, Report on Government Services 2025, Pt F, s 16, Table 16A.8; SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 17.

⁵³SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 19; SCRGSP, Report on Government Services 2025, Pt F, s 16, Table 16A.23.

NT data does not distinguish between placements of Aboriginal and Torres Strait Islander children with Aboriginal relatives or kin and with non-Indigenous relatives or kin.⁵⁴ This is itself a data deficiency that the Performance element of the ACPD would address.

8.3. Cultural support plans

Section 70(5) of the Care and Protection of Children Act requires that care plans for Aboriginal children include “reasonable actions” to maintain and develop the child’s Aboriginal identity and to encourage the child’s connection to Aboriginal culture, tradition, language and country. In practice, cultural support plans are an essential operational expression of the Connection element of the ACPD.

Compliance with the requirement is poor in the Northern Territory:

- 76.8% of Aboriginal children in NT OOHC required to have a cultural support plan did not have one as at 30 June 2022;⁵⁵
- the 2025 SNAICC NT review reports that “a significant number of children in the NT lack cultural support plans, reflecting systemic failures in preserving and building these essential ties”;⁵⁶
- DCF was unable to “produce data on these plans due to changes in their data systems” — undermining oversight and accountability;⁵⁷
- 56% of young people aged 15–17 in OOHC in the NT in 2023–24 lacked a current Care Plan.⁵⁸

8.4. Funding and the kinship/PHBC gap

The most striking financial expression of the implementation gap in the Northern Territory is the imbalance between investment in non-Indigenous, professionalised purchased home-based care (PHBC) and Aboriginal kinship care services. The NT 2023–24 budget allocation was:

- \$35.15 million to purchased home-based care (PHBC);
- \$5.86 million to kinship care services; and
- \$10.82 million to foster care.⁵⁹ In 2023–24, the NT Government reported an underspend of \$6.9 million in foster and kinship care.⁶⁰

⁵⁴SNAICC, Reviewing Implementation of the ATSI CPP Northern Territory 2021–23 (Melbourne, 2024), p. 18; AIHW, ATSI CPP Indicators 2021–22 (AIHW, Canberra, 2023).

⁵⁵Office of the Children’s Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024); Care and Protection of Children Act 2007 (NT), ss 12(2C) and 70(5).

⁵⁶SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 25; SNAICC, The Family Matters Report 2025 (Melbourne, November 2025).

⁵⁷SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), pp. 25–26; AIHW, ATSI CPP Indicators 2021–22 (AIHW, Canberra, 2023).

⁵⁸Office of the Children’s Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 26.

⁵⁹SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 21; Department of Territory Families, Housing and Communities (NT), Annual Report 2023–24 (NTG, Darwin, 2024).

⁶⁰SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 21; Department of Territory Families, Housing and Communities (NT), Annual Report 2023–24 (NTG, Darwin, 2024).

PHBC accounted for 45% of all NT OOHC placements as at 30 June 2024. The OCC's Annual Report 2023–24 reports 2023–24 allocations of \$34.9 million to PHBC, \$4.1 million to kinship services and \$8.3 million to foster care services; these figures (the OCC's reported allocations) differ from the budget appropriations of \$35.15m / \$5.86m / \$10.82m given immediately above because the OCC's figures reflect actual reported allocations rather than budget paper appropriations. 39% of children in OOHC were placed with foster carers and only 6% with family and significant others (inclusive of kinship care).

The carer workforce is also unbalanced. Aboriginal and Torres Strait Islander carers made up:

- 85% of family carers in the NT (consistent with the proportion of Aboriginal children in care);
- 28% of foster carers; and
- no Aboriginal carers reported among purchased home-based carers (SNAICC NT 2025 review).

DCF funded Aboriginal Carer Services in 2022–23 supported 87 Aboriginal kinship carers caring for 58 Aboriginal children.⁶¹ The 2023–24 target for Aboriginal children placed with Aboriginal carers was 35%.⁶²

8.5. ACCO funding

The Northern Territory invests substantially less in Aboriginal Community Controlled Organisations than in non-Indigenous service providers:

- in 2022–23, only 3.9% of the NT Government's total funding for child and family services was allocated to ACCOs;⁶³
- the national average of child protection funding invested in ACCOs in 2022–23 was 6%;⁶⁴
- in 2021–22, only 7% of the Department's \$223 million investment in children and family services went to ACCOs, with only 4% of OOHC and 14% of FSS/IFSS funding invested in Aboriginal organisations.⁶⁵

The DCF workforce is also under-representative of the population it serves:

- 20.13% of DCF staff identified as Aboriginal in 2022–23 (up from 16.9%);
- 9.13% of leadership positions were occupied by Aboriginal people (up from 6.2%).

⁶¹Department of Territory Families, Housing and Communities (NT), Annual Report 2023–24 (NTG, Darwin, 2024); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 21.

⁶²Department of Territory Families, Housing and Communities (NT), Annual Report 2023–24 (NTG, Darwin, 2024); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 21.

⁶³AIHW, Child Protection Australia 2023–24 (AIHW, Canberra, 2025); SCRGSP, Report on Government Services 2025, Pt F, s 16, Tables 16A.1 and 16A.8; SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 10.

⁶⁴AIHW, Child Protection Australia 2023–24 (AIHW, Canberra, 2025); SCRGSP, Report on Government Services 2025, Pt F, s 16, Table 16A.8; SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 17.

⁶⁵SNAICC, Reviewing Implementation of the ATSICPP Northern Territory 2021–23 (Melbourne, 2024), p. 15; Productivity Commission, Review of the National Agreement on Closing the Gap, Study Report (Canberra, January 2024).

8.6. Voice of children and young people — OCC complaints data

The Office of the Children's Commissioner is the principal independent oversight body for the rights of vulnerable children in the Northern Territory. The OCC's complaints function provides one of the few direct sources of evidence on what Aboriginal children and young people in care are concerned about. In 2023–24 the OCC received complaints with the following characteristics:

- 84% of complaints to the OCC in 2023–24 were from or in relation to Aboriginal children (down from 97% in the previous year);⁶⁶
- 38% of children were the subject of more than one complaint (up from 32%);
- 29% of complaints related to more than one child (up from 12%);
- 74% of complainants were male; 26% female.⁶⁷

Of child protection complaint matters in 2023–24:⁶⁸

- 36% concerned child protection needs or safety;
- 34% concerned family or cultural connection (up from 13% the previous year);
- 28% concerned planning;
- 5% concerned the young person's voice in care; and
- 7% concerned access to services.

The OCC defines the "family/cultural connection" category as relating to "the appropriate provision and facilitation of familial and/or cultural connection for young people in care. This could involve access arrangements with family or facilitation of community visits and participation in cultural ceremony and activities."⁶⁹ The very large increase in complaints in this category, from 13% to 34% in a single reporting period, is significant evidence of the gap between the cultural-connection commitments of the legislation and the operational reality.

8.7. Coronial findings and the Royal Commission

Two principal sources of independent inquiry have established that the implementation failures of the ACPP in the Northern Territory are linked to specific harms — including deaths — in the child protection and youth justice systems.

The Royal Commission into the Protection and Detention of Children in the Northern Territory (final report, November 2017) made 227 recommendations "emphasising the need for early intervention, diversion programs, Aboriginal-led decision-making and reduced reliance on OOHC."⁷⁰ Many of those recommendations remain unimplemented.

⁶⁶Office of the Children's Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024), p. 21.

⁶⁷Office of the Children's Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024), p. 21.

⁶⁸Office of the Children's Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024), p. 24.

⁶⁹Office of the Children's Commissioner (NT), Annual Report 2023–24 (OCC, Darwin, 2024), p. 24.

⁷⁰Royal Commission into the Protection and Detention of Children in the Northern Territory, Final Report (Commonwealth of Australia, Canberra, November 2017) (Commissioners White and Gooda); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 6.

Coronial inquests in the NT have made further specific findings:

- the 2024 NT Coronial inquest into the death of Baby G ([2024] NTLC 16) recorded systemic failures in DCF, including inadequate oversight, insufficient support for vulnerable families and gaps in medical and social services;⁷¹
- the 2025 Coronial inquest into the death of Kailab Moir identified failures in disability screening, paediatric follow-up and inter-agency information sharing — connecting child protection failures to subsequent youth detention;⁷² and
- NT Coroner Elisabeth Armitage's November 2024 inquests into four Aboriginal women's domestic and family violence-related deaths recorded that since 2000 at least 87 women have died from DFSV in the NT, 82 of them Aboriginal; 35 recommendations were made.⁷³

The OCC has conducted its own systemic inquiries. An OCC audit (2021–22) found that every child in NT detention aged under 14 reviewed in the OCC's 2021–22 audit had had prior contact with the child protection system.

8.8. Housing, homelessness and structural drivers

The implementation environment for the ACPP in the Northern Territory is shaped by extreme structural disadvantage. The NT had the highest rate of homelessness in Australia in 2021, 13,104 people on Census night — 12 times the national average. The NT's homeless population accounted for 11% of Australia's total, despite the NT being only 1% of the national population. Children and young people made up almost 50% of the NT's homeless population.⁷⁴ Housing instability is one of the most common drivers of child protection involvement; the Prevention element of the ACPP cannot be operationalised in isolation from housing policy.

The structural drivers identified in this paper are not the result of being Aboriginal; they are the result of being exposed to overcrowding, poverty, family violence and other social determinants that disproportionately affect Aboriginal families in the Northern Territory. A 2024 Menzies data-linkage study of 21,189 NT children born between 2000 and 2010 demonstrated this directly: rates of unintentional-injury hospitalisation were 28.6% higher in Aboriginal than non-Aboriginal children — but that difference disappeared once the model adjusted for sex, remoteness and child-protection contact. The increased risk to Aboriginal NT children of unintentional injury was fully explained by the modifiable social and family conditions in which they were growing up. The authors' policy conclusion — that the response should be "community-based parenting interventions targeting at-

⁷¹Inquest into the Death of Baby G [2024] NTLC 16; SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, p. 11.

⁷²Inquest into the Death of Kailab Moir [2025] NTLC 6 (NT Coroner).

⁷³Inquests into the deaths of Miss Yunupingu, Ngeygo Ragurk, Kumarn Rubuntja and Kumanjayi Haywood [2024] NTLC 14 (Coroner Armitage); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025, pp. 14–15.

⁷⁴Australian Bureau of Statistics, Estimating Homelessness: Census 2021 (ABS, 2023) (cat no 2049.0); SNAICC, Reviewing Implementation of the Child Placement Principle: NT 2025 (Melbourne, 2025), p. 15.

risk families and providing education around child safety” — is, again, an evidence-based statement of the case for Prevention and Partnership as the ACPP construes them.⁷⁵

⁷⁵ J-Y Su, V Y He, A Lithgow and S Guthridge, 'Risk factors for unintentional injury hospitalisation among Aboriginal and non-Aboriginal children in Australia's Northern Territory: A data linkage study' (2024) 19(11) PLOS One e0311586. Cohort: 21,189 NT children born 2000–2010 followed to age 5. The 28.6% higher rate of unintentional injury hospitalisation among Aboriginal compared with non-Aboriginal children was fully explained by modelled risk factors (sex, remoteness, child protection contact); after adjustment, there was no residual Aboriginality effect. Conclusion at p 13 ('Community-based parenting interventions targeting at-risk families and providing education around child safety should be implemented to reduce injury risk').

9. Voices and lived experience

The ACPP is not a technical instrument. It exists because of the lived experience of Aboriginal and Torres Strait Islander children, families and communities — historically through the trauma of the Stolen Generations, and today through the continuing disproportionate experience of child protection involvement. This Part records what the principal documentary sources say about that lived experience.

9.1. The Stolen Generations

The principal documentary record of the lived experience of forced child removal in Australia is the *Bringing Them Home* report.⁷⁶ The report drew on 535 personal testimonies from Aboriginal and Torres Strait Islander people, the majority of whom had been removed from their families, as well as from family members, communities and professionals. AIFS summarises the report's key findings:

"The forced removal of Aboriginal children was racially discriminatory and genocidal in intent, aimed at wiping out Aboriginal families, communities, cultures and languages. The report documented physical, psychological and sexual abuse after removal, and consequent spiritual, emotional and physical trauma, as a direct result of the broken connection to traditional land, culture and language and the separation of families".⁷⁷

The *Bringing Them Home* report described the introduction of the ACPP as "the single most significant change affecting welfare practice since the 1970s"⁷⁸ — placing the legal recognition of the ACPP within the corrective response to the harm documented.

9.2. Contemporary voices — OCC complaints data

The contemporary lived experience of Aboriginal children in the NT child protection system is most directly captured by the OCC's complaints data, supplemented by SNAICC's qualitative work in the 2021–23 and 2025 NT reviews. The complaints data summarised at section 8.6 above is one of the few direct sources of children's voices. The increase in complaints concerning family and cultural connection from 13% to 34% of all child-protection complaints between 2022–23 and 2023–24⁷⁹ is a clear signal that children and young people in NT OOH are concerned about the cultural-connection failures that the ACPP exists to address.

⁷⁶Human 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* (HREOC, Sydney, April 1997); A Haebich, *Broken Circles: Fragmenting Indigenous Families 1800–2000* (Arts Centre Press, Fremantle, 2000).

⁷⁷Human Rights and Equal Opportunity Commission, *Bringing Them Home* (HREOC, Sydney, April 1997); F Arney et al, *Enhancing the Implementation of the ATSI CPP* (AIFS, 2015), p. 2; Office of the Children's Commissioner (NT), *Explainer — The Aboriginal Child Placement Principle* (Darwin, undated); A Haebich, *Broken Circles* (Arts Centre Press, Fremantle, 2000).

⁷⁸Human Rights and Equal Opportunity Commission, *Bringing Them Home* (HREOC, Sydney, April 1997), p. 379; SNAICC, *The Family Matters Report 2025* (Melbourne, November 2025), p. 22; Royal Commission into Aboriginal Deaths in Custody, *National Report* (Commonwealth of Australia, Canberra, 1991).

⁷⁹Office of the Children's Commissioner (NT), *Annual Report 2023–24* (OCC, Darwin, 2024), p. 24.

SNAICC's NT 2021–23 review (p. 22) records that ACCOs working with families in NT child protection processes report that the DCF Signs of Safety framework "reinforces unequal power dynamics between the Department and families and fails to create a culturally safe space for families to lead decision-making, nor does it provide for an independent facilitator to support families through the process".

10. Conclusion — the case for strengthening, not weakening, the ACPP

The matters set out above support five propositions:

10.1. The ACPP is rights-based, evidence-based and structurally critical

The ACPP is the legislative expression of a network of internationally-recognised human rights — Article 30 CRC; UNDRIP Articles 3, 4, 7, 8, 9, 18, 19, 21 and 22; ICERD Articles 5 and 1(4) — and an evidentially-supported framework for the protection of Aboriginal and Torres Strait Islander children. The framework has been developed by Aboriginal communities through more than four decades of advocacy and is embedded in legislation across Australia. It reflects a consensus which has been reached between Parliaments, Commissions of Inquiry and experts — Indigenous and Non-Indigenous — as to how to close the gap between outcomes for Non-Indigenous children and Indigenous children, including avoiding the terrible mistakes of the past.

These rights, this evidence and this consensus converge on the same proposition: cultural connection is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children.

10.2. Implementation is the problem, not the framework

The principal Australian and international authorities — SNAICC, AIFS, the Family Matters Campaign, the OCC, the 2017 NT Royal Commission, the 2024 and 2025 NT Coroners, and the relevant UN Committees — are unanimous that the framework itself is sound.

The persistent over-representation and the persistent kinship-placement gap are failures of implementation, of resourcing and of political will — not failures of the framework. The problem is not the legislation. It is a failure of NT Government implementation, investment, and accountability.

10.3. The ‘active efforts’ standard is the contemporary direction of reform

The active efforts standard adopted in NSW, Queensland and South Australia is the contemporary direction of Australian reform. It provides an enforceable threshold of conduct, a producible record, and a court-overseeable measure of compliance. The Family Matters Report 2025 recommends the national standardisation of compliance with the five elements to the active efforts standard. The NT Coroner in the inquest into the death of Baby G has recommended the adoption of active efforts modelled on NSW. SNAICC, the OCC and ACCOs have done likewise.

10.4. ACCOs and delegated authority are the institutional future

The institutional expression of the ACPP is the strengthening of the Aboriginal Community Controlled sector and the delegation of statutory functions to ACCOs. The Victorian model and the Queensland delegated authority model are the leading domestic examples. The Family Matters Report 2025 recommends the expansion and resourcing transfer of authority to ACCOs in every state and territory; the establishment of independent ACCO-led AFLDM in every jurisdiction; and the

establishment of national peak bodies and Commissioners for Aboriginal and Torres Strait Islander Children. The Northern Territory remains at the early end of this institutional development.

10.5. The importance of the ACPP

The need to strengthen implementation and adherence to the ACPP has never been more urgent. Generally speaking, the over-representation of Aboriginal and Torres Strait Islander children in care has been reduced but not resolved by the legislative recognition of the ACPP in successive jurisdictions. In the Northern Territory at least, the over-representation of Aboriginal and Torres Strait Islander children has continued if not got worse.

The Closing the Gap National Agreement has committed Australian governments to a 45% reduction in over-representation by 2031. There is no reasonable prospect of that being achieved in the Territory if the ACPP is weakened or repealed.

To Close the Gap, the future of the ACPP — at the level of legislative form, operational practice and resourcing — lies in strengthening it, not weakening it. The active efforts standard, the formal recognition of recognised entities and ACCOs, the delegation of statutory authority, the resourcing of AFLDM and the addition of the Performance element to the five existing elements are the principal directions. These are the directions identified by SNAICC, AIFS, the Family Matters Campaign, the Office of the Children's Commissioner, the 2017 NT Royal Commission, the 2024 and 2025 NT Coroners and the relevant United Nations Committees.

Sources

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- National Agreement on Closing the Gap.⁸²
- Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031 and Aboriginal and Torres Strait Islander First Action Plan 2023–2026.

⁸⁰Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990), Arts 3, 5, 8, 9, 12, 18, 20 and 30.

⁸¹International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 21 December 1965, 660 UNTS 195 (entered into force 4 January 1969), Arts 1(4), 2(2) and 5.

⁸²National Agreement on Closing the Gap (Joint Council on Closing the Gap, July 2020), Outcome 12 and Target 12; Productivity Commission, Review of the National Agreement on Closing the Gap, Study Report (Canberra, January 2024).