

17 April 2023

Secretariat
Consultations Team
Indigenous Policy, Women's Safety
Department of Social Services

By email: DedicatedActionPlan@dss.gov.au

Dear Secretariat

Developing the Aboriginal and Torres Strait Islander Action Plans

1. Women's Legal Service NSW (**WLS NSW**) thanks the Department of Social Services for the opportunity to comment on the development of the Aboriginal and Torres Strait Islander Action Plans.
2. WLS NSW is a specialist accredited women-led community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims support, care and protection, human rights and access to justice.
3. For over twenty years WLS NSW has provided a statewide First Nations Women's Legal Program (**FNWLP**). This program delivers a culturally safe legal service to First Nations women, including regular engagement with communities across NSW. We provide a First Nations legal advice line, casework services including a specialised family law service to assist First Nations women access the family law courts, participate in law reform and policy work, and provide community legal education programs and conferences that are topical and relevant for First Nations women.
4. An Aboriginal Women's Consultation Network supports and enhances the work of the FNWLP. It meets quarterly to ensure that Women's Legal Service NSW delivers a culturally safe service. The members include regional community representatives and the FNWLP staff. There is a representative from the Aboriginal Women's Consultation Network on the WLS NSW Board.

Introductory comments

5. We acknowledge the very high and disproportionate rates of violence perpetrated against First Nations women and children and the complex trauma First Nations people experience, including trans-generational and community trauma arising from the ongoing trauma experienced as a result of colonisation, dispossession and the Stolen Generations. First Nations trauma includes the loss of identity, belonging, love, legacy, community and country and the ongoing forced removal of children from their families and communities.



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6. We also acknowledge structural inequality and violence and intersecting and compounding forms of systemic discrimination, including racism, sexism, ableism, ageism, socio-economic status, homophobia, biphobia, transphobia.
7. Laws, policies and systems have long failed and continue to fail First Nations people in Australia.¹
8. We further acknowledge many First Nations people turning to drugs and alcohol as a coping mechanism and the need for a strengths-based response which centres cultural healing.
9. In order to address the drivers of gendered violence against First Nations women and children structural and systemic transformational change is required.
10. A social entrapment framework of gendered violence examines three dimensions of barriers to survivors of such violence being able to access the support they need:
 - 10.1 *the social isolation, fear and coercion that the predominant aggressor's coercive and controlling behaviour creates in the victim's/survivor's life and how the predominant aggressor's behaviour constrains the primary victim's resistance and ability to escape the abuse*
 - 10.2 *the lack of effective systemic safety options; and*
 - 10.3 *the exacerbation of these previous two dimensions by structural inequities including poverty, historical trauma, colonisation, disability, racism, sexuality and gender, geographic isolation.*²
11. Adopting such a framework shifts the narrative away from victim-blaming to make visible those who need to be held accountable - individual perpetrators, systems, governments and society. It better recognises the resilience of survivors and the protective actions they take. It highlights the fundamental importance of governments properly investing in each of the pillars of the National Plan and Action Plans and the need for structural and systemic transformational change to ensure the safety of First Nations women, children and other survivors of sexual and family violence.
12. We recommend the adoption of a social entrapment model in government policies and practices.
13. First Nations led solutions that are culturally safe, gendered violence and trauma informed and strengths-based are required. There needs to be more work undertaken on prevention through community education conversations led by First Nations women and girls with First Nations women and girls and conversations led by First Nations men and boys with First Nations men and boys and First Nations people who identify as gender diverse or non-binary that support and hold accountable those who use violence. For example, Breaking Silent Codes, Tackling Violence, Hey Sis, I've got your back. We further note the recent establishment of the Aboriginal Women's Advisory Network in NSW which was established to support Closing the Gap (Target 13) initiatives to reduce family violence and abuse against Aboriginal and Torres Strait Islander women and children.

¹ See Women's Legal Service NSW (2020) *Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability on the experience of First Nations People with Disability in Australia*

² Tarrant, S., Tolmie, J., & Giudice, G. (2019). *Transforming legal understandings of intimate partner violence* (Research report 03/2019). Sydney, NSW: ANROWS, p 17(21)

14. Systems reform to ensure accessible, culturally safe, integrated, co-ordinated systems response to sexual and family violence and abuse is required. This includes more services that are Aboriginal and Torres Strait Islander community controlled and recognition of the importance of specialisation.
15. Structural drivers of violence against First Nations women and children must be addressed. This includes giving greater visibility to violence against First Nations women and children and ensuring greater accountability.³ It also includes access to safe and affordable housing, access to proper income support and child support, access to safe and secure work, access to safe and supportive processes in reporting sexual, domestic and family violence and in the criminal legal system more broadly and access to safe and supportive outcomes in the family law and child protection systems.
16. We support the vision statement: *“Our people, no matter where they live, work and play are culturally safe and strong, and live free from violence”*.

Action Reform areas

Voice, self-determination, agency

17. We strongly support *“voice, self-determination and agency”* being one of the Action Plan reforms areas. The survey question describes this as *“national policy response to include shared decision-making with government in genuine partnership with Aboriginal and Torres Strait Islander peoples, be community-led and for Aboriginal and Torres Strait Islander women and children to be front and centre of design and delivery”*.
18. A genuine commitment and priority to First Nations led reforms is long overdue. All laws, policies and procedures must be continually reviewed and amended to ensure that they are culturally safe, inclusive of First Nations laws and customs, committed to self-determination and not perpetuating further harm through structural racism, violence and abuse.

Strength, resilience, therapeutic healing

19. We strongly support *“strength, resilience and therapeutic healing”* being one of the Action Plan reforms areas. The survey question describes this as *“the need for solutions to be trauma-aware, healing informed, culturally safe and kinship-centred, and for cultural responses to be used to address harmful behaviours”*.

Reforming institutions and systems

20. We strongly support *“reforming institutions and systems”* being one of the Action Plan reforms areas. The survey question describes this as *“the need to address systemic bias and structural racism, to strengthen and build capacity in the Aboriginal and Torres Strait Islander workforce, and to recognise the need for urgent law and legislation reform”*.
21. An example of systemic bias and structural racism is the high rates of misidentifying First Nations women as the predominant aggressor in protection order matters when they are the person most in need of protection. Misidentification is experienced by many victim-survivors as state violence. Misidentification can lead to the criminalisation of First Nations women and young people and to

³ WLS NSW (2022) *Submission to the Senate Legal and Constitutional Affairs References Committee Inquiry into Missing and murdered First Nations women and children* (submission No 21)

removal of children into care. We refer to our previous submissions and work for further information on this issue.⁴

22. Aboriginal and Torres Strait Islander Social Justice Commissioner June Oscar AO recommends mechanisms to address systemic racism within all police departments in her report [Wiyi Yani U Thangani: Women's Voices Securing Our Rights Securing Our Future](#).⁵
23. We support this and recommend accountability frameworks to address systemic discrimination, including racism, sexism and other forms of discrimination across all structures and systems starting with police as first responders.⁶
24. We further recommend accountability frameworks to address systemic misidentification as well as statutory guidance.⁷ We note proposed s22A of the [Domestic and Family Violence Protection \(Combating Coercive Control\) and Other Legislation Amendment Bill 2022 \(Qld\)](#).⁸
25. While training has an important role to play in cultural reform, close attention needs to be paid to what training is provided, to whom, by whom, how often, in what form, how is it informed by the lived experience of victim-survivors, how it addresses victim-blaming attitudes and conscious and unconscious bias, how it encourages participants to reflect on their own practice and whether the training is independently evaluated to measure changes in attitudes and changes in practice as a result of the training.
26. Training about sexual, domestic and family violence and abuse needs to be developed and delivered with significant input from sexual, domestic and family violence and abuse experts including survivors, cultural safety experts, disability experts, non-binary, trans and gender diverse experts and specialist legal services.

Inclusion and intersectionality

27. We strongly support “*inclusion and intersectionality*” being one of the Action Plan reforms areas. The survey question describes this as “*the need for diverse experiences and needs to be acknowledged, including those of women, girls, men, boys, Elders, Stolen Generations, people living remotely, people with disability and LGBTIQ+, Sistergirl and Brotherboy people*”.
28. There need to be greater funding of Aboriginal and Torres Strait Islander community-controlled services, including culturally safe services and supports for First Nations people across their lifespan. First Nations people living in remote areas also need transport and accommodation assistance, better internet connections and provision of information and communications technology equipment.
29. We refer to our [submission to the NSW Parliamentary Inquiry into reparations for the Stolen Generations in New South Wales](#) for support required for members of the Stolen Generations and those impacted by the Stolen Generation.

⁴ WLS NSW (2022) *Submission to the Department of Communities and Justice in Response to the Crimes Legislation Amendment (Coercive Control Bill)* ; Mansour, J (2014) *Women Defendants to AVOs: What is their experience of the justice system?* (Women's Legal Service NSW).

⁵ Australian Human Rights Commission (2020) *Wiyi Yani U Thangani: Women's Voices Securing Our Rights Securing Our Future*, p103 (p105 online).

⁶ Joint submission (2022) *Response to the Crimes Legislation Amendment (Coercive Control) Bill 2022*

⁷ Ibid

⁸ Ibid.

Evidence and data eco-systems - understanding our stories

30. We strongly support “*evidence and data eco-systems - understanding our stories*” being one of the Action Plan reforms areas. The survey question describes this as “*the need for a local, culturally-informed data and evidence eco-system to be created and curated by Aboriginal and Torres Strait Islander peoples that will inform decision-making at both the community level and within governments*”.

Prioritising reform areas

31. In responding to the question to prioritise reform areas we advocate that all five reform areas are important. It is also essential there be transparency and accountability in measuring the success of achieving these five reform areas. We refer to our submission in Response to the Draft National Plan to End Violence against Women and Children 2022-2032 which discusses the need for accountability of performance measurements.⁹

Immediate safety needs

32. The survey outlines a range of issues to address the immediate safety needs of Aboriginal and Torres Strait Islander peoples, families and communities and allows the opportunity to list additional issues. The list includes:

32.1 *Improving justice and equitable outcomes for Aboriginal and Torres Strait Islander peoples*

32.2 *Additional funding to Aboriginal Community Controlled Organisations*

32.3 *Building capability of Aboriginal and Torres Strait Islander service providers*

32.4 *Increasing cultural capability within mainstream service providers*

32.5 *Self-determination in practice, ensuring that Aboriginal and Torres Strait Islander people have a voice regarding Aboriginal and Torres Strait Islander programs*

32.6 *Services and policy*

32.7 *Increasing the availability of prevention strategies to reduce alcohol and other drug harm*

32.8 *Other*

33. We reiterate that each of these areas is important and the need to take a holistic integrated approach.

First Nations family, domestic and sexual violence peak and independent First Nations Commissioner for First Nations family safety

34. We support the establishment of a First Nations family, domestic and sexual violence peak body as well as an Aboriginal and Torres Strait Islander Commissioner for First Nations family safety.
35. We note again existing mechanisms such as the Aboriginal Women's Advisory Network in NSW which was established to support Closing the Gap (Target 13) initiatives to reduce family violence and abuse against Aboriginal and Torres Strait Islander women and children.

⁹ WLS NSW, *Response to the Draft National Plan to End Violence against Women and Children 2022-2032*, paragraphs 3-6, 99-109.

Prioritising the health and wellbeing of First Nations people

36. We support all of the practical actions to prioritise the health and wellbeing of First Nations people listed in the survey including:
- 36.1 *Commitment to a strengths-based approach*
 - 36.2 *Focus on collective healing and cultural reclamation*
 - 36.3 *Truth-telling and societal education*
 - 36.4 *Respectful culturally-aware relationships and cross-collaboration*
 - 36.5 *Commitment to long-term investment*
 - 36.6 *Accountable and transparent partnerships*
 - 36.7 *Building data ecosystems and data sovereignty at all levels*
 - 36.8 *Other*

Improving government services support of First Nations people who have experienced sexual, domestic and family violence

37. Improving government services support of First Nations people who have experienced sexual, domestic and family violence requires effective strategies to recruit and retain increasing numbers of Aboriginal and Torres Strait Islander staff employed in these organisations.
38. *Wiyi Yani U Thangani (Women's Voices)* discusses the importance of recruiting and retaining First Nations women in positions of leadership where they have decision-making powers, including within police services across Australia.¹⁰ First Nations women should be supported through training opportunities to access such positions.
39. There must also be regular and comprehensive cultural competency training for all staff across all government and non-government services working with Aboriginal and Torres Strait Islander people.
40. We refer again to the need for accountability frameworks to address systemic discrimination, including systemic racism and sexism.

If you would like to discuss any aspect of this submission, please contact Gail Thorne or Liz Snell, Law Reform and Policy Coordinator on 02 8745 6900.

Yours faithfully,

Women's Legal Service NSW

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¹⁰ Australian Human Rights Commission (2020) *Wiyi Yani U Thangani (Women's Voices): Securing Our Rights, Securing Our Future Report*, p 103 (105)