



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

FY2025-26 Pre-Budget Submission

BACKGROUND

The National Aboriginal and Torres Strait Islander Legal Services (**NATSILS**), as the peak national body for Aboriginal and Torres Strait Islander Legal Services (**ATSILS**) in Australia, welcomes this opportunity to make a submission ahead of the FY2025-26 Commonwealth Budget (**the Budget**).

Australia is at a pivotal moment in justice reform. The evidence is clear—Aboriginal and Torres Strait Islander peoples have the highest legal needs of any group in Australia, face structural discrimination at every stage of the legal process; are disproportionately harmed by punitive laws and policies that drive over-incarceration; intergenerational traumas and deeply entrenched systemic disadvantage. Despite commitments under the National Agreement on Closing the Gap 2020-2030 (**National Agreement**) to improve life outcomes for Aboriginal and Torres Strait Islander peoples, culturally safe and holistic legal assistance services for Aboriginal and Torres Strait Islander communities remain critically underfunded, leaving many without access to justice.

The Independent Review of the National Legal Assistance Partnership 2020-25 (**NLAP Review**) confirmed [NATSILS' submission](#) to the Review that the current funding envelopes and funding distribution models fail to provide sustainable, needs-based investment, forcing ATSILS to turn away clients and to impose service freezes due to chronic underfunding. Rather than remedying these issues, the new National Access to Justice Agreement (**NAJP**), the successor to the NLAP, has exacerbated them by locking ATSILS into a funding model that does not make any assessment of the legal needs of Aboriginal and Torres Strait Islander peoples.

Further, the annual indexation allocation for ATSILS under the NAJP is grossly insufficient to cover rising costs, including maintaining salary parity. NAJP funding for the period 2026 to 2031 includes an amount to reduce pay disparity between Legal Aid Commission employees and employees of ATSILS and other non-government legal assistance providers. The figures include an increase year on year of approximately 2% which will be insufficient to cover rising costs, including salaries. It is already known that a Legal Aid Commission in at least one jurisdiction will be applying indexation of 3% to their pay scales in the next financial year and the year after. The inadequate funding allocation will also fail to address ATSILS' urgent need for investment in capital assets and infrastructure.

Despite national commitments to implementing the Priority Reforms in the National Agreement to improve life outcomes for Aboriginal and Torres Strait Islander peoples, unilateral government decisions to implement laws, policies and practices which disproportionately harm Aboriginal and Torres Strait Islander peoples are undermining progress towards Socioeconomic Outcomes 10 and 11 to lower rates of adult and child incarceration, and Outcomes 12 and 13 to lower rates of child removals and eliminate domestic and family violence.

The barriers to achieving these outcomes and their associated targets are interlinked. Trends across jurisdictions in legislative changes which have restricted access to bail and in

‘proactive’ policing practices which have caused exponential increases in the number of people charged and taken to court in the 10 years prior to the introduction of ‘justice’ targets in the National Agreement have contributed to an explosion in the number of people in prison on remand nationally.¹ The prioritisation of carceral, policing-driven responses to domestic and family violence is contributing to increased incarceration, including of victim-survivors, and to increased contact between Aboriginal families and child protection agencies, increasing the likelihood of child removals.² Research has established a clear link between out-of-home care and incarceration.³ As well as impeding progress towards Closing the Gap, these systems-level levers drive demand for legal assistance services without commensurate investment.

The economic cost of imprisonment is unsustainable. The annual cost of incarcerating an adult is \$153,895,⁴ while for a child it exceeds \$1.12 million per year.⁵ In contrast, investment in culturally safe, holistic legal assistance and wraparound early intervention supports are a cost-effective and proven means of improving legal, social and well-being outcomes, reducing the likelihood of repeat contact with the legal system, and breaking cycles of systemic disadvantage.⁶

This submission outlines a clear, trauma-informed, and evidence-based roadmap to invest in ATSILS to provide culturally safe and appropriate legal services to meet the growing demand and lead justice sector reform improving the lives of Aboriginal and Torres Strait Islander communities. NATSILS calls for a \$1.15 billion investment in ATSILS to ensure equitable access to culturally safe and appropriate legal services.

This submission is underpinned by costings provided by NATSILS to the Attorney-General's Department (**AGD**) for the Mid-Year Economic Fiscal Outlook 2023-2024 (**MYEFO**) in July 2024. These costings were developed through consultation with NATSILS members and the

¹ The number of people in prison on remand has nearly doubled over the past decade, while the number of people in prison serving a sentence has only increased 1.5%. Aboriginal and Torres Strait Islander people made up 61% of the increase in the number of people on remand, with Aboriginal men now making up over one-third of the national prison population: Australian Bureau of Statistics, [Prisoners in Australia](#) (19 December 2024). Aboriginal and Torres Strait Islander women, especially women with dependent children, have been the fastest-growing group in Australian prisons for a number of years and they are now incarcerated at 21.2 times the rate of non-Indigenous women: Australian Law Reform Commission, Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133, 2018) Chapter 11. Aboriginal and Torres Strait Islander children aged 10-17 are 27 times as likely as non-Indigenous children to be incarcerated: Australian Institute of Health and Welfare, *Youth detention population in Australia 2024* (13 December 2024).

² Aboriginal and Torres Strait Islander children are 10.8 times more likely to be removed than non-Indigenous children, and make up 42% of children in out-of-home care nationally: SNAICC, [Family Matters Report 2024 Report Card](#).

³ See, eg, Australian Institute of Health and Welfare, [Young people under youth justice supervision and their interaction with the child protection system 2020-21](#) (Report, 2022); Katherine McFarlane, ‘Care-criminalisation: The involvement of children in out-of-home care in New South Wales criminal justice system’ (2018) 51(3) *Australian and New Zealand Journal of Criminology* 412; Judy Cashmore, ‘[The link between child maltreatment and adolescent offending – Systems neglect of adolescents](#)’ (Family Matters No 89, 2011).

⁴ Productivity Commission, [Report on Government Services 2024](#) (2024), ‘Corrective Services’, Table 8A.19.

⁵ Productivity Commission, [Report on Government Services 2024](#) (2024), ‘Youth Justice’, Table 17A.20.

⁶ See, for example, jurisdictional *Alternatives to Incarceration* reports by Justice Reform Initiative at <https://www.justicereforminitiative.org.au/reports>

AGD. If it would assist NATSILS can provide this detailed costing in confidence to the Department of the Treasury (**Treasury**).

These measures are essential to transitioning from crisis-driven responses to more economical, sustainable, community-led solutions that uphold self-determination, human rights, and access to justice. The time for action is now.

RECOMMENDATIONS SUMMARY

The 2025-26 Pre-Budget Submission presents a comprehensive strategy to reform legal assistance services and address the ongoing justice disparities faced by Aboriginal and Torres Strait Islander peoples. The following recommendations outline the critical investments required to achieve sustainable and culturally safe and appropriate legal service delivery.

Recommendation 1: Strengthening the Aboriginal and Torres Strait Islander Legal Assistance Sector

We urge the Commonwealth Government to work in partnership with NATSILS to strengthen and sustain the Aboriginal and Torres Strait Islander legal assistance sector by increasing and sustaining ATSIILS' capacity to provide legal assistance services in all areas of law and in all locations. This includes additional investment to support:

- Restoration of frozen and suspended services
- Workforce growth, training, and retention
- Upgrades to technology infrastructure and cybersecurity
- Strengthening governance, data capabilities & Indigenous Data Sovereignty
- Providing early and effective civil, care and protection and family law assistance, with a particular focus on programs supporting survivors of domestic and family violence and families experiencing contact with child protection agencies
- Expansion of wraparound programs integrating holistic legal assistance and wellbeing supports
- Strengthening culturally safe operating models
- Increasing accountability and addressing racism

Recommendation 2: National Legal Needs Analysis Strategy & Operational Plan

To ensure evidence-based policy and funding decisions, a National Legal Needs Analysis Strategy and Operational Plan must be developed in partnership with NATSILS, ATSIILS, and the broader legal assistance sector. This strategy will identify gaps in legal service delivery and align investment with areas of greatest need.

Recommendation 3. Legal Assistance Service Transition Strategy

NATSILS calls for the development of a Legal Assistance Service Transition Strategy, co-designed with ATSIILS and NATSILS, to facilitate the structured transfer of legal services to Aboriginal Community-Controlled Organisations (ACCOs) as a measure to:

- embed self-determination in the delivery of legal assistance to Aboriginal and Torres Strait Islander communities, and
- fulfil the commitments in the National Agreement to build Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to Aboriginal and Torres Strait Islander communities (Priority Reform Two) and to transform government organisations to be more responsive to the needs of Aboriginal and Torres Strait Islander people and make a greater contribution to Closing the Gap (Priority Reform Three).

This transition will ensure that Aboriginal and Torres Strait Islander peoples have access to legal assistance that is culturally safe, trauma-informed, and aligned with principles of self-determination, improving legal, social and wellbeing outcomes and reducing the likelihood of future contact with the legal system, and strengthening community trust in the legal system.

SUBMISSION BODY

RECOMMENDATION 1:

A strong and sustainable Aboriginal and Torres Strait Islander legal assistance sector is essential to ensuring access to justice and addressing systemic inequalities. Expanding ATSILS' geographic coverage, strengthening their workforces, upgrading infrastructure, and embedding culturally safe operating models will improve the quality of services delivered as well as legal and wellbeing outcomes. It is also critical that ATSILS are able to expand service delivery to provide legal advice as early as possible in order to prevent potential ongoing harms and continued contact with criminal and child protection systems.

Investment must support geographic expansion, workforce growth, technology upgrades, and wraparound services while ensuring ATSILS can challenge systemic racism and uphold Indigenous Data Sovereignty.

The funding allocations to ATSILS under the NAJP is not enough to enable ATSILS to meet current legal demand, let alone unmet legal needs and restore frozen services. It is also insufficient to address our urgent need for investment in capital assets and infrastructure.

Implementing NATSILS' [NLAP Review](#) recommendations will equip ATSILS to meet unmet legal needs and drive long-term social and economic benefits.

1.1 Expansion of Legal Services

To ensure equitable access to culturally safe, community-controlled legal services, Commonwealth, State, and Territory governments must invest in expanding both the geographical reach of ATSILS, as well as the provision of responsive specialised legal assistance. This includes:

- Establishing and resourcing ATSILS to provide services across metropolitan, regional, rural, and remote areas.

- Enhancing ATSILS' participation in circuit courts, specialist Indigenous court lists, legal outreach programs, and mobile or visiting legal services.
- Strengthening tele-legal support to improve accessibility, particularly in remote communities.
- Resourcing the delivery of specialised place-based youth programs as part of core service delivery, providing specialised legal services to young people who have contact with both criminal and child protection systems.

1.2 Workforce Growth, Training & Retention

To address workforce shortages and ensure high-quality service delivery, ATSILS requires investment in:

- Competitive salaries, retention incentives, and professional development opportunities.
- Training for ATSILS staff to apply principles of trauma-informed practice in delivery of legal assistance services.
- Targeted recruitment of Aboriginal and Torres Strait Islander legal and allied professionals.
- Expanding ATSILS' capacity to collaborate with other ACCOs to support clients with disability, cognitive impairment, and mental health challenges, who are overrepresented in the justice system.
- Enhanced recruitment strategies and dedicated resources for outsourcing recruitment.
- Expanding secondment opportunities across private, non-government, and government sectors.

1.3 Technology, Infrastructure & Cybersecurity Upgrades

To enhance efficiency, security, and accessibility, ATSILS must be resourced to urgently upgrade their technological capabilities, including by:

- Modernising information technology infrastructure and data systems to improve service delivery and support compliance with reporting obligations.
- Enhancing cybersecurity measures to protect client confidentiality and service integrity.
- Repairing and upgrading ATSILS-owned buildings to ensure they are safe and fit for purpose.
- Expanding into new permanent and shared office locations.
- Upgrading and purchasing fit-for-purpose vehicles for safe travel to regional and remote locations.

1.4 Governance, Data & Indigenous Data Sovereignty

To strengthen decision-making and service effectiveness, ATSILS requires investment in:

- Developing and funding governance frameworks that integrate cultural, strategic, and corporate governance principles.
- Strengthening data collection, service evaluation, and performance monitoring.

- Funding Indigenous-led research to measure legal needs and service effectiveness and evaluate implementation of changes to ensure decision-making is evidence-based.
- Embedding Indigenous Data Sovereignty principles in justice sector reforms.

1.5 Addressing Domestic, Family and Sexual Violence (DFSV)

DFSV has devastating impacts on Aboriginal and Torres Strait Islander families and communities, especially women and children. It is a key driver of child removals⁷ and the criminalisation and incarceration of Aboriginal and Torres Strait Islander people, including victim-survivors, who comprise the vast majority of Aboriginal and Torres Strait Islander women in prison. Urgent action is required to:

- Expand ATSILS' capacity to provide early civil, family law and care and protection legal services to prevent escalation.
- Increase judicial awareness of factors impacting Aboriginal and Torres Strait Islander peoples by investing in judicial education delivered by ACCOs, with a particular focus on improving their understanding of Stolen Generations, the effects of colonisation, domestic and family violence, poverty, substance abuse and mental health issues that may affect Aboriginal and Torres Strait Islander peoples as a result of intergenerational trauma or removal.
- Invest in community-controlled, therapeutic, trauma-informed and evidence-based programs and supports for people using violence which centre healing and connection to culture alongside taking accountability. Funding must include a dedicated focus on tailored, specialised approaches for boys and young people using violence.

1.6 Expanding Holistic Wraparound Services

To address the underlying drivers of contact with the legal system, ATSILS must be adequately funded under the NAJP to:

- Embed early intervention, prevention, diversion, rehabilitation, through-care, and therapeutic services in ATSILS' operating models.
- Integrate trauma-informed and culturally appropriate frameworks into service delivery models.
- Sustainably embed:
 - Aboriginal Field/Court Officers across all practice and program areas.
 - Aboriginal disability advocates.
 - Mental health advocates and coordinators.
 - Social workers.
 - Financial counsellors.
 - Civil law specialists with expertise in disability, including National Disability Insurance Scheme (NDIS), Disability Support Pension (DSP), mental health tribunal, and guardianship matters.

⁷ Australian Institute of Health and Welfare, [Aboriginal and Torres Strait Islander Health Performance Framework, Tier 2 Determinants of health](#) (Chapter 2.12 Child Protection).

- Establish strong partnerships with disability service providers and peak organisations to embed culturally safe wraparound supports for Aboriginal and Torres Strait Islander people with disabilities accessing a legal service or having direct contact with the justice system.
- Developing health justice partnerships between ATSILS and Aboriginal Community-Controlled Health Services to facilitate the uptake of therapeutic responses to address the coalescing health and social and emotional wellbeing issues that impact justice outcomes at their roots.

1.7 Culturally Safe Operating Models

To ensure ATSILS operate within culturally appropriate frameworks, investment is required in:

- Dedicated resources for cultural training, support, and supervision.
- Partnerships with tertiary education providers to strengthen the Aboriginal and Torres Strait Islander legal sector workforce, and especially to increase pathways for First Nations graduates to employment with ATSILS.

1.8 Increasing Accountability & Addressing Racism

To hold government agencies accountable and address systemic injustices, ATSILS require dedicated, sustainable funding to:

- Employ policy lawyers and policy officers to support ATSILS' capacity to provide evidence and expertise to the growing range of law and policy reform processes that ATSILS are consulted on by government and other stakeholders.
- Establish services and programs capable of using administrative law and regulatory systems to contribute to police and custodial/corrections accountability and strengthen support for families in coronial inquests.
- Explore strategic litigation as a tool to address systemic racism, human rights violations and other systemic injustices.
- Advocate for, and work in partnership with governments to contribute to, the development of anti-racism strategies aligned with the commitments in the National Agreement as well as jurisdictional justice, DFSV and child protection sector reforms.

RECOMMENDATION 2

A comprehensive national strategy is required to accurately assess and address the legal needs of Aboriginal and Torres Strait Islander peoples. NATSILS recommends that the Commonwealth Government and all jurisdictional governments work collaboratively to develop a National Legal Needs Analysis Strategy and Operational Plan, incorporating:

- A periodic national legal needs survey, commencing before December 2025, to capture evolving legal service demands.
- An Operational Plan that includes cross-sector research integration with existing government administrative data to reflect the intersection between legal and non-

legal needs, and to consider potential gaps and areas for improvement on the collection and reporting of cross-sector data.

- A framework to guide the method and frequency of legal needs assessments, ensuring ongoing evaluation and responsiveness to community needs.

RECOMMENDATION 3

The National Agreement recognises that Aboriginal and Torres Strait Islander community-controlled services are better for Aboriginal and Torres Strait Islander people, achieve better results, employ more Aboriginal and Torres Strait Islander people and are often preferred over mainstream services (clause 43). All governments have agreed to upholding self-determination as part of the National Agreement, and the National Agreement itself recognises that Aboriginal and Torres Strait Islander community control is an act of self-determination (clause 44). Governments have also committed to building the Aboriginal and Torres Strait Islander community-controlled sectors to deliver services (Priority Reform Two).

To embed self-determination in the delivery of legal assistance to Aboriginal and Torres Strait Islander communities, NATSILS calls for the development of a Legal Assistance Service Transition Strategy, co-designed with ATSILS and NATSILS, to facilitate the structured transfer of legal services to ACCOs.

This will require **increasing accountability through funding allocations:**

- When receiving new investment to provide services to Aboriginal and Torres Strait Islander peoples, mainstream organisations should be required to demonstrate how they will be more responsive to the needs of Aboriginal and Torres Strait Islander peoples and the communities in which they are delivering services.
- This also means those mainstream services must also be required to identify whether ATSILS and Family Violence Prevention and Legal Services are better placed to deliver these services to Aboriginal and Torres Strait Islander peoples.
- Decision-making on funding for legal assistance must recognise the role of ATSILS as preferred providers of culturally safe and holistic legal assistance services for Aboriginal and Torres Strait Islander peoples, with a structured transition plan that includes defined steps for implementing the transition of existing funding to ATSILS and the prioritisation of future funding for legal services delivered by ACCOs.

This transition will ensure that Aboriginal and Torres Strait Islander peoples have access to legal assistance that is culturally safe, trauma-informed, and aligned with principles of self-determination, improving legal, social and wellbeing outcomes and reducing the likelihood of future contact with the legal system.

Currently, there is a need for Legal Aid Commissions (LACs) and Community Legal Centres (CLCs) to deliver services to Aboriginal and Torres Strait Islander people and continue to do in the current context at least where there are legal conflicts of interest and/or an absence

of a local community-controlled service. Priority Reform Three requires that mainstream legal service providers must be made more accountable and responsive to the needs of Aboriginal and Torres Strait Islander peoples. To enhance cultural safety and responsiveness in mainstream legal services, government-funded legal organisations, should be required to meet defined cultural safety standards. Strengthening these obligations will ensure that mainstream legal services contribute meaningfully to Closing the Gap.