



NATSILS

National Aboriginal and
Torres Strait Islander Legal Services

TRUE JUSTICE FOR OUR PEOPLE

FY2026-27 Pre-Budget Submission

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EXECUTIVE SUMMARY

This submission is made by the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) on behalf of Aboriginal and Torres Strait Islander Legal Services (ATSILS) ahead of the FY2026–27 Commonwealth Budget.

One year on from NATSILS' FY2025–26 Pre-Budget Submission, the structural problems facing Aboriginal and Torres Strait Islander legal assistance services remain unresolved. Despite extensive evidence, independent review, and national commitments under the National Agreement on Closing the Gap, ATSILS continue to operate under funding settings that are insufficient, inequitable, and disconnected from legal need.

The Independent Review of the National Legal Assistance Partnership (NLAP) confirmed that ATSILS are chronically underfunded, subject to unsafe workloads, and unable to meet demand. Rather than remedying these issues, the National Access to Justice Partnership (NAJP) has entrenched a funding model that does not assess or respond to the legal needs of Aboriginal and Torres Strait Islander peoples. Indexation settings under the NAJP remain well below actual cost pressures, entrenching workforce disparity with Legal Aid Commissions and failing to address urgent capital, infrastructure, and technology deficits.

The consequences are stark and measurable. Aboriginal and Torres Strait Islander women and children are the fastest-growing prison populations in Australia. Children continue to be detained at extraordinary rates, and families are drawn deeper into child protection and justice systems. These outcomes directly undermine progress against Closing the Gap Targets 10 to 13.

The fiscal implications of inaction are unsustainable. The annual cost of incarcerating an adult exceeds \$150,000, while the cost of detaining a child exceeds \$1.2 million per year. By contrast, investment in culturally safe legal assistance, early intervention, and holistic wraparound supports is proven to reduce harm, lower incarceration and child removal rates, and deliver long-term savings.

This submission reiterates, rather than expands, the priorities advanced in FY2025–26. It calls for sustained Commonwealth investment to stabilise and strengthen ATSILS as essential justice infrastructure, act on and implement the findings and recommendations of the Independent Review of the National Legal Assistance Partnership (NLAP) and give practical effect to Priority Reforms in the National Agreement on Closing the Gap. The measures proposed are grounded in sector-endorsed costings previously provided to government and are necessary to shift from crisis-driven responses to sustainable, community-led justice solutions.

BACKGROUND

The National Aboriginal and Torres Strait Islander Legal Services (NATSILS) is the national peak body representing Aboriginal and Torres Strait Islander Legal Services (ATSILS) across Australia. ATSILS are community-controlled organisations delivering culturally safe legal assistance to Aboriginal and Torres Strait Islander peoples across criminal, family, civil and

administrative law, often in the most complex and under-resourced environments in the country.

Australia is at a pivotal moment in justice reform. Aboriginal and Torres Strait Islander peoples continue to experience the highest levels of unmet legal need, systemic discrimination, and exposure to punitive laws and policies. These settings drive over-incarceration, intergenerational trauma, family separation, and entrenched disadvantage. Despite clear evidence and repeated commitments under the National Agreement on Closing the Gap 2020–2030, legal assistance services for Aboriginal and Torres Strait Islander communities remain critically underfunded.

The Independent Review of the National Legal Assistance Partnership (2020–25) confirmed long-standing concerns raised by NATSILS and its members. The Review found that existing funding envelopes and distribution models fail to provide sustainable, needs-based investment for ATSILS, forcing services to turn away clients, limit assistance, and impose service freezes. It also identified unsafe workloads, workforce fragility, and the absence of a credible mechanism for aligning funding with legal need.

The successor National Access to Justice Partnership (NAJP) has not resolved these issues. Instead, it has entrenched a funding framework that does not assess the legal needs of Aboriginal and Torres Strait Islander peoples and does not adequately account for demand growth, geographic complexity, or service delivery costs. Indexation under the NAJP is grossly insufficient to meet rising costs, including salary parity pressures. While the NAJP includes provision to reduce pay disparity between Legal Aid Commission staff and ATSILS employees over the period 2026–2031, the assumed annual increases of approximately two per cent fall well below known wage growth. Several Legal Aid Commissions are already applying indexation of three per cent or more, further widening the gap. The NAJP funding quantum also fails to address ATSILS' urgent need for investment in capital assets, infrastructure, and technology.

At the same time, punitive laws and discriminatory policy settings continue to disproportionately impact Aboriginal and Torres Strait Islander peoples, undermining progress under Closing the Gap Targets 10 and 11 (adult and youth incarceration) and Targets 12 and 13 (child removals and domestic and family violence). Aboriginal and Torres Strait Islander women are incarcerated at around 20 times the rate of non-Indigenous women, and children aged 10–17 are detained at approximately 29 times the rate of non-Indigenous children. Women and children now represent the fastest-growing prison populations.

The economic cost of these outcomes is unsustainable. Incarceration and detention are among the most expensive and least effective policy responses available. By contrast, investment in legal assistance and culturally safe, holistic and wraparound early intervention services is a proven, cost-effective means of reducing harm, improving wellbeing, preventing system entry, and breaking cycles of disadvantage.

This FY2026–27 Pre-Budget Submission builds on NATSILS' previous submissions and is underpinned by detailed costings developed in consultation with ATSILS members and

provided to the Attorney-General's Department for MYEFO 2023–24. These costings remain current and conservative, reflecting the minimum investment required to stabilise the sector and implement agreed reforms. NATSILS is willing to provide this information to the Treasury on a confidential basis.

The measures proposed in this submission are essential to moving from crisis management to sustainable, community-controlled justice solutions that uphold self-determination, human rights, and access to justice. The evidence is clear, the reform pathway is defined, and the cost of further delay will continue to be borne by Aboriginal and Torres Strait Islander communities and governments alike.

RECOMMENDATIONS

This FY2026-27 Pre-Budget Submission seeks funding to drive structural 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 - Strengthen and Sustain the Aboriginal and Torres Strait Islander Legal Assistance Sector

Overview

Aboriginal and Torres Strait Islander Legal Services (ATSILS) are operating beyond safe and sustainable capacity under current funding arrangements. Demand for legal assistance continues to increase in both volume and complexity, while funding settings have failed to keep pace with population growth, rising system contact, and escalating service delivery costs.

ATSILS are required to respond to expanding criminalisation, increased child protection and family law intervention, and growing demand for civil and administrative law assistance, often in regional and remote contexts. At the same time, services face significant workforce pressures, infrastructure deficits and compliance obligations.

As a result, ATSILS are routinely forced to ration services, prioritise crisis criminal matters, impose service freezes, and limit early intervention and holistic assistance. This operating environment is inefficient, unsafe and inconsistent with the Commonwealth's commitments under the National Agreement on Closing the Gap. Without structural reform to baseline funding, the ATSILS sector faces ongoing workforce attrition, service contraction and heightened risk to community access to justice.

Evidence Base

The Independent Review of the National Legal Assistance Partnership confirmed that ATSILS experience the highest levels of unmet legal need across the legal assistance system. The Review found that:

- current funding levels are insufficient to deliver services safely or effectively;
- workloads within ATSILS are unsustainable;
- pay disparity with Legal Aid Commissions undermines recruitment and retention;

- infrastructure, technology and governance capability are under-resourced; and
- existing funding distribution models do not reflect need, demand or cost.

The Review recommended rebasing ATSILS funding, strengthening workforce sustainability, addressing infrastructure and technology deficits, and embedding self-determination and flexibility in funding arrangements.

These findings align with the National Agreement on Closing the Gap, particularly Priority Reform Two (Building the Community-Controlled Sector) and Priority Reform Three (Transforming Mainstream Institutions). The evidence base is settled. The challenge is implementation.

What needs to be done?

Despite partial and time-limited measures:

- ATSILS funding has not been reset to reflect efficient service delivery costs;
- indexation remains below actual wage growth and demand pressures;
- salary parity with Legal Aid Commissions has not been fully achieved or secured;
- capital, infrastructure and ICT backlogs remain unfunded;
- governance, data and reporting obligations have expanded without resourcing; and
- holistic and wraparound service models are not embedded in baseline funding.

These gaps require ATSILS to absorb systemic risk on behalf of governments, undermining service quality and workforce sustainability.

Proposed Actions

In the FY2026–27 Budget, NATSILS seeks Commonwealth investment to stabilise and sustain ATSILS as essential justice infrastructure, including funding to:

- A. **Reset and sustain ATSILS base funding:** Rebase funding to reflect efficient service delivery costs and provide indexation linked to demand growth and real cost pressures.
- B. **Secure workforce sustainability:** Achieve and maintain salary parity with Legal Aid Commissions, increase staffing to safe workload levels, and support recruitment, retention and leadership pathways for Aboriginal and Torres Strait Islander staff.
- C. **Address infrastructure and technology deficits:** Fund upgrades to IT systems, cybersecurity, vehicles and premises required for safe and effective service delivery, particularly in regional and remote areas.
- D. **Strengthen governance, data and accountability capability:** Resource corporate, governance and data functions to meet accountability requirements and support Indigenous Data Governance and Sovereignty.
- E. **Enable holistic and culturally safe service delivery:** Embed funding for early intervention, diversion and throughcare, including Aboriginal Field Officers and other culturally specific support roles including disability support roles.

RECOMMENDATION 2 - Implement a National Aboriginal and Torres Strait Islander Legal Needs Survey and Needs-Based Funding Model

Overview

Current legal assistance funding arrangements are not informed by a contemporary, comprehensive assessment of the legal needs of Aboriginal and Torres Strait Islander peoples. As a result, funding distribution is largely historical and input-based, rather than responsive to need, demand or complexity.

ATSILS consistently report that unmet legal need is growing, particularly in relation to child protection, family violence, youth justice, disability-related matters, fines enforcement and housing insecurity. However, the absence of robust, disaggregated data means that this unmet need is not systematically captured or reflected in funding decisions. Without a credible evidence base, governments are unable to design or sustain a needs-based funding model, and ATSILS are left to absorb rising demand without corresponding resourcing.

Evidence Base

The Independent Review of the National Legal Assistance Partnership identified the absence of a contemporary legal needs assessment as a critical gap in the legal assistance system. The Review recommended the development of a new, nationally coordinated legal needs survey, with specific attention to Aboriginal and Torres Strait Islander peoples and other high-need cohorts.

The Review further emphasised that a robust needs assessment is a prerequisite for transitioning to a needs-based funding model and for improving transparency, accountability and long-term planning across the sector. These findings align with the National Agreement on Closing the Gap, particularly Priority Reform Four, which commits governments to shared access to data and information and to improving the quality and availability of data about Aboriginal and Torres Strait Islander peoples.

What needs to be done?

Despite these findings:

- no national Aboriginal and Torres Strait Islander legal needs survey has been commissioned;
- existing data sources are fragmented, outdated or not culturally appropriate;
- funding continues to be allocated without reference to unmet legal need; and
- ATSILS lack access to data that would support service planning and advocacy.

The absence of this foundational work continues to undermine reform and perpetuate inequities in funding distribution.

Proposed Actions

In the FY2026–27 Budget, NATSILS seeks Commonwealth investment to establish a national Aboriginal and Torres Strait Islander legal needs survey and associated planning framework, including funding to:

- A. **Develop a co-governed survey framework:** Establish a governance and partnership model with Aboriginal and Torres Strait Islander leadership and genuine shared decision-making, clearly defining roles for the Commonwealth, states and territories, and the legal assistance sector.
- B. **Design and implement a robust survey methodology:** Define the scope of legal problems and service pathways, oversample Aboriginal and Torres Strait Islander peoples, remote and regional communities, and high-contact cohorts, and capture the clustering and complexity of multiple legal needs.
- C. **Deliver a staged implementation program:** Undertake design, piloting and ethics approvals, followed by national rollout, analysis, publication and ongoing monitoring to inform future funding cycles.
- D. **Produce outputs that directly inform funding decisions:** Develop a national and regional legal needs index, identify unmet-need hotspots and service deserts, and generate demand projections linked to population growth and policy change.
- E. **Embed Indigenous Governance and Data Sovereignty:** Ensure clear provisions for data ownership, custodianship and access, culturally safe community-level reporting, and safeguards against the misuse of data for punitive purposes.

RECOMMENDATION 3 - Workforce Sustainability and Pay Parity

Overview

ATSILS are experiencing persistent workforce instability driven by chronic underfunding, unsafe workloads and ongoing pay disparity with Legal Aid Commissions. These pressures undermine service continuity, limit organisational capability and place unsustainable demands on staff, particularly Aboriginal and Torres Strait Islander employees.

Workforce shortages affect all areas of ATSILS operations, including criminal law, family and child protection matters, civil law, regional and remote service delivery, and corporate governance functions. The inability to recruit and retain suitably qualified staff has become a structural risk to service viability. Without a stable, properly resourced workforce, ATSILS cannot meet current demand, let alone expand early intervention, diversion and holistic service models.

Evidence Base

The Independent Review of the National Legal Assistance Partnership identified workforce sustainability as a critical issue across the legal assistance sector, with ATSILS facing the most acute pressures. The Review highlighted:

- unsafe workloads and burnout;
- significant pay disparity between ATSILS and Legal Aid Commissions;
- high turnover, particularly in regional and remote locations; and
- insufficient funding for supervision, professional development and leadership.

The Review recommended action to address pay parity, workload sustainability and workforce capability as essential preconditions for effective legal assistance delivery. These findings align with Closing the Gap Priority Reform Two, which commits governments to

strengthening the Aboriginal and Torres Strait Islander community-controlled sector, including through sustainable workforce investment.

What needs to be done?

Despite partial measures under the NAJP:

- pay parity with Legal Aid Commissions has not been achieved or locked in;
- indexation settings do not reflect actual wage growth;
- staffing levels remain below safe operating thresholds;
- regional and remote recruitment remains fragile; and
- funding does not adequately support supervision, training or succession planning.

The result is a cycle of turnover and short-term recruitment that increases costs, reduces service quality and places additional strain on remaining staff.

Proposed Actions

In the FY2026–27 Budget, NATSILS seeks Commonwealth investment to secure a sustainable ATSILS workforce, including funding to:

- Achieve and maintain pay parity:** Fully close the pay gap between ATSILS employees and Legal Aid Commission staff and ensure parity is maintained through appropriate indexation.
- Increase staffing to safe and sustainable levels:** Fund additional legal, field officer and support positions to address unsafe workloads and meet demand.
- Support recruitment and retention in regional and remote areas:** Provide targeted workforce incentives, including relocation, accommodation and travel support, to improve service continuity in hard-to-staff locations.
- Strengthen supervision, training and leadership pathways:** Fund structured supervision, professional development and leadership programs, with a focus on supporting Aboriginal and Torres Strait Islander staff.
- Stabilise corporate and enabling roles:** Resource corporate, governance and specialist roles that underpin service delivery and reduce reliance on short-term or acting arrangements.

RECOMMENDATION 4 - Youth Justice, Early Intervention, Diversion and Throughcare

Overview

Aboriginal and Torres Strait Islander children and young people continue to be drawn into the justice system at disproportionate rates and at increasingly younger ages. Current funding settings prioritise crisis responses after system entry rather than early legal intervention, diversion and sustained throughcare.

ATSILS report rising demand in youth justice matters, driven by punitive bail and remand laws, increased police contact, and the criminalisation of behaviours linked to poverty, disability and trauma. Matters are increasingly complex and require intensive, ongoing legal and non-legal support. Without adequate investment in early intervention and continuity of

legal assistance, ATSILS are forced to intervene late, once harm has already occurred and pathways out of the justice system have narrowed.

Evidence Base

Aboriginal and Torres Strait Islander children aged 10–17 are detained at many times the rate of non-Indigenous children and remain significantly overrepresented at all stages of the youth justice system. Evidence consistently shows that early legal intervention, diversion and throughcare reduce detention, improve compliance with bail and court orders, and lower rates of reoffending.

The Independent Review of the National Legal Assistance Partnership identified youth justice and early intervention as priority areas requiring increased investment and improved service coordination. The Review also highlighted the inefficiency of short-term, pilot-based funding that does not support sustainable service models. These findings align with Closing the Gap Target 11 and commitments to reduce the overrepresentation of Aboriginal and Torres Strait Islander children in detention through prevention and early support.

What needs to be done?

Despite longstanding evidence:

- early legal assistance for children and young people is not consistently funded through baseline arrangements;
- diversion and bail support services remain fragmented and short-term;
- ATSILS youth justice work is largely absorbed into general criminal law funding; and
- throughcare and post-release legal assistance is rarely funded as an integrated pathway.

This leaves ATSILS carrying high-risk, high-intensity youth justice work without the resources required to prevent system entry or support reintegration.

Proposed Actions

In the FY2026–27 Budget, NATSILS seeks Commonwealth investment to support end-to-end youth justice legal assistance delivered by ATSILS, including funding to:

- Expand early legal intervention and diversion:** Support early advice and representation prior to first court appearance and strengthen culturally safe diversion pathways in partnership with communities.
- Strengthen bail, remand and court support:** Fund dedicated youth justice legal roles and bail advocacy to reduce unnecessary detention and remand.
- Establish throughcare and post-release legal assistance:** Provide continuity of legal support through detention, release and reintegration, including addressing fines, breaches, housing and child protection matters.
- Embed holistic and wraparound approaches:** Support integrated models that link legal assistance with disability, mental health, education and family support services.
- Provide stable, ongoing funding:** Embed youth justice investment in baseline funding rather than short-term or pilot arrangements.

RECOMMENDATION 5 - Family Violence, Child Protection and Women's Legal Assistance

Overview

Aboriginal and Torres Strait Islander women and children experience disproportionate levels of family violence intervention, child protection system involvement and justice system contact. Legal matters in these areas are complex, need to be trauma-informed and are often long-running, yet current funding settings do not reflect the intensity or duration of the work required.

ATSILS report sustained growth in family violence, care and protection, and family law matters, alongside increasing criminalisation of victim-survivors through system responses. These matters frequently intersect with housing insecurity, disability, mental health and poverty, requiring coordinated legal and non-legal support. Without adequate resourcing, ATSILS are forced to triage assistance, limit representation, or absorb high-risk work without the capacity to provide continuity of support for women and children.

Evidence Base

Aboriginal and Torres Strait Islander women are among the fastest-growing prison populations in Australia, with justice system involvement often linked to experiences of family violence, child protection intervention and economic disadvantage. Evidence consistently shows that punitive responses without culturally safe legal support exacerbate harm and increase justice system contact.

The Independent Review of the National Legal Assistance Partnership identified family violence, civil and family law as priority areas requiring increased investment. The Review also highlighted the need to strengthen culturally safe responses for Aboriginal and Torres Strait Islander women and children and to address gaps in service coverage. These findings align with Closing the Gap Targets 12 and 13, which seek to reduce child removals and domestic and family violence and improve outcomes for Aboriginal and Torres Strait Islander women and children.

What needs to be done?

Despite recognition of these issues:

- funding for family violence, family law and child protection matters remains fragmented and insufficient;
- ATSILS frequently undertake intensive women's legal assistance work without commensurate resourcing;
- service coverage is uneven, particularly in regional and remote areas; and
- funding models do not account for the true cost of trauma-informed, culturally safe representation.

These gaps increase risk for women and children and contribute to avoidable justice system involvement.

Proposed Actions

In the FY2026–27 Budget, NATSILS seeks Commonwealth investment to strengthen ATSILS capacity to deliver culturally safe, trauma-informed legal assistance for women and children, including funding to:

- A. **Expand family violence legal assistance:** Support legal representation and advocacy for victim-survivors, with a focus on safety, agency and avoiding criminalisation.
- B. **Strengthen child protection and care representation:** Increase funding for early advice, pre-court intervention and continuity of legal representation throughout care proceedings.
- C. **Enhance women’s legal assistance within ATSILS:** Resource women-specific legal services where ATSILS are the primary provider and ensure funding reflects cultural and geographic service realities.
- D. **Support integrated service models:** Embed legal assistance within multidisciplinary responses, including social work, counselling and community-based supports.
- E. **Provide stable and ongoing funding:** Move away from short-term or piecemeal funding toward embedded baseline investment.

RECOMMENDATION 6 - Regional, Remote and Outreach Service Viability

Overview

ATSILS delivering services in regional, rural and remote locations face structural challenges that are not adequately recognised or funded under current arrangements. These services are required to cover large geographic areas, service dispersed populations, and operate in environments with limited infrastructure, housing and workforce availability.

ATSILS report that the costs of travel, accommodation, circuit court attendance and outreach continue to rise, while workforce recruitment and retention in remote locations remains difficult. These pressures directly affect service continuity and access to justice for communities already experiencing high levels of unmet legal need. Without targeted and ongoing investment, regional and remote service delivery becomes increasingly fragile, intermittent and crisis-driven.

Evidence Base

The Independent Review of the National Legal Assistance Partnership identified geographic inequity as a persistent issue across the legal assistance system and noted that current funding models do not adequately account for the cost of delivering services in regional and remote areas.

Evidence consistently demonstrates that Aboriginal and Torres Strait Islander peoples living in remote and very remote communities experience higher rates of justice system contact and face greater barriers to accessing legal assistance. Ensuring service viability in these locations is therefore central to equitable justice outcomes and Closing the Gap commitments.

What needs to be done?

Despite longstanding recognition of these challenges:

- baseline funding does not reflect the true cost of regional and remote service delivery;
- outreach and circuit court work is often subsidised from core operational budgets;
- workforce instability is exacerbated by housing and infrastructure constraints; and
- funding does not adequately account for climate, travel risk and service disruption.

These gaps place disproportionate risk on ATSILS and undermine access to justice in high-need communities.

Proposed Actions

In the FY2026–27 Budget, NATSILS seeks Commonwealth investment to ensure the ongoing viability of regional and remote ATSILS, including funding to:

- A. Recognise the true cost of remote service delivery:** Apply geographic loadings that reflect travel, accommodation and logistics costs and fund outreach and circuit court participation as core business.
- B. Strengthen workforce stability:** Support workforce incentives, accommodation and travel assistance, and staffing models that allow for leave coverage and service continuity.
- C. Improve infrastructure and service resilience:** Invest in fit-for-purpose premises, vehicles and communications infrastructure and support resilience planning for climate and weather-related disruptions.
- D. Expand flexible service delivery models:** Support tele-legal and hybrid service models that complement face-to-face delivery and are appropriately resourced.

RECOMMENDATION 7 - Data, Technology, Infrastructure and Sector Capability

Overview

ATSILS are required to meet increasing expectations around data collection, reporting, cybersecurity, governance and digital service delivery. However, many services continue to operate with outdated systems, ageing infrastructure and under-resourced corporate capability. These constraints reduce service efficiency, increase operational risk and limit ATSILS' ability to meet accountability requirements or participate fully in system reform. Without coordinated investment in data, technology and sector capability, both ATSILS and governments face increasing risk and diminished returns from legal assistance expenditure.

Evidence Base

The Independent Review of the National Legal Assistance Partnership identified data and technology as critical enablers of a modern legal assistance system and recommended:

- development of a national outcomes framework;
- revised performance indicators and data standards; and
- establishment of a justice technology innovation mechanism.

The Review recognised that without fit-for-purpose systems, governments cannot accurately assess outcomes, manage risk or implement needs-based funding. These findings align with Closing the Gap Priority Reform Four and commitments to Indigenous Data Sovereignty.

What needs to be done?

Despite these recommendations:

- ATSILS continue to rely on fragmented or legacy case management systems;
- cybersecurity investment remains limited and uneven;
- reporting and compliance obligations have expanded without resourcing; and
- capital and ICT backlogs remain largely unaddressed.

These gaps expose ATSILS and governments to operational, reputational and data security risks.

Proposed Actions

In the FY2026–27 Budget, NATSILS seeks Commonwealth investment to build fit-for-purpose data, technology and sector capability, including funding to:

- Modernise case management and data systems:** Replace obsolete systems with secure, interoperable platforms that support outcomes-focused reporting.
- Strengthen cybersecurity and digital resilience:** Fund baseline cybersecurity protections, incident response capability and staff training.
- Implement a national outcomes and performance framework:** Co-design an outcomes framework aligned with justice targets and Closing the Gap, consistent with Indigenous Data Sovereignty.
- Address capital and ICT backlogs:** Invest in IT hardware, connectivity and physical infrastructure where it directly constrains service delivery.
- Build sustainable corporate and sector capability:** Resource data, evaluation, governance and corporate roles to reduce reliance on short-term or fragmented funding.