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By email: [REDACTED]

Mr Andras Markus
 Solicitor Assisting
 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
 Level 33, 259 George St
 Sydney NSW 2000

Dear Mr Markus

Australian Government's response to the submissions of Counsel Assisting in Public Hearing 8: The experiences of First Nations people with disability and their families in contact with child protection systems

- 1 We refer to Counsel Assisting's submissions dated 24 September 2021 (**Counsel Assisting's Submissions**) following Public Hearing 8: The experiences of First Nations people with disability and their families in contact with child protection systems (**Public Hearing 8**). Thank you for the opportunity to respond to Counsel Assisting's Submissions.
- 2 The Australian Government notes Counsel Assisting's proposed recommendations at subparagraphs 489(e)(ii), (g) and (h). The Australian Government is committed to achieving Target 12 of the National Agreement on Closing the Gap (**Closing the Gap Agreement**) and to building, strengthening and supporting Aboriginal and Torres Strait Islander community-controlled services that are culturally safe and culturally competent. *Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031* (**National Framework**) will support achieving Target 12 under the Closing the Gap Agreement, which aims to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 percent by 2031. The National Framework is expected to be launched in December 2021 and actions to address Target 12 will be included in the first five-year Aboriginal and Torres Strait Islander-specific action plan to be developed by March 2022. The Australian Government has also outlined how it will support the achievement of Target 12 and Priority Reform 2 under the Closing the Gap Agreement, building the community-controlled sector, through its Closing the Gap Implementation Plan. More information about the Closing the Gap Implementation Plan is included at **Appendix A** to this letter.
- 3 Once the Royal Commission has reported on Public Hearing 8, the Australian Government will respond to any recommendations of the sort proposed in subparagraphs 489(e)(ii), (g) and (h), in the ordinary course.
- 4 Further information about measures the Australian Government is taking to support First Nations parents with disability in contact with child protection systems is included at **Appendix A** to this letter.
- 5 The Australian Government is committed to supporting the Royal Commission as it continues its examination of the experiences of First Nations people with disability and their families in



contact with child protection systems and would be pleased to provide any additional information or assistance required.

Yours faithfully
Gilbert + Tobin

A handwritten signature in blue ink, appearing to read 'Andrew Floro', written over a light blue circular stamp.

Andrew Floro
Partner





Appendix A: Australian Government measures

Initiatives to address barriers to accessing appropriate services and supports experienced by First Nations parents with disability

- 6 To address evident barriers relating to accessing appropriate services and supports, the Australian Government committed \$4.5 million for First Nations people under the National Community Connectors Program (**NCCP**). The NCCP finished on 30 June 2021. Some of the funding for the NCCP was provided by the National Aboriginal Community Controlled Health Organisation (**NACCHO**). Due to delays in commencing the funding, NACCHO advised the National Disability Insurance Agency (**NDIA**) that they would continue to provide supports after 30 June 2021 so that participants would receive a full 12 months of the NCCP. Most NACCHO Community Connectors finished on 24 September 2021 with the remaining finishing by 30 December 2021. Transition arrangements for Aboriginal and Torres Strait Islander community connectors are being progressed. Community Connectors were engaged to work closely with the NDIA's Partners in the Community to develop their knowledge and skills, and to support them to engage with identified cohorts.
- 7 The Australian Government further committed \$7.6 million for Remote Community Connectors (**RCCs**) in the Northern Territory, South Australia, Queensland and Western Australia. The RCC program continues into financial year 2022 and beyond. The role of RCCs has been maturing to provide more support to participants to engage with the NDIA and providers.
- 8 As at 31 March 2021, almost 30,800 First Nations people with disability were being supported by the National Disability Insurance Scheme (NDIS), an increase of 259% over the past 3 years.
- 9 Participant outcomes continue to increase for these two cohorts. The following data relates to participants who entered the NDIS between 1 July 2016 and 30 June 2017. For First Nations participants aged 25 and over, community and social participation increased from 39% to 48% after three years in the NDIS.

Identification of disability for First Nations parents

Evidence, Access and Coordination of Planning

- 10 The Australian Government currently funds \$4.2 million for Evidence, Access and Coordination of Planning (**EACP**) across the Northern Territory, South Australia, Queensland and Western Australia. A range of Aboriginal Medical Services have been funded for EACP across Remote Australia. EACP staff work in partnership with the community, the NDIA and the NDIA's Partners in the Community to help, in a culturally appropriate way, potential participants in remote locations to navigate the NDIS, in particular the evidence gathering, access request and planning processes.
- 11 EACP funding is short term funding to increase access in areas where there is concern that the NDIS has not penetrated communities well. The NDIA continues to monitor access rates being supported by service partners.
- 12 A review is currently underway to determine the success and future of the EACP program. The program will be funded until 30 June 2022, at which time the review will be complete and a decision on the future of the program agreed.

Allied Health in Remote Schools Project



- 13 The Australian Government has provided funding of \$2.2 million for the delivery of the Allied Health in Remote Schools Project. The project involves the provision of allied health services to support First Nations students with disability in remote schools.
- 14 The project aims to identify and address disabilities that may lead or have led to disengagement and poor learning outcomes for First Nations students. It is anticipated that the provision of allied health care will facilitate increased engagement in education. In the longer term, it is anticipated that the provision of allied health care for First Nations students with a disability will lead to improved school attendance, student learning outcomes, teacher retention, community attitudes to disability and local allied health workforce capability.

Culturally appropriate assessment and diagnosis

Racism in healthcare settings

- 15 The soon to be released, National Aboriginal and Torres Strait Islander Health Plan 2021-2031 recognises the historical and ongoing impact that experiences of interpersonal and institutional racism have on Aboriginal and Torres Strait Islander people's health and empowerment. The Health Plan includes a long-term vision to eliminate racism, with immediate action to address racism across the health system.
- 16 The Australian Government is working in partnership with First Nations people and state and territory governments to develop an Australian Government approach to:
 - (a) identify and eliminate racism in interactions with government systems and services, including in healthcare settings;
 - (b) embed and practice meaningful cultural safety; and
 - (c) deliver government services in partnership with First Nations organisations, communities and people.

Funding for mental health and suicide prevention

- 17 The Australian Government is investing in trauma informed mental health and suicide prevention responses that are led by First Nations people. This includes \$79 million in funding under the National Mental Health and Suicide Prevention Plan announced in the 2021-22 Budget,¹ for initiatives that prioritise delivery through the Aboriginal and Torres Strait Islander community-controlled sector, including:
 - (a) phased implementation, and evaluation, of culturally sensitive aftercare services to support individuals following a suicide attempt or suicidal crisis; and
 - (b) phased establishment of regional suicide prevention networks and commissioning officers for each state and territory.
- 18 These initiatives will be trauma-informed, and designed, delivered and evaluated in partnership with Aboriginal and Torres Strait Islander people.

Stronger Rural Health Strategy

¹ <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/historic-23-billion-national-mental-health-and-suicide-prevention-plan>.



- 19 Under the Stronger Rural Health Strategy, the Australian Government provides \$33.4 million to Aboriginal and Torres Strait Islander Health Professional Organisations over four years from 2018-19 to 2021-22 to support and develop the growing Aboriginal and Torres Strait Islander health workforce. This funding also supports work to increase the cultural capability of the broader health workforce, to support better care of First Nations people.
- 20 In addition, the Australian Government is providing \$1.35 million from 2018-19 to 2021-22 to the Congress of Aboriginal and Torres Strait Islander Nurses and Midwives for two separate projects:
- (a) delivering the Leaders in Indigenous Nursing and Midwifery Education Network, which:
 - (i) supports nursing and midwifery educators to provide the highest quality education and training on cultural safety and First Nations health, history, and culture;
 - (ii) contributes to graduating nurses and midwives who are better prepared to provide culturally safe health services to Aboriginal and Torres Strait Islander people; and
 - (iii) supports the recruitment and retention of Aboriginal and Torres Strait Islander nurses and midwives; and
 - (b) establishing an online cultural safety training program for nursing and midwifery in Australia.
- 21 The Australian Government provided \$0.68M in 2020-21 to the Leaders in Indigenous Medical Education (**LIME**) Network, which is dedicated to ensuring the quality and effectiveness of teaching and learning of First Nations health in medical education, as well as best practice in the recruitment and graduation of First Nations medical students. The Australian Government has funded the LIME Network since 2005.

Aboriginal and Torres Strait Islander Health Curriculum Framework

- 22 The Australian Government Aboriginal and Torres Strait Islander Health Curriculum Framework is a set of resources for implementing Aboriginal and Torres Strait Islander health curricula. A wide range of stakeholders guided the development of the framework. It aims to prepare graduates across health professions to provide culturally safe health services to First Nations people.
- 23 The Australian Government notes that the Royal Australian College of General Practitioners *Standards for General Practices*, which form part of the National General Practice Accreditation Scheme, require respectful and culturally appropriate care.² As at 16 September 2020 there were over 6,700 accredited general practices across Australia.
- 24 The Australian Commission on Safety and Quality in Health Care has on 12 October 2021 released new *Primary and Community Health Care Standards* which require:

1.09 The healthcare service identifies patient populations using its service at greater risk of avoidable differences in health outcomes, including:

- (a) *People of Aboriginal and Torres Strait Islander origin*

² Royal Australian College of General Practitioners, *Standards for General Practices*, p 25-29



- (b) *People with disability*
- (c) *People with diverse backgrounds.*³

1.25 *The healthcare service provides a culturally safe environment that recognises the importance of the cultural beliefs and practices of Aboriginal and Torres Strait Islander people.*⁴

Support for Aboriginal Community Controlled Health Organisations

- 25 The Australian Government is working with the National Aboriginal Community Controlled Health Organisation on the NDIS Ready project, which aims to strengthen NDIS services within First Nations communities. This project will build capacity in Aboriginal Community Controlled Health Organisations (**ACCHOs**) and Aboriginal Medical Services to transition to and operate as NDIS providers and, in turn, grow the First Nations market and workforce. The project commenced in October 2020 and is due for completion in June 2022.⁵
- 26 Further to this, the Australian Government provides over \$500m per year to approximately 140 ACCHOs, including in regional and remote communities, to provide comprehensive primary health care.
- 27 The NDIS Quality and Safeguards Commission (**NDIS Commission**) is developing guidance for ACCHOs and auditors to apply the NDIS Practice Standards and Quality Indicators within culturally appropriate settings, including to measure participant outcomes in a culturally appropriate manner. It will include establishing a strategy to strengthen NDIS services to First Nations people by inviting ACCHOs who may be working in communities on non-disability related activities to participate, with a particular focus on remote communities.

NDIS Workforce Capability Framework

- 28 The NDIS Commission has released the NDIS Workforce Capability Framework⁶ in a number of stages during 2021. The NDIS National Workforce Plan references the NDIS Workforce Capability Framework as articulating the Australian Government's expectations for workforce quality for the NDIS.⁷ The NDIS Commission is undertaking extensive work to implement the Framework and this implementation phase will continue throughout 2022.
- 29 In addition to five core capabilities, the NDIS Workforce Capability Framework includes two sets of additional capabilities, the first of which is identity capabilities. Identity capabilities describe a deeper level of skill and knowledge that support workers may need when working with First Nations participants.

Closing the Gap Disability Sector Strengthening Plan

- 30 Priority Reform Two of the Closing the Gap Agreement commits parties to identify sectors for joint national strengthening efforts every three years through Sector Strengthening Plans. A Disability Sector Strengthening Plan (the **Plan**), outlining high level actions to build the First

³ Australian Commission on Safety and Quality in Health Care, *Primary and Community Health Care Standards*, Action 1.09.

⁴ Australian Commission on Safety and Quality in Health Care, *Primary and Community Health Care Standards*, Action 1.25.

⁵ National Disability Insurance Scheme, 'Delivering the NDIS: Improving access for Aboriginal and Torres Strait Islander Communities', 29 October 2020, <https://www.ndis.gov.au/news/5520-delivering-ndis-improving-access-aboriginal-and-torres-strait-islander-communities>.

⁶ <https://workforcecapability.ndiscommission.gov.au/>.

⁷ *NDIS National Workforce Plan: 2021–2025*, p12.



Nations community controlled disability sector, will be considered by the Joint Council on Closing the Gap in April 2022. The Plan is being developed by a working group co-chaired by the Department of Social Services (**DSS**) and the First Peoples Disability Network (**FPDN**). The Plan Process offers an opportunity to consider research and evidence regarding First Nations children with disability and their families in contact with child protection systems and out-of-home care as a priority for investment. Other strengthening plans under Closing the Gap are being developed for the Health, Early Childhood and Housing sectors.

- 31 All jurisdictions have contributed to a four year joint funding pool for building the community controlled sector.⁸ The Australian Government has committed \$46.5 million with an additional \$30.7 million from states and territories. The Australian Government is working with national peak bodies to design proposals that lend themselves to a national approach or national policy levers.

Assessment and Diagnosis of FASD

- 32 The Australian Government has committed \$18 million to Fetal Alcohol Spectrum Disorder (**FASD**) diagnostic services from 2020-21 to 2023-24. The Australian Guide to the diagnosis of FASD (the **Guide**) provides clinicians with nationally standardised diagnostic criteria for FASD. The Guide outlines cultural and linguistic considerations clinicians should be aware of when assessing neurodevelopmental impairment, including the influence of intergenerational and current trauma.

Development of an organisational self-assessment tool

- 33 In 2021-22, The Australian Government provided funding for the FPDN to partner with the Australian National University and DSS to design, implement and evaluate a self-assessment tool, *First Nation disability capability framework – organisational assessment*. The purpose of the framework is to assist service providers and DSS to provide culturally safe practice, and to design evidence-based, effective, targeted programs.

Data and Research

Child Protection National Minimum Data Set

- 34 The Australian Government supports further work to develop enhancements to the Child Protection National Minimum Data Set (CP NMDS), including a nationally consistent definition of disability, and flags for child disability and NDIS child participant. Any improvements to the collection of data on the disability status of children in out-of-home care will require cross-sectoral consultation with state and territory child protection authorities and disability data and policy experts.

National Framework for Protecting Australia's Children

- 35 The National Framework is expected to be launched in December 2021 as a successor to the *National Framework for Protecting Australia's Children 2009-2020*. The goal of the National Framework is "to make significant and sustained progress in reducing the rates of child abuse and neglect and its intergenerational impacts".⁹ The National Framework has four priority groups, including, "children and young people and/or parents/carers with disability experiencing

⁸ <https://www.closingthegap.gov.au/sites/default/files/2021-04/strategic-plan.pdf>.

⁹ Department of Social Services, *Implementing the successor plan to the National Framework for Protecting Australia's Children 2009-2020*, p 2.



disadvantage or who are vulnerable",¹⁰ and it includes further information about how it aims to address Indigenous overrepresentation in out-of-home care.

- 36 The National Framework will closely align with the Closing the Gap Agreement. This includes through embedding the Closing the Gap Agreement's four priority reforms, and driving actions to achieve Target 12 of the Closing the Gap Agreement, which aims to reduce the rate of overrepresentation of Aboriginal and Torres Strait Islander children in child protection systems by 45% by 2031. These actions will be included in the National Framework's first five-year Aboriginal and Torres Strait Islander-specific action plan.
- 37 One of the Focus Areas of the National Framework is "improved information sharing, data development and analysis". Actions in areas of collective effort to support the National Framework's priorities will be agreed during the development of the National Framework's first five-year general and First Nations-specific action plans, which are due to be developed by March 2022.

Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP)

- 38 A priority under the National Framework will be to promote and enable the full implementation of the ATSICPP,¹¹ including to identify, implement and report on active efforts across each of its five elements, and through legislation, policy, programs, processes and practice.
- 39 The Strategic Information Group under the National Framework is progressing a National Data Improvement Plan, which includes improving measures to report on the five elements of the ATSICPP: prevention, placement, partnership, participation and connection.

Families and Children Activity

- 40 The Australian Government invests \$370 million annually in services and programs under the Families and Children Activity that provides support to children and families, including First Nations families, to enhance family functioning. This includes more than \$290 million nationally in parenting and early childhood intervention and prevention programs to build the capacity of parents and disrupt entrenched pathways of disadvantage experienced by vulnerable children and their families. This includes \$10 million of funding annually from 2021-22 to 2025-26 delivered under Children and Families Intensive Support, which is predominantly delivered to vulnerable families in the Northern Territory.

Supports and services

Closing the Gap Implementation Plan

- 41 On 5 August 2021, the Australian Government released the Commonwealth's first Closing the Gap Implementation Plan, and with it committed more than \$1 billion in new measures to help achieve the outcomes outlined in the Closing the Gap Agreement. Through the Closing the Gap Agreement, all Australian governments have committed to ensure that First Nations people enjoy high levels of social and emotional wellbeing. The Closing the Gap Agreement sets out

¹⁰ Ibid.

¹¹ Department of Social Services, *Implementing the successor plan to the National Framework for Protecting Australia's Children 2009-2020*, p 14.



ambitious targets and reform priorities that will dramatically change the way governments work with First Nations Australians to improve life outcomes.

- 42 All States and Territories have developed their own Closing the Gap Implementation Plans that set out how policies and programs are aligned to the Closing the Gap Agreement and what actions will be taken to achieve the priority reforms and outcomes/targets.¹²

Target 12 of the National Agreement on Closing the Gap

- 43 Outcome 12 of the National Agreement on Closing the Gap is that Aboriginal and Torres Strait Islander children are not over-represented in the child protection system. The target is to reduce the rate of over-representation of First Nations children in out-of-home care by 45 percent by 2031. The Australian Government is delivering a package of four new measures to support the first Closing the Gap Implementation Plan, to deliver on Target 12 in line with the Priority Reforms. These measures are to provide:
- (a) \$49 million over five years to improve multidisciplinary responses to Aboriginal and Torres Strait Islander families with multiple and complex needs;
 - (b) \$7.7 million over three years to develop the cultural competency and trauma responsiveness of the Aboriginal and Torres Strait Islander and non-Indigenous child and family sector workforce;
 - (c) \$3.2 million over two years to assess the needs of, increase the involvement of, and strengthen Aboriginal and Torres Strait Islander community-controlled organisations in the child and family sector; and
 - (d) \$38.6 million over three years for an Outcomes and Evidence Fund to support the commissioning and implementation of outcome-based funding.
- 44 These measures also include a focus on improving outcomes for First Nations people with disability.

Advocacy supports

- 45 Through the Disability Representative Organisations program, the Australian Government funds a range of organisations, including the FPDN, to provide systemic advocacy and representation for Australians with disability. The FPDN promotes respect for human rights, secure social justice, and empowerment for First Nations people with disability to participate in society.
- 46 The Australian Government has funded the FPDN under the Disability Royal Commission Advocacy Supports program to deliver a range of capacity and capability building activities to National Disability Advocacy Program (NDAP) providers. The FPDN's activities have included:
- (a) Developing education materials, mapping gaps of advocacy support across Australia and conducting capability building for disability advocacy providers; and
 - (b) Developing and distributing resources for NDAP providers to build capacity to provide culturally appropriate support to Indigenous people with disability.

¹² <https://www.closingthegap.gov.au/implementation-plans>.