

## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

**Submission No:** 116 - including supplementary submission  
**Submitted by:** Queensland Aboriginal and Torres Strait Islander Child Protection Peak  
**Publication:** Making the submission and your name public  
**Attachments:** See attachment  
**Submitter Comments:**



ChildProtectionPeak

**Queensland Aboriginal and Torres Strait Islander  
Child Protection Peak Limited**

**Submission: Youth Justice Reform Select Committee  
2024**

**[www.qatsicpp.com.au](http://www.qatsicpp.com.au)**

## Contents

Introduction .....	3
Our commitment .....	3
Current Context.....	3
The Impact of Youth Justice on Aboriginal and Torres Strait Islander children and young people .....	6
Lifetime opportunity costs.....	6
Children as Victims of Crime .....	7
Responding to trauma effectively .....	7
Lack of Aboriginal and Torres Strait Islander Solutions for Serious Repeat Offenders .....	8
Limited Investment in Aboriginal and Torres Strait Islander Communities .....	8
Our Solutions for Change.....	10
Re-building Families .....	11
Intensive Case Management.....	11
Safer families and homes reduce court and watchhouse pressures .....	12
Culturally Integrated Services.....	12
A Generational Plan.....	13
Conclusion .....	13
Contact.....	14
Endnotes.....	14

# Introduction

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) welcomes the opportunity to provide a response to the Strengthening Community Safety Bill (the Bill) on behalf of our members. Our membership includes 38 Aboriginal and Torres Strait Islander Community-Controlled Organisations across Queensland.

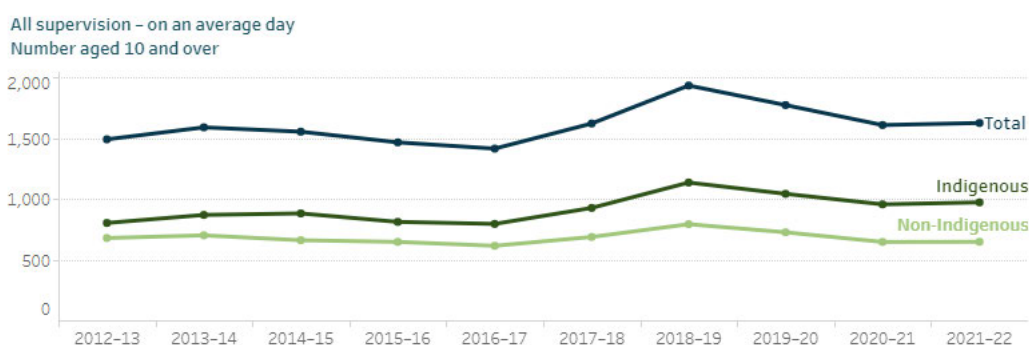
At the community level, our members provide services, advice and support relating to the safety and wellbeing of Aboriginal and Torres Strait Islander children, young people and families. Our members are committed to our overarching purpose and vision that all Aboriginal and Torres Strait Islander children and young people are physically, emotionally and spiritually strong; live in safe, caring and nurturing environments within their own families and communities; and are afforded the same life opportunities available to other children and young people to achieve their full potential.

## Our commitment

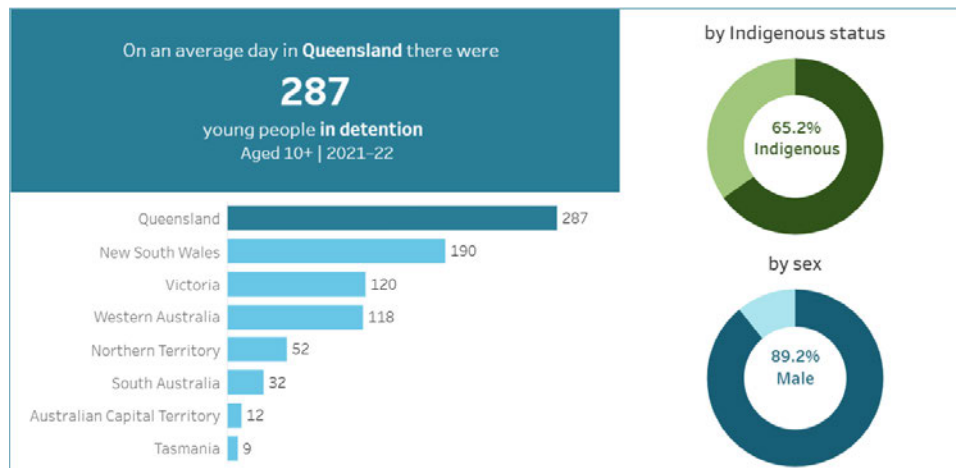
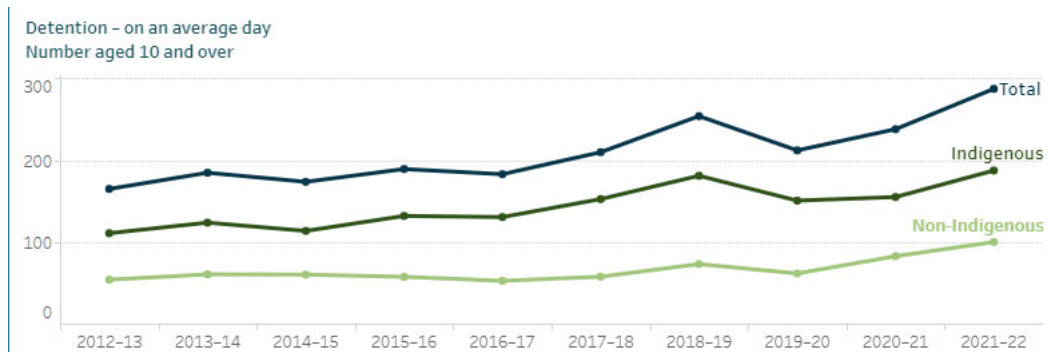
We welcome the opportunity to work with the Queensland Government and Aboriginal and Torres Strait Islander leaders to strengthen youth justice responses that recognise and address the underlying causes of offending and embed evidence-based, trauma informed and culturally safe responses. We are one of many Aboriginal and Torres Strait Islander representative groups (inclusive of our legal, health, housing and education partners) that are ready and willing to co-create transformational change that empowers us to address the complex issues facing our families and impact the wellbeing and safety of the broader community.

## Current Context

Over the 5 years to 2021–22, on an average day, in Queensland the number of young people under supervision remained stable overall, from 1,620 in July 2017 to 1,624 in July 2021. A peak of 1,932 occurred in 2018.<sup>i</sup> On an average day in 2022, Queensland supervised 600 more young people than the next closet state (NSW: 1087).<sup>i</sup>



However, what has changed significantly is the number of young people in Queensland's youth detention centres, where the average number of young people in custody on a given day rose from 189 in July 2017 to 287 in July 2022 (a 52% increase).<sup>i</sup> Queensland leads the nation in holding youth in detention by approximately 100 individuals on an average day (NSW: 190)



Aboriginal and Torres Strait Islander young people continue to be disproportionately represented in our justice system. The latest available data from the Australian Institute of Health and Welfare (AIHW) shows Aboriginal and Torres Strait children in Queensland: <sup>i</sup>

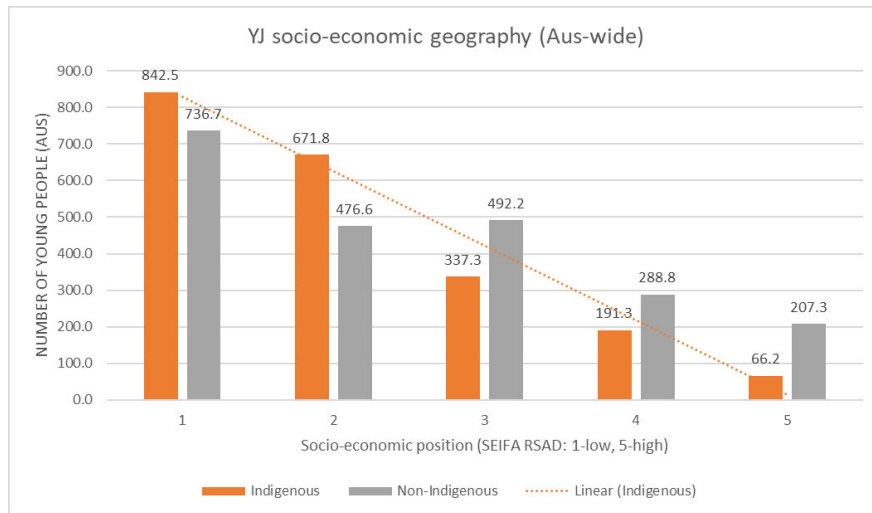
- Are 21.3 times more likely to be in the youth justice system than non-Indigenous children;
- Represent just 8.8% of all children aged 10 to 17 years of age, but represent 65 percent of all children and young people in youth detention;<sup>i</sup>
- 30 percent of Aboriginal and Torres Strait Islander children and young people in detention had been in OOHC the five years prior<sup>ii</sup>;
- Aboriginal and Torres Strait Islander children aged 10 to 13 years old make up 87 percent of all children and young people in their age group in detention centres on an average day during 2021-2022; and
- Aboriginal and Torres Strait Islander children aged 10 to 13 years old comprised 85 percent of all children in their age group on community-based supervision orders on an average day during 2021- 2022.

AIHW youth justice data (2023) highlighted that nationally Indigenous young people under youth justice supervision were more likely than non-Indigenous young people to have had an interaction with the child protection system.<sup>iii</sup> In Queensland 67.4% of First Nations young people on youth justice orders had previous contact with the child protection system in the five years prior.<sup>iv</sup>

The most recently available Queensland data also highlights the connection between young people entering the Child Safety's Out of Home Care (OOHC) system and being at significantly increased risk of entering the youth justice system, which often has even more severe life-long impacts.

There is a wide range of evidence to suggest entry into the youth justice system can lead to life-long offending, with evidence showing that the younger a child enters the justice system, the more likely they are to have sustained contact and go on to re-offend. <sup>v</sup> (*The committee may also wish to consider data on the adult incarcerated population whom have a history of child-protection system interactions*).

Young people from lower socioeconomic areas were more likely to be under the supervision of Youth Justice services in Australia. More than 1 in 3 young people (35%) under supervision on an average day in 2019–20 were from the lowest socioeconomic areas, compared with about 1 in 17 young people (6%) from the highest socioeconomic areas: <sup>vi</sup>



Youth Justice census information from 2021 reinforces the presence of disadvantages in the Youth Justice supervised and incarcerated cohort: <sup>vii</sup>

- 28 per cent of children had an active child protection order
- 39 per cent of children were living in unstable and/or unsuitable accommodation
- 45 per cent of children had totally disengaged from education, training, or employment
- 35 per cent had a parent in adult custody
- 56 per cent had experienced or been impacted by domestic and family violence
- 83 per cent were known to be using drugs or alcohol
- 37 per cent were diagnosed or suspected to have a disability
- 27 per cent had at least one mental health disorder
- 19 per cent had at least one behavioural disorder.

### Children and young people are held longer in Watchhouses.

Recent data has demonstrated that over the five years from 2018, **total youth admissions to watch houses increased by 452 per cent**, and children being held in a watch house for more than 1 day increased by **163 per cent**.<sup>viii</sup> This is despite the total number of young people being stable over several years. Fewer young people are being arrested, but those that are were arrested more often. The data demonstrates that <sup>viii</sup>

- fewer young people are receiving bail, and while total court lodgements have fallen, remand orders are more frequent;
- young people were refused bail and held in watch houses because of dysfunction within their family and home (noting in 7% of the 30 cases reviewed, the young person was

homeless, and in 20% of the cases we reviewed, the young person did not receive a visit from a family member during their time in the watch house);

- our youth detention centres have operated at or above their safe capacity for two years;
- overall, court proceedings are increasing in speed. However, young people on remand are spending an increasing number of nights in unsentenced detention;
- the Children's Court has sentenced a similar proportion of young people to imprisonment between 2019 and 2022, with no direct link to the rising detainee population, and detention sentence lengths have not increased – but the time spent in detention on remand has. This extension of time on remand is at odds with faster court proceedings.

#### **Why are children and young people being held longer? <sup>viii</sup>**

- Fewer young people are receiving bail, and while total court lodgements have fallen, remand orders are more frequent.
- Young people were refused bail and held in watch houses because of dysfunction in their family home (*in 7 percent of cases reviewed the young person was homeless, while 20 percent of the cases reviewed the young person did not receive a visit from a family member while in the watch house*).
- Youth detention centres have operated at or above their capacity for the last two years.
- Detention sentence lengths have not increased, however time spent in detention on remand has. This extension of time on remand is at odds with faster court proceedings. <sup>viii</sup>

## **The Impact of Youth Justice on Aboriginal and Torres Strait Islander children and young people**

### **Lifetime opportunity costs**

The overrepresentation in the justice systems comes at a huge lifelong cost, not only to Aboriginal and Torres Strait Islander children and young people, but to the Queensland Government.

The common life trajectory suggested by the above data has significant impacts on the lives of Aboriginal and Torres Strait Islander children. Wilkins (2015) found that higher levels of education are associated with increased employment and weekly earnings. <sup>ix</sup>

After controlling for cognitive ability, Wilkins (2015) found that high school completion is associated with an 18.6% increase in earnings for men and a 14.5% increase in earnings for women, compared to people who completed Year 11 or below. Given the very low Year 12 completion rates for young people in youth justice and the overrepresentation of First Nations children and young people in justice systems, this represents a huge lost opportunity cost both collectively for Queensland and individually for Aboriginal and Torres Strait Islander people.

### **Total costs include;**

- A total expenditure on care services is \$1.7 billion; approximately \$709 million of this is on residential care.
- \$295 per night per placement in OOHC, an increase of 82 percent on the 2013/2014. <sup>xii</sup>
- Expenditure on OOHC, as opposed to family support and other services, is now 70 percent of total expenditure on child protection, an increase of 36 percent on this figure in 2013/2014. <sup>x</sup>

- the annual operating cost of imprisoning a child was \$2,068.32 a day and \$761,507 each year.<sup>xi</sup>
- available evidence suggests that high numbers of children and young people in OOHC enter the youth justice system and then progress to the adult justice system, criminal justice expenditure is estimated to represent around 18 percent of the total cost of those leaving OOHC to governments.<sup>xii</sup>

## **Children as Victims of Crime**

QATSICPP supports the Queensland government’s focus on reducing recidivism for serious repeat youth offenders as critical to tackling youth crime and improving community safety. We acknowledge that Queenslanders have a right to feel safe in their communities.

What we know because of the work our Member Organisations provide in our community is that many children and young people in contact with the justice system have been victims of crime themselves and are often subject to multiple issues of abuse that have occurred over time and not just within families but in the broader community.

Children and young people cannot understand safety if they have not experienced it. At a general level, increased disregard for authority and personal safety exhibited by the highest-risk offenders in Queensland is often a product of having survived serious adversity and adaptation to their environment, as detailed in the data previously discussed. This highlights why it is critical that solutions must be trauma aware and healing informed and led by Aboriginal and Torres Strait Islander communities, grounding in culture and supporting young people on pathways to safety.

## **Responding to trauma effectively**

To heal trauma and overcome such significant challenges requires culturally safe, trauma-informed, intensive and often ongoing support.<sup>v</sup> Recent inquiries in Queensland and Victoria found a significant lack of effective prevention, intervention, and individualised support to meet the specific needs of Aboriginal and Torres Strait Islander children and young people in terms of diversionary practices. The Healing Foundation found that across Australia, there was “little evidence of criminal justice diversions that recognise and seek to address the trauma associated with the behaviours that lead to Indigenous incarceration and a continued reliance from policymakers on incarceration as a response”.<sup>v</sup>

There is considerable research to suggest the level of punishment applied in sentencing children and young people has had minimal influence on subsequent behaviour.<sup>v</sup> Youth justice laws that focus on detention as the primary solution to offending behaviour fail to understand child and adolescent brain development, as well as how trauma affects the brain, in that children are unlikely to take into consideration more severe penalties as part of their decision-making about offending behaviour.

We know that there are not enough quality healing and mental health services for children and youth in many remote, regional areas across the state. The research found that the current operating context excludes Aboriginal and Torres Strait Islander children and young people from decision-making processes by child protection agencies and from services, such as mental health, that are funded to support them. This is often due to poor engagement, failure to hear children and young people’s voices and a lack of culturally safe services.<sup>xiii</sup>



## **Lack of Aboriginal and Torres Strait Islander Solutions for Serious Repeat Offenders**

Aboriginal and Torres Strait Islander communities are also not being afforded the quantity or control of resources necessary to respond to emerging issues in their community, and they, too, are frustrated in not being able to invest in solutions that they know could make significant change.

The Serious Repeat Offender Index (SROI) was designed internally by Youth Justice to better identify the cohort of young people whose offending is escalating and thus require a larger share of focus and resources.

Notwithstanding the critical role of early intervention, the intention of the SROI is to increase the number of service responses to these young people. However, the current strategy of increasing the intensity of services attached to and administered by the statutory agency is unlikely to yield substantial decreases in the offending quantity sought.

Unfortunately, First Nations young people represent the majority of the Serious Repeat Offender Index cohort, making up 74% of the group on an average day.<sup>xiv</sup> Given the risk profile of SROI young people and the large percentage of First Nations young people in detention (on remand), logic would dictate that the vast majority of the 332 First Nations SROI young people are being held on remand for breaches of bail (unsentenced) in a detention centre.

The challenge of bringing about change and reducing recidivism for 332 individual adolescents across Queensland cannot be underestimated. The age and complexity of health and behavioural needs within this group of young people would challenge the most experienced allied health professionals. However, the key to overcoming that barrier is culture and community. The current approach to remand recidivists in custody more frequently and for more extended periods disconnects young people from family, culture and those supports. As many young people are already in custody, they have limited input and linkages to community-based rehabilitation programs. This means that on their release, they are often not in contact with cultural youth services, and often little is done in planning for their release that ensures this

Traditional deterrence measures are effective enough to prevent and minimise serious illegal behaviour for the vast majority of youth and adult populations. Serious Repeat Offender indexed young persons however account for less than 0.01% of Queenslanders aged 10-17 years, and account for as much as 40% of all youth offences committed in our state.<sup>xiv</sup>

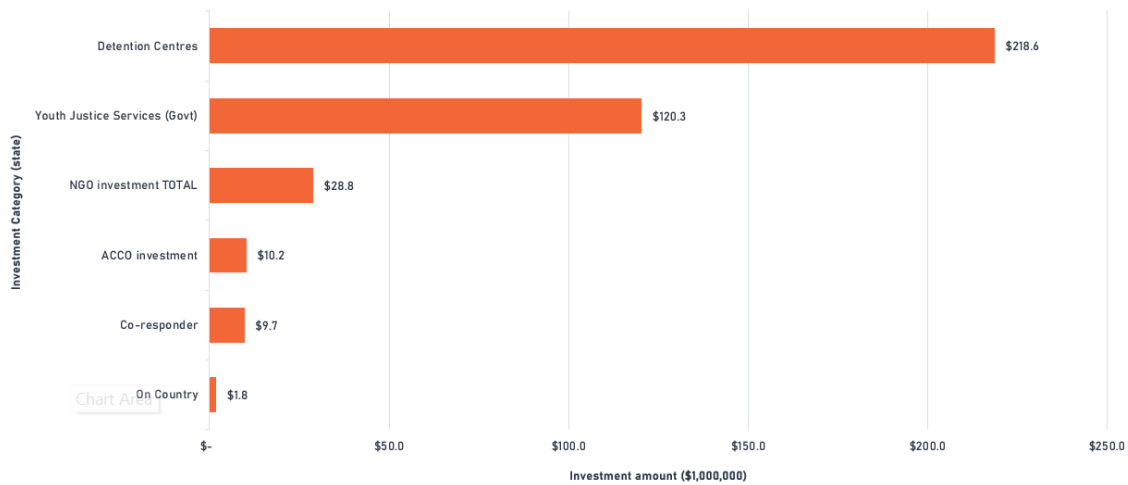
Despite public perception, young people do not develop these behaviours overnight. Case reads and local knowledge from communities highlights that for many young people in contact with youth justice systems their parents and families have often regularly sought assistance to support their young person in the preceding years. Recent consultations with Aboriginal and Torres Strait Islander Family and Children services across the state identified that many young people in contact with justice systems have had significant issues at school and often act out pain-based behaviours, with limited support provided, including failures to pick up early learning difficulties or cognitive disabilities.

## **Limited Investment in Aboriginal and Torres Strait Islander Communities**

QATSICPP has noted the unprecedented investment in Youth Justice in the past decade. However, we know that the most prolific offenders who reliably present with particularly complex needs cannot be treated effectively with statutory consequences alone. Youth Justice in Queensland commenced a process of modernisation and investment in approximately 2009 by adding a selection of cognitive-behavioural programs to its existing statutory public services. In recent years, investment has grown, and new teams within the Youth Justice have been created to accommodate this reform.<sup>xv xvi</sup>

## Youth Justice investment analysis

### YJ Investment



Source: 17 Youth Justice services - Report on Government Services 2023 - Productivity Commission (pc.gov.au) / documents.parliament.qld.gov.au/publicoffice/questionsanswers/2023/222-2023.pdf / 2021-22 consolidated GGIP expenditure - Queensland Government Investment Portal - Expenditure Data (consolidated view) - Open Data Portal | Queensland Government

However, despite the significant impact of youth justice on Aboriginal and Torres Strait Islander people **there has not been a substantial equal investment in working with our community controlled organisations to develop effective solutions to the long standing impacts of intergenerational trauma.**

Where investment has occurred, there has been significant development of meaningful solutions that combine cultural knowledge with effective therapeutic solutions. However, these continue to rely heavily on Youth Justice systems generating referrals and undertaking the case management of young people engaged in the programs.

Among Queensland's most promising programs are On-Country and Family Led Decision Making. On-country programs rightly prioritise connection to culture as a catalyst for change.

Whilst the highest risk Indigenous young people stand to benefit most from an On-Country concept, the referral process dictates they must first report to and receive a referral from Youth Justice. The paradox at play is that the highest risk young people in Youth Justice are likely either in detention, transitioning from detention, or completely disengaged from their community reporting and program obligations.

Family-Led Decision Making is designed based on individual and family self-determination principles. As with On-Country, however, Family-Led Decision-Making referrals are primarily the responsibility of Youth Justice caseworkers; resourcing and specifications of the FLDM program do not recognise the importance of service continuity in sustaining difficult change with high-risk young people.

In any person's journey of change, choice and planning of change is critical. However, having a trusted support person attempting change through multiple relapses is equally important. If a Family Led Decision Making staff member has successfully located and built rapport with a high-risk young person and their family to identify a change strategy, they are best placed to see that strategy through. Currently, FLDM programs are resourced only to generate engagement and develop the plan. The model insists that the execution of that plan must be sourced outside of the FLDM

program. This arrangement fails to recognise the difficulty and relative value of rapport and engagement throughout a change process.

## Our Solutions for Change



**QATSICPP supports the Queensland government’s focus on reducing recidivism for serious repeat youth offenders as critical to tackling youth crime and improving community safety.**

Increased resourcing to Aboriginal and Torres Strait Islander led and delivered programs is critical to enable improved responses to significant intergenerational trauma that First Nations children and young people heavily involved in the youth justice have experienced. Targeted strategies that result in a reduction in youth offending are critical to reducing the incarceration of First Nations people in the adult justice system and improving community safety across the board.

**Our proposals seek to improve life outcomes and unlock the potential of our children, young people and families to contribute to Queensland’s economic development and enjoy the benefits of our state’s strong economic position.**

To ensure a greater level of community safety in our community and reduce the number of community members who fall victim to crime, we need programs to reduce young people’s impulsive and risky behaviours. It is a necessary step to first overcome the impacts of trauma to change thinking and, therefore, change behaviour. There is significant evidence of the positive cost-benefit effect of trauma informed approaches.

All states and Territories have committed through Closing the Gap by 2031 to reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent.<sup>xvii</sup> Unfortunately Queensland is not on track to meet this target with First Nations young people increasing their rate of detention to 40.2% in 2022, which is up from the previous rate in 2021 of 33.7%.<sup>xviii</sup> Urgent action is needed to be bring the state on track to meet these commitments.

If more of our children, youth and families are effectively supported to heal and overcome historically entrenched disadvantage, they will more likely avoid incarceration and other statutory systems, and more actively contribute to and participate in society and the economy. This will require genuine self-determination, earlier intervention outside the statutory age of criminality, intense resource concentration, and flexible, tailored whole-of-family solutions.

Our solutions focus on investing in our community-controlled organisations to develop and deliver the solutions needed to improve life outcomes and ensure a strong economic future for Aboriginal and Torres Strait Islander children. This will require reformed commissioning and investment processes that recognise self-determination at all levels, from design specifications to tender procedures, service agreements, and program implementation.

## Re-building Families

**Intensive Case Management (ICM)**, currently delivered directly by the Youth Justice system, is an example of the family focused approach required for Aboriginal and Torres Strait Islanders in Queensland.

However, the flexibility of statutory services is not adequate to deliver such a service effectively to the needs of an entire family. The concentration of effort and innovation required to break down entrenched barriers of mistrust and build a genuinely therapeutic alliance is too great for a government agency.

There are too few Aboriginal and Torres Strait Islander staff, and the policies governing client-worker contact outside of office hours are restrictive for intensive case management type models to reach the highest risk offenders. Further, a truly effective service cannot be tied to the length of a court order as genuine change takes time and the time taken to change cannot be finite. Further, approaches that outsource multiple departments and services to coordinate a wholistic family response are not only practically inefficient and cost-prohibitive but culturally inappropriate in the number of different individuals accessing communities and homes.

An evaluation of Youth Justice Family Led Decision Making (YJFLDM) found the program was well attended, successful in engaging families to come up with solutions to young people's offending behaviour, and successful in diverting young people from risky behaviour.

In 2019, the YJFLDM trial commenced in four sites across Queensland YJFLDM is an independent process designed to prevent young Aboriginal and Torres Strait Islander people from reoffending through a young person and family centred approach and the production of a 'family plan' to get the child or young person back on a more positive path.

The FLDM model is not new, having been adopted worldwide and in most Australian states and territories due to its effectiveness in reducing ongoing contact with youth justice. However, the adaption of this model into the Youth Justice system is a relatively new initiative that shows an intention to improve the way the system has traditionally engaged with young people and families. Based on current qualitative and quantitative data about YJFLDM, the program has great potential to create improvements across outcome areas such as confidence, willingness engage with support, ability to articulate their needs to services, and quality of system responses for family. Each year, YJFLDM can reach more than 300 children, young people and families at risk or already involved with the youth justice system each.

Developing a First Nations led Intensive case management program as annexures to existing On Country and Family Led Decision Making (FLDM) programs, with a reasonable number of consistent support workers with the family can build genuine trust with, would be a logical investment. By extending the length, intensity and resources of these existing programs through case management services we better leverage their engagement-participation potential and translate that into successful engagement, assessment and treatment with health and behavioural professionals who can assist support staff to maximise the maintenance of positive change for longer periods.

### **Safer families and homes reduce court and watchhouse pressures**

The QFCC report on Queensland watchhouses provided evidence that Childrens Courts are overseeing substantial increases of young people whose watchhouse bail is denied citing risks connected to housing and family circumstances. Case information provided by the Queensland Police Service shows family circumstances were often cited as the reason for not imposing suitable conditions to support bail for the child. Decisions to oppose bail weighted family-community relationships, the parent's willingness, the home environment, parental factors and accommodation.

viii

By investing in whole families as the primary approach to mitigating a young person's offending risk, we may concurrently increase the safety and suitability of the homes as bail addresses. Whole of family approaches have the minimum potential to repair relationships and facilitate improved interpersonal communication skills (for both adults and children) which provides increased effectiveness of parents and carers to supervise and mitigate risks of their child breaching bail conditions (for example by leaving the residence, being out past curfew time, or making prohibited peer contact).

Further to this there is a need to ensure we have Aboriginal and Torres Strait Islander youth and family services can access flexible funds that will enable them to increase intensive case support, including afterhours in home support to young people and families, including seeking more suitable accommodation for young people who may be living in over-crowded conditions. Having access to these substantive resources and ability to scale up support when needed will ensure more young people are not being detained in watchhouses.

## **Culturally Integrated Services**

The On Country program has shown promising results, but the service's availability in only three sites in Queensland is not meeting current demand. The On Country program involves mentoring, On Country camps and other cultural activities to reduce rates of offending and strengthen young people's cultural and spiritual connections to land through the active efforts and participation of local community leaders, Elders and Traditional owners. The On Country model should be further developed with local communities across Queensland so that there is one On Country program for each youth justice region (a total of six programs from 2024/2025 onwards), in addition to doubling the current funding amount per On Country service.

QATSICPP believes that enhancements to the model are also needed, including increased case management processes to ensure that gains made whilst participating in the On-Country program are maintained in the longer term. A recent evaluation found the program was effective in connecting young people to their culture and providing them with positive life pathways, also highlighting the therapeutic value of On-Country as a 'circuit breaker' in the lives of children and young people on a trajectory to further entrenchment within the Youth Justice system. International

and domestic literature suggests that Aboriginal and Torres Strait Islander designed and led justice programs consistently outperform those that are externally developed.

Despite this, the On Country program is set to receive only \$4.2 million in funding over the next two years, compared with almost \$78.4 million for the youth justice co-responder programs, despite the lack of any public evaluation on the Youth Justice Co-Responder model.

## A Generational Plan

There is currently no coordinated First Nations lead plan to address our children and young people's overrepresentation in the youth justice system. Data suggests that despite an increase in investment (primarily in statutory services delivered directly by the government), the government's approach to youth justice is not working. A generational Youth Justice plan should mirror the success of Child Safety's Our Way: A Generational Strategy for Aboriginal and Torres Strait Islander children and Families (2017-2037).

A generational plan to reduce the over-representation of First Nations youth in the youth justice system will require a proactive strategy co-owned by the Queensland Government, Aboriginal and Torres Strait Islander leaders and communities around Queensland. Building such a strategy will require a comprehensive process, working with Elders, the Queensland Aboriginal and Torres Strait Islander Coalition of Peaks, Community-controlled organisations, the Department of Youth Justice, Employment, Small Business and Training, and other critical representative organisations.

The plan must commit us a decade or more into the future, beyond political cycles, to coordinate efforts and reach our goal of ensuring children and young people are provided services that help them to heal and prevent entry to the system or otherwise significantly reduce the age-onset, number and seriousness of offending behaviour.

## Conclusion

There has been universal agreement across all political parties that increased investment in early intervention is part of the critical solutions to reducing the impact of youth crime across Queensland. Given the over-representation of Aboriginal and Torres Strait Islander children and young people in contact with youth justice, including in detention, First Nations organisations and peaks must be at the heart of designing and implementing new solutions.

Our communities want the responsibility to support their children and young people on pathways to ensure they thrive. They have proven that whenever they have been given the opportunity to innovate, they have delivered timely and practical solutions to support young people in reducing contact with justice systems. What is required is a greater investment in these solutions and opportunities to build on this work and take it to scale. As has been noted by the Police Commissioner, arresting young people alone will not make the significant impact required to keep them and their communities safe in the long term.

Investing in them and their communities to build pathways to address their trauma, build meaningful relationships and ensure that they are engaged in purposeful activities that will set them up for success is at the heart of what will create long-term change. The solutions outlined in this submission provide the pillars required to ensure this change can occur expediently and set the preconditions for long-term success.

# Contact

For questions about this submission, please contact **Mr Garth Morgan, Chief Executive Officer**.  
Ph: 07 3153 7787 Email: garthmorgan@qatsicpp.com.au.

## Endnotes

- 
- <sup>i</sup> Australian Institute of Health and Welfare. <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2021-22/contents/data-dashboard>
- <sup>ii</sup> <https://www.aihw.gov.au/reports/youth-justice/young-people-under-youth-justice-supervision/data>
- <sup>iii</sup> Australian Institute of Health and Welfare. <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2021-22/contents/data-dashboard>
- <sup>iv</sup> Australian Institute of Health and Welfare. <https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2021-22/contents/data-dashboard>
- <sup>v</sup> QATSI CPP Response to Strengthening Community Safety Bill (2023)  
<https://www.qatsicpp.com.au/blog/2023/02/28/qatsicpp-response-to-strengthening-community-safety-bill-2023/>
- <sup>vi</sup> Australian Bureau of Statistics. Socio-Economic Indexes for Areas (SEIFA). *Youth Justice reporting uses the Index of Relative Socio-economic Advantage and Disadvantage (IRSAD) which summarises information about the economic and social conditions of people and households within an area, including both relative advantage and disadvantage measures.* [www.abs.gov.au](http://www.abs.gov.au)
- <sup>vii</sup> The Department of Youth Justice Education and Small Business and Training, Youth Justice Statewide Census (2018-2022). Retrieval from: [https://desbt.qld.gov.au/data/assets/pdf\\_file/0022/17086/census-summary-statewide.pdf](https://desbt.qld.gov.au/data/assets/pdf_file/0022/17086/census-summary-statewide.pdf)
- <sup>viii</sup> The Queensland Family & Child Commission (QFCC): Who's responsible: Understanding why young people are being held longer in Queensland watch houses (2023). <https://www.qfcc.qld.gov.au/news-and-media/queensland-watch-houses-under-review>
- <sup>ix</sup> Wilkins 2015. Retrieved from [https://www.melbourneinstitute.com/downloads/hilda/Stat\\_Report/statreport\\_2015.pdf](https://www.melbourneinstitute.com/downloads/hilda/Stat_Report/statreport_2015.pdf)
- <sup>x</sup> Productivity Commission, Report on Government Services; retrieved from <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/child-protection>
- <sup>xi</sup> Productivity Commission, Report on Government Services: retrieved from <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice>
- <sup>xii</sup> <https://www.nsw.gov.au/sites/default/files/2023-05/out-of-home-care-leavers-report.pdf>
- <sup>xiii</sup> Australia's National Research Organisation for Women's Safety Limited (2023) You can't pour from an empty cup: Strengthening our service and systems responses for Aboriginal and Torres Strait Islander children and young people who experience domestic and family violence. <https://www.anrows.org.au/publication/you-cant-pour-from-an-empty-cup-strengthening-our-service-and-systems-responses-for-aboriginal-and-torres-strait-islander-children-and-young-people-who-experience-domestic-and-family-violence/>

---

<sup>xiv</sup> Department of Youth Justice, Employment, Small Business and Training - Additional briefing, Robert Gee APM, Director-General, Repeat offenders. Retrieval from [231130 - From Robert Gee APM, Director General, Department of Youth Justice, Employment, Small Business and Training - Additional briefing, Repeat offender index.pdf \(parliament.qld.gov.au\)](#)

<sup>xv</sup> <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice/222-2023.pdf> (parliament.qld.gov.au)

<sup>xvi</sup> [https://www.data.qld.gov.au/dataset/queensland-government-investment-portal-expenditure-data-consolidated-view/resource/8c6d2513-7728-4173-bb53-f521daf2b3c0?inner\\_span=True](https://www.data.qld.gov.au/dataset/queensland-government-investment-portal-expenditure-data-consolidated-view/resource/8c6d2513-7728-4173-bb53-f521daf2b3c0?inner_span=True)

<sup>xvii</sup> <https://www.closingthegap.gov.au/national-agreement/targets>

<sup>xviii</sup> <https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area11>



## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

**Submission No:** 116 - supplementary submission  
**Submitted by:** Queensland Aboriginal and Torres Strait Islander Child Protection Peak  
**Publication:** Making the submission and your name public  
**Attachments:** See attachment  
**Submitter Comments:**



ChildProtectionPeak

## Youth Justice Select Committee Submission

Queensland Aboriginal and Torres Strait Islander  
Child Protection Peak Limited

[www.qatsicpp.com.au](http://www.qatsicpp.com.au)

Introduction .....	4
Executive Summary .....	5
Phase 2 Priority Areas for Consultation.....	7
1. A 10 year strategy for youth justice in Queensland that engages all government agencies and community organisations which deliver services along the youth justice service continuum. ....	7
2. How to instigate earlier assessment, intervention and prevention strategies that support children and their families to access health, education, housing and other services. ....	9
Investing in the early years .....	9
Addressing vulnerability early .....	10
Early intervention supports for young people.....	12
3. Reimagining youth justice infrastructure, including best practice standard accommodation for children and young people who are detained, held on remand or transitioning from detention to the community. ....	13
Supporting Families to manage their young people .....	14
Regional Remand Centres .....	14
4. How to improve:.....	16
a) children and young people’s engagement with positive programs, particularly for those held on remand or released on bail where engagement may be lower compared to those in detention.....	16
b) children and young people’s transition back into the community, including consideration of supported accommodation models.....	18
5. The current operation of the Youth Justice Act 1992, including sentencing principles, the criteria for serious repeat offender declarations and traffic offences.....	20
Sentencing Principles.....	20
Culturally Driven Legislation .....	20
6. How to strengthen public confidence in the youth justice system, including by: .....	23
a) examining the impact of social media and traditional news media on youth offending and community perceptions of safety .....	23
b) improving the way data on youth crime is communicated to the public. ....	23

7. How to improve youth justice system responses to victims and ensure they are able to access support services across the state.....	25
Aboriginal and Torres Strait Islander children as Victims of Crime .....	25
Culturally safe supports for First Nations Victims of Crime.....	26
Restorative Processes important to healing.....	26
Conclusion.....	27
Contact .....	28

# Introduction

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) welcomes the opportunity to provide a response to the Youth Justice Select Committee's call for submissions on the identified priority areas for reform. Our membership includes 38 Aboriginal and Torres Strait Islander Community Controlled Organisations across Queensland. At the community level, our members provide services, advice and support relating to the safety and wellbeing of Aboriginal and Torres Strait Islander children, young people and families.

We welcome the opportunity to work with the Queensland Government to strengthen youth justice responses that recognise and address the underlying causes of offending and embed evidence based, trauma informed and culturally safe responses. QATSICPP is deeply concerned about the youth justice crisis facing Queensland and acknowledges the priority of the Queensland Government to keep communities safe and to reduce the recidivism rates of serious repeat offenders and high risk offending behaviours of young people in Queensland.

As a peak body deeply engaged with our members, we know firsthand many of the challenges they are facing in working with their young people. In recent consultations with Aboriginal and Torres Strait Islander Family and Children services across the state many of them identified key issues that were driving contact for their young people with justice systems. These include undiagnosed disability and cognitive issues, housing insecurity, poverty, and a lack of adequate culturally attuned supports in education and mental health.

The failure to address these drivers are reflected in the data that indicates that close to 70% of young people in Queensland detention centres are Aboriginal and Torres Strait Islander young people.<sup>1</sup>

However, despite the significant impact of youth justice on Aboriginal and Torres Strait Islander young people, there has not been equal investment in our

---

<sup>1</sup> [Childrens Court Annual Report 2022-2023 \(courts.qld.gov.au\)](https://courts.qld.gov.au/annual-reports/childrens-court-annual-report-2022-2023)

community controlled organisations to develop effective solutions to the long standing impacts of intergenerational trauma.

Current investment in Aboriginal and Torres Strait Islander community driven solutions is 11 times less than the current investment in the Youth Justice Departmental service provision.<sup>2</sup>

We know that to divert more children and young people from the youth justice system we need increased investment targeted across the continuum of service provision for young people including from prevention and early intervention to those young people who have been in detention, transitioning back into the community safely.

To achieve this, we need to grow the investment in Aboriginal and Torres Strait Islander community organisations who are closer to families, understand the strengths of their communities and are able to address their vulnerability early. This has proven to be a cost effective strategy that has become policy nationally as a result.<sup>3</sup>

QATSICPP has some critical insights to offer as solutions that will ensure enable greater community safety and reduce the number of community members who fall victim to crime. QATSICPP acknowledges the Youth Justice Reform Select Committee's specific need to seek feedback on the priority areas for Youth Justice Reform in Queensland and has structured our response below to address these priority areas.

## Executive Summary

QATSICPP believes that a generational strategy needs to be developed to address the over representation of Aboriginal and Torres Strait Islander children and young people in youth justice systems.

Data suggests that despite an increase in investment, the government's approach to youth justice is not reducing the number of recidivist youth offenders.

---

<sup>2</sup> <http://rogs-2023-partf-section17-youth-justice-data-tables>

<sup>3</sup>

Its approach of investing primarily in public service operations puts the government's ability to meet its commitments under National Agreement for Closing the Gap at risk. At this stage, Queensland is not on track to reduce the over representation of First Nations youth in detention by 2031 by 30%.

Drawing from the success of "Our Way: A Generational Strategy for Aboriginal and Torres Strait Islander Children and Families," which significantly lowered the rate of over representation in out of home care (OOHC) in Queensland, we argue for a similar comprehensive and transformative approach to reform youth justice.

A generational strategy will require proactive co development with Aboriginal and Torres Strait Islander leaders and communities, focusing on early childhood as a pivotal stage for development and cultural identity reinforcement.

It must encompass investment redirection from court and statutory services to community based interventions, prioritise early intervention and prevention, and ensure services are culturally responsive and accessible, especially in regional and remote communities.

Key aspects include improving early assessment, intervention, and prevention to support Aboriginal and Torres Strait Islander children and families in accessing essential services, thereby preventing youth justice system contact.

Our submission provides clear solutions that include:

- A shift to a focus on early intervention and prevention, underpinned by identifying vulnerability early and providing culturally safe and strong family supports, is the path to achieving lasting change in the youth justice system.
- Approaches to youth engagement in positive programs and the transition back to the community post detention will require increased flexibility in service delivery, cultural responsiveness, and improved involvement of families and communities.
- Increasing supports to families that will enable them to deal effectively with the challenging and complex behaviours of young people and ensure more young people can reside in their community as the first means of response.
- Ensuring Aboriginal and Torres Strait Islander communities can build on effective programs and services to young people including having the resources to increase youth services and provide wrap around support to young people who are at risk of increasing offending.

- The Youth Justice Act 1992 should be reviewed to ensure it includes increased mechanisms that embed cultural accountability processes and ensure Aboriginal and Torres Strait Islander children are afforded their rights, including to preserving their cultural connection and identity.
- Enhancement of public confidence through transparent communication of system performance and education on youth justice issues.
- Improved responses to victims of crime by ensuring access to culturally safe victim reparation, support services that includes services for First Nations children who have been victims of crime, and enhanced restorative justice processes as a means for effective rehabilitation and community healing.

## Phase 2 – Priority Areas for Consultation

### 1. A 10-year strategy for youth justice in Queensland that engages all government agencies and community organisations which deliver services along the youth justice service continuum.

QATSICPP believes that a generational strategy needs to be developed to address the over representation of Aboriginal and Torres Strait Islander children and young people in youth justice systems. Data suggests that despite an increase in investment, the government's approach to youth justice is not reducing the number of recidivist youth offenders. Its approach of investing primarily in public service operations puts the government's ability to meet its commitments under National Agreement for Closing the Gap at risk. At this stage, Queensland is not on track to reduce the over representation of First Nations youth in detention by 2031 by 30%.



A generational strategy has been very successful addressing the over representation of Aboriginal and Torres Strait Islander children in the child protection systems. The development of *Our Way: A Generational Strategy for Aboriginal and Torres Strait Islander children and Families (2017–2037)* has seen Queensland achieve the lowest rate of over representation of First Nations children in OOHC across the nation.<sup>4</sup>

Only with such a bold and transformative approach will Queensland be able to reduce the over representation of First Nations youth in the youth justice system. Our children's childhoods are a critical time in both development and creating strength for their future. A generational strategy that is focused on ensuring our children having the best childhood, that is safe and secure, fun and supported enabling them to grow up in their families and communities with their culture as the centre is foundational to creating long lasting change.

The development of a generational strategy will require a proactive strategy codeveloped with Aboriginal and Torres Strait Islander leaders and communities around Queensland. Building such a strategy will require a comprehensive process, working with Elders, the Queensland Aboriginal and Torres Strait Islander Coalition of Peaks, Community controlled organisations, the Department of Youth Justice, Employment, Small Business and Training, and other critical representative organisations.

The plan must commit us a decade or more into the future, beyond political cycles, to coordinate efforts and reach our goal of ensuring children and young people are provided services that help them to overcome disadvantage, address underlying issues and increase effective early intervention and prevention strategies. A generational plan should include the following elements:

- Be built around ensuring that all Aboriginal and Torres Strait Islander children get the best childhood and the best start in life.
- Be driven by the voices of children and young people, their families and communities.
- Acknowledges and accounts for intergenerational impacts of trauma and seeks to address this effectively across policy, procedures and practice.
- Reinvestment of funding from Court and statutory administration services to Aboriginal and Torres Strait Islander community based intervention services.

---

<sup>4</sup> Family Matters Report 2023

- Shifts the focus of youth justice to early intervention, focussing on ensuring Aboriginal and Torres Strait Islander children experience healthy and happy childhoods.
- Greater investment in supporting families at points of vulnerability;
- Prioritises approaches that address the drivers into the justice system including specifically targeted and resourced responses from our education and health systems. Within those systems approaches must include culturally responsive behavioural, social emotional, communication and cognitive assessment and support.
- Focuses service and funding models to effectively service regional and remote Queensland communities.

## 2. How to instigate earlier assessment, intervention and prevention strategies that support children and their families to access health, education, housing and other services.

### Investing in the early years

Children do best when their parents and families are supported early to give them the best start in life and promote optimal child development<sup>5</sup>.

The rapid development that occurs in these early years of life provides the best opportunity to establish the conditions for children to thrive. There is strong evidence that intervening as early as possible in a child's development enhances the preventative effect and improves the impact of interventions. As children get older, it can be harder to reverse the impacts of early adverse experiences, especially for those experiencing vulnerability or disadvantage. There is also compelling evidence for a strong return on investment in the early years.<sup>6</sup>

As result to prevent children and young people coming in contact with justice systems, we need to start early and focus on providing our children with childhoods that builds their cultural identity, supports their emerging strengths,

---

<sup>5</sup> [Ensuring children get the best start in life | Australian Institute of Family Studies \(aifs.gov.au\)](#)

<sup>6</sup> Department of Social Services 2023b

ensures smooth transitions in all stages of their education and identifies early any challenges or developmental delays.

Unfortunately, our early childhood system is not currently geared towards these approaches. Too many Aboriginal and Torres Strait Islander children and young people have not had access to quality early childhood supports that would have supported them and their parents to thrive. We know that in regional and remote contexts in our state that many First Nations children are not afforded the services or systems to support them to have the right early intervention approaches.

### **Addressing vulnerability early**

Current data indicates that the diverse needs of Aboriginal and Torres Strait Islander children and young people with developmental delays or neurodiversity are under diagnosed and lack appropriate culturally developed services and supports.

Nationally, Aboriginal and Torres Strait Islander children aged 0 to 14 have double the rate of disability than non Indigenous children.<sup>7</sup> Research suggests that understanding the extent of disability experienced by Aboriginal and Torres Strait Islander young people in youth justice is extremely difficult to ascertain.<sup>8</sup> This is a result of numerous issues including:

- Limited or no diagnosis,
- misdiagnosis of disability
- A blurring of understanding of the differences between mental health, cognitive impairment and other disorders,
- cultural bias in testing practices.<sup>9</sup>

Multiple inquiries into mental health and disability have found that a large percentage of juvenile detainees have a disability and that a lack of assessment, treatment, and services for children with a mental illness means that many of these children fall through a range of service systems and end up in the juvenile justice system, 'consigned to incarceration rather than treatment.'<sup>10</sup>

Most recently the Productivity Commission's 2020 inquiry into mental health found that mental healthcare was designed primarily for people from non Indigenous communities and that despite significant effort, the mental health system has not been able to improve outcomes for Aboriginal and Torres Strait Islander people.<sup>11</sup>

---

<sup>7</sup> Australian Bureau of Statistics [ABS], 2012

<sup>8</sup> Ba dry, 2015

<sup>9</sup> QATS CPP, 2020 35 Ba dry et al, 2015

<sup>10</sup> Human Rights Commission (2005) 'Indigenous Young People with Cognitive Disabilities and Australian Juvenile Justice Systems'

<sup>11</sup> <https://www.pc.gov.au/inquiries/completed/mental-health/report>

Investment in early intervention must be underpinned by an allied health system that values and integrates culture within its operations. The limited First Nations workforce alongside overarching limitations in size and distribution of the allied health workforce is creating significant tension in meeting this challenge. In 2019, the Allied Health Professions Australia (APHA) estimated there to be 195,000 allied health professionals in Australia with approximately only 15,000 allied health professionals working in rural and remote areas.<sup>12</sup>

Further research findings suggest that there is a significant maldistribution in the current allied health workforce despite increasing graduate numbers, and there is strong unmet need for more allied health services in rural and remote Australia.<sup>13</sup> If an increase in allied health professionals is required to support improved support for children to access diagnostic and treatment for identified disabilities, we should ask how this can be achieved efficiently whilst accounting for the development of cultural responsiveness of these professions (including tertiary education and workforce training of First Nations people).

The lack of systemic ability to effectively meet the cultural needs of Aboriginal and Torres Strait Islander children and young people is particularly important in Queensland where many young people who encounter youth justice systems come from regional and remote areas in our state where they may not speak English as their first language.

Currently the use of assessment tools to determine disability, mental health and cognitive processing rely on western assessment processes that are not designed to pick up cultural nuances in communication. Tools that may be designed to attend to these issues such as the Westerman Aboriginal Symptom Checklist for Youth (WASC Y) – which is the first scientifically validated psychological test developed specifically for Aboriginal Australian youth – are not routinely used.

Given the workforce challenges in the health system, it is critical that education services have well resourced and well trained staff to identify young people who present with behaviour challenges that may be related to underlying issues.

---

<sup>12</sup> Report for the Minister for Regional Health, Regional Communications and Local Government on the improvement of Access, Quality and Distribution of Allied Health Services in Regional, Rural and Remote Australia, © Commonwealth of Australia (Department of Health) 2019.

<sup>13</sup> Report for the Minister for Regional Health, Regional Communications and Local Government on the improvement of Access, Quality and Distribution of Allied Health Services in Regional, Rural and Remote Australia, © Commonwealth of Australia (Department of Health) 2019.

These can include cognitive, and mental health issues as well as disabilities that can be misinterpreted by teaching staff and treated as poor behaviour. Without appropriately trained staff, schools risk continuing to suspend and exclude children unnecessarily. Early childhood education services and schools have an opportunity to build a platform for inclusion and ensuring young people are afforded the opportunity to get the right supports to overcome their challenges.

### **Early intervention supports for young people**

Some of these challenges could be met through enhancing the service system of Aboriginal and Torres Strait Islander child and family services in Queensland.

Family Wellbeing Services (FWS) are one stop shops for Aboriginal and Torres Strait Islander families to access support to ensure they can safely care for children.

These free services are available to all Aboriginal and Torres Strait Islander families (regardless of whether Child Safety are already involved) and are delivered by a network of 27 Aboriginal and Torres Strait Islander community controlled organisations around the state, including locations in Torres Strait and Cape York. FWS work with other culturally appropriate services, including, education, housing services and health services to plan and provide a coordinated response to family needs.

A recent evaluation of Family Well being Services found that 91% of families stay out of the child protection system within the following six months after having their needs met through a Family Wellbeing Service.<sup>14</sup>

Family Wellbeing Services are a perfect example of successful early intervention services delivered by Aboriginal and Torres Strait Islander professionals. Many of these services already have a youth worker attached who is doing considerable work in engaging with young people in their local communities. However, we know that not all FWS have a Youth Worker resourced and we every service to have access to this specialist support to build a continuum of support for young people across the state.

Building on this service system infrastructure is likely to be more cost effective than standing up an entirely new system of support, with provision of additional

---

<sup>14</sup> ABT Associates. (2021). Final Report Aboriginal and Torres Strait Islander Family Wellbeing Services Evaluation; unpublished

funds being used to grow the numbers of youth workers and enhance the model. High among the priorities is the inclusion of intensive case management to support those most at risk. This would most benefit children and young people by supporting them to access the right services, maintain their education, repair and reconnect their family and community relationships, and help young people find employment.

Given the success of these comprehensive models in diverting families from child protection systems, if resourced effectively they could equally provide significant opportunities to divert young people from youth justice systems.

### **3. Reimagining youth justice infrastructure, including best practice standard accommodation for children and young people who are detained, held on remand or transitioning from detention to the community.**

Currently the Queensland government spends \$218 million in annual detention centre funding representing nearly 60% of the state's total investment in youth justice.

This level of investment could also purchase a world leading child development system for Queensland. Over time, it would likely eliminate much of the need for detaining young people, identifying behaviours early providing children and young people with supports, services, and education that will prevent children from spiralling down a path of offending behaviour and/or slow the escalation of offending behaviours i.e. it will stop the 10 year old passenger from becoming the 15 year old driver.

By funnelling children and young people into education and systems of support, we drastically improve their chances of getting a good education and becoming positive contributors to society.

## **Supporting Families to manage their young people**

QATSI CPP's position remains that in most cases, the detention of young people should be a last resort. We have noted that much of the rise of the need for detention has been a result of many young people being denied bail. For over 30% of the time that bail is denied it is because the prosecutors and magistrates do not believe that families can provide the right supervision or support to maintain the bail conditions that may be imposed<sup>15</sup>.

We believe that with increased investment in supporting families to navigate challenges and deal with complexities that arise in young people's behaviour as the primary approach to mitigating a young person's offending risk, we would be able to increase the safety and suitability of the homes as bail addresses.

Whole of family approaches have the potential to support young people and families to repair their relationships, address issues that have caused friction and distress and facilitate improved interpersonal communication skills for both adults and children. This in turn increases the effectiveness of parents and carers in being able to manage their young persons behaviour positively. As a result, this would reduce the concerns of courts about the ability of families to adequately supervise their young people whilst on remand.

Keeping young people in their families and communities also increases young people's socialisation ensuring they are being brought up in the positive social and cultural norms expected of them, including attendance at school, participation in sport and participation in cultural activities, that breaks the cycle of offending.

## **Regional Remand Centres**

The current use of two major centres to remand young people creates significant complexity across the state. It is extremely difficult for families to have contact with their young people whilst in detention unless they reside close to an existing centre in South Brisbane, Ipswich, or Townsville. This means that many conversations that could be reparative and restorative, or programs where young people and their families could be engaged to address issues collectively are not able to be provided.

---

<sup>15</sup> The State of Queensland (Queensland Family and Child Commission) Who's responsible: Understanding why young people are being held for longer in Queensland watch houses.

Where transition is geographically realistic, the strict and secure internal practices of our detention centres make them unsuitable to partner with families and community based services to maximise the continuity of care and service delivery that defines an effective transition.

New Zealand demonstrates that decentralised custody can work with a smaller land mass and equivalent population of 5 million residents. New Zealand spreads its secure custody centres across 5 facilities (46, 40, 40, 30, 15) with a combined bed capacity of 171 across both North and South Islands (much of New Zealand's bed capacity is unused). New Zealand has a further 18 semi secure 'Remand Houses' nationwide, with only 3 locations run directly by government<sup>16</sup>.

In specific terms the committee might wish to consider:

- Smaller bed capacity facilities that are in key regional centres. Notwithstanding the transport savings, the logic is that by accommodating young people closer in proximity to family, community, and local services that interactions can be in person, more frequently, and those connections are more likely to be maintained in transition between custody and community. This increases families and community's connectedness to young people and provides opportunities to reassert clear cultural accountability mechanisms in the process.
- Regional facilities make it possible to provide routines and an intensity of programs that are a closer to the environment where the change will ultimately need to be maintained (at home with parents or carers)
- Regionally located facilities would allow the creation of community based support teams to wrap around young people and transition their services seamlessly between the custodial environment and community. This makes it more likely that a young person will maintain their relationships and progress in addressing their challenges.
- Regional infrastructure models of remand accommodation lend itself well to a return of the Leave of Absence (LOA) concepts where young people were once afforded days supervised in community leading up to their release from detention. Similar concepts such as (GPS monitored) bail home periods could further enhance transition processes.

---

<sup>16</sup> <https://pract ce.orangatamar k.govt.nz/our work/ ntervent ons/fam y group conferenc ng/>



## 4. How to improve:

**a) children and young people's engagement with positive programs, particularly for those held on remand or released on bail where engagement may be lower compared to those in detention.**

It is important to note that mandated program participation that enforces sanction for non participation is a primary operative feature of the current justice system. Court order contravention rates for failure to report or participate in accordance with Youth Justice instructions are an indication of the difficulties in directing a Serious Repeat Offender to attend a program. The context surrounding young serious repeat offenders is extremely complex and often contributes to the young person being unable to fulfill the court's expectations.

All current youth justice funded community based programs in Queensland require that referrals come via the department responsible for Youth Justice. Youth Justice are known to 'direct' young people to engage in those programs as a requirement of their court orders. This means that young people are often given little choice in the programs they are expected to engage with. We are aware from talking with many service providers that where young people are engaged with programs and services, they feel meet their needs, that their commitment to attendance and compliance with program requirements is greatly enhanced.

Whilst the committee has heard a lot about the difficulty in engaging young people with challenging behaviours, what we know works is consistent and reliable approaches that focus on engaging young people and building strong relationships as the most important success factor in all programs that have proven to be effective.

This leads to the need to invest in programs that are funded to establish and maintain continuity and consistency of relationships. Programs need to be able to follow young people wherever they are, including maintaining a presence and provision of service in detention. This provides significant opportunity to use relationships as the primary means to ensure lessons learned in one place can be transferred to community.

Whilst a program should be encouraging choice in participation, this should not mean program staff should stand idle waiting on young people to develop motivation to participate. Most modern and effective Aboriginal and Torres Strait Islander youth programs now operate using informal engagement modalities, where a foundation of familiarity can be built before formal approaches are made.

This often includes working firstly with concerned family members, carers or friends to build a network of support around young people and as a means to build trust with a young person themselves. These collective approaches are inbuilt into Aboriginal and Torres Strait Islander service delivery and are best provided by Aboriginal and Torres Strait Islander community controlled organisations, who are deeply engaged with their communities and have long standing approaches to working in culturally safe and supported ways.

**QATSICPP recommends the committee to consider:**

- that culture and involvement of parents and extended family is equally as important as the needs of a presenting individual child or young person. Were this a central consideration of program design, legislation and services, engagement by young people would improve markedly.
- Increased investment in Aboriginal and Torres Strait Islander community controlled organisations to design and develop effective place based services that are premised on driving repair and restoration.
- Increased flexibility in program reach and access. Developing initial rapport might require unplanned interactions at places and times that work for the young person. Staff safety in such circumstances cannot be compromised and resourcing must reflect this.
- Acknowledge the cycle of behavioural change and accept that changing entrenched or pathological thoughts and behaviour takes time. Relapse in particular is a normal feature of the cycle, serving as a flag for self reflection, learning and informing the next plans for change.
- Reduce remand to maintain connection and progress. Removing a young person from their community disrupts an established change cycle by isolating them from their trusted sponsors or supports in that change and can make all progress undone.
- Embed better trauma informed practice that seek to identify the periods between relapses (offending episodes) that could be tracked over time, seeking to identify success that may be based in less frequent and less intense offending rather than the current practice of noting the mere number of relapses (i.e. recidivism).

**b) children and young people's transition back into the community, including consideration of supported accommodation models.**

Restoration and repair of relationships is at the heart of Aboriginal and Torres Strait Islander culture. Transition and repair of harm to relationships on leaving detention is an essential process to ensure that young people and their families are brought back into a place of harmony.

The Aboriginal and Torres Strait Islander Healing Foundation have identified that there are four pillars of trauma recovery that are critical to embed in ensuring effective responses are enabled in communities. The diagram below outlines how these critical elements work effectively to support individuals, families and communities to heal.



## Figure 1. Four Pillars of Trauma Recovery<sup>17</sup>

Many Aboriginal and Torres Strait Islander communities have effective processes and existing infrastructure to support a reimagining of the means and ways to support young people on their transition back to their community to ensure they are kept safe and supported. This includes existing programs and supports that embed the culturally informed trauma practice outlined above.

What they often lack are the resources to wrap around young people and families, including 24 hour supports to ensure that they can create the effective strategies that will support rehabilitation, recovery and healing for young people. Many communities have places on country and the strong cultural staff to implement these processes that could be designed and delivered in effective ways to meet the individual needs of young people and their families.

What we do need to be aware of is that often the highest risk young people in detention centres are frequently subject to complex combinations of concurrent remand, detention, and community based orders. It is therefore even more important that services are wrapped around young people rather than young people's eligibility for service being determined by their youth justice order.

Therefore, we urge the committee to recommend pathways that would support Aboriginal and Torres Strait Islander organisations being able to access adequate resources that would support individualised programs of support to be wrapped around young people and their families that would support their reintegration and transition in effective cultural ways.

---

<sup>17</sup> 2017, Healing Foundation, "Towards a DFV Healing Framework for Aboriginal and Torres Strait Islander Men and Boys

## 5. The current operation of the Youth Justice Act 1992, including sentencing principles, the criteria for serious repeat offender declarations and traffic offences.

### **Sentencing Principles**

Legislation that restricts the discretion of decision makers (police, magistrates, judges) will not produce the required innovation the system requires to put downward pressure on the core youth offending cohort. For example, the Serious Repeat Offender Childrens Court declaration serves only to restrict the discretion of Magistrates and judges to support bespoke sentencing solutions. Increased discretion of the courts is critical to enabling the flexibility required to customise justice solutions to an individual child's need and circumstances.

QATSICPP would not support any change to the sentencing principles that currently require the court to consider detention as last resort. It is important to recognise that we are talking about children who are predominantly within the court system with young people aged 10-14 years making up over 30% of all current participants<sup>18</sup>. This principle ensures that young people whose offending can often be a result of impulsive acts of young people whose brain and executive function have not fully matured, are offered the opportunity to overcome this behaviour and reintegrate into positive behavioural patterns and norms.

### **Culturally Driven Legislation**

The current Youth Justice Act has limited focus on using cultural means and processes to guide its operation. If there is to be a legislative review of the youth justice act this is an opportunity to strengthen the cultural ways of thinking contained in the act and embed cultural processes accountability and support mechanisms within the legislative framework.

This has been effectively achieved in the child protection act where the Aboriginal and Torres Strait Islander placement principle is embedded. This inclusion

---

<sup>18</sup> <http://rogs-2023-partf-section17-youth-justice-data-tables>

compels Child Safety staff to ensure they have mechanisms to support families to stay together, enable the effective participation of families in decisions about their children and places obligations on staff that where children cannot remain in their birth family that kin and community members are considered as the first option for placement of children. preserving children's cultural identity and relationships.

For the youth justice system to be reimaged a significant first step would ensure that a rights based framework for working with Aboriginal and Torres Strait Islander young people that ensures the states obligation to children held within the Convention of the Rights of the Child and United Nations convention on the rights of Indigenous Peoples are embedded effectively.

This includes having enhanced mechanisms and processes that empower parents in their parenting role. Currently there is no place for family members in the court and no means to compel the court or Youth Justice to ensure that voice, aspiration, or concerns of families are included in the process of decision making in relation to young people's offending. This is limiting self determination and models for young people the lack of respect for the cultural obligations they have to family and community as part of their cultural identity.

For many First Nations families the court process can be daunting, traumatising, and confusing, making many uncomfortable to participate. In New Zealand this has been overcome through the use of family group conferencing where prior to court families are engaged in decision making processes that inform sentencing and decisions and outcomes from these processes are provided to magistrates to inform their decision making<sup>19</sup>. Whilst Queensland does have restorative justice processes, they are mostly run by Youth Justice and do not embed an Aboriginal and Torres Strait Islander approach to restorative processes and practices within these programs.

The most successful restorative processes that have been run by Youth Justice have been those that have been run by Aboriginal and Torres Strait Islander staff in the detention centre, highlighting how important the cultural knowledge, and processes were to driving success.

---

<sup>19</sup> [Youth justice family group conferences | Oranga Tamariki - Ministry for Children](#)

QATSICPP believes that there are significant opportunities to build on existing programs such as Youth Justice Family Led Decision Making and to design and deliver a significant restorative justice system that could intervene early and prevent court processes being required. Expansion of scope of restorative justice processes would involve empowering convenors to make written or verbal sentencing submissions to the Court (on behalf of and in agreement amongst conference participants). Outside of statutory realms, the restorative group conference process lends itself well also to advising stakeholder groups in case management decisions.

**QATSICPP recommends the committee to consider:**

- That Human Rights legislation, including the UN Convention on the Rights of the Child and UNDRIP must be strengthened and should be referenced within the Youth Justice Act to mechanise protections in bail, custody and sentencing decisions.
- Enact a legislative review to strengthen cultural informed justice principles and processes. As with Queensland Child Protection Act, the Youth Justice Act should be strengthened to be accountable to culture. There are sections within current legislation that acts to empower community justice groups with advisory sentencing responsibilities which could be leveraged to stand up more Murri Courts.
- Specific rights based principles for Aboriginal and Torres Strait justice should be embedded in legislation.
- A legislative mechanism be included within the Youth Justice Act that Magistrates and Judges may invoke to bring to bear accountability of key government systems. For example, where a lack of safety and standard of care is deemed to be contributing directly to offending behaviour (Child Safety), or a denial of access to education is evident (Education).
- Strengthen Section 69 of the Youth Justice Act to not only generally require the presence of a parent in court but give parents the opportunity to make submissions to the court. There is the potential to leverage the work of family led decision making programs in bringing a congruence of goals between family and child for a courts consideration.
- Consider the value of an increased role for restorative justice conference in pre sentence court processes whereby a conference yields wider agreements between victim parent police child on matters relating to sentencing and custody decisions.

## 6. How to strengthen **public confidence** in the youth justice system, including by:

**a) examining the impact of **social media and traditional news media on youth offending and community perceptions of safety****

**b) improving the way data on youth crime is communicated to the public.**

Victims have a right to voice concern and an equal right to support. However, victims are not a source of unbiased expertise on the operation or effectiveness of services for young offenders. Coverage and notoriety generated by social media hosted community crime groups appear to have outpaced the historical effects of traditional news media upon youth offender behaviour. There is a difference between perceptions of safety by the public and the actual crime rate.

A 1995 paper in the *Journal of Quantitative Criminology* found low correlation between Queenslanders' fear of crime and the actual crime rate. Nationally in 2021-22, 89.0 per cent of people felt 'safe' or 'very safe' at home alone during the night. This proportion dropped to 53.8 per cent when walking locally during the night and dropped further to 32.7 per cent when travelling on public transport during the night.<sup>20</sup>

Negative perceptions of youth and crime within community networks are mirrored with youth offenders themselves who have become equally connected through the growth of social media. The failure of the regular media to cover positive stories about young people, including young people who have turned their life around, continues to drive fear in the general public about young people in general in many communities.

Criminal boasting has always existed in the form of boastful statements within communities and detention centres. However, bragging of this nature rarely required a photo or video be produced as evidence of claimed exploits.

---

<sup>20</sup> C Justice - Report on Government Services 2023 (pc.gov.au)



Phone technology and social media have made it now possible to live broadcast evidence of criminal exploits on a statewide and potentially national scale. This may multiply effects of competitiveness amongst young people and is likely a contributing factor to the increasing number of offences committed by the core group of youth offenders.

The ability for social media groups to target and publicly shame alleged offenders may also have the undesired effect of encouraging young people to further embrace a criminal identity. These effects and the negative impacts of naming and shaming upon prospects of future employment are what originally brought about privacy protections in Childrens Courts.

Social media processes are also having a negative impact on victims, with many of them seeking online support due to limited regional and remote victim support available and these public and unmoderated processes have the ability to feed trauma and impede recovery. They have also led to disrupted social cohesion and caused deep concern about vigilante style responses that have unfairly targeted children and young people on the basis of their age and race.

This has created deep distrust and fear for Aboriginal and Torres Strait Islander families and many of our members have told us about the deep concerns that many of them and their staff have for the safety of their own children being out in public in some communities as a result.

**QATSICPP recommends the committee to consider:**

- Retaining current laws that protect the identities of young people in contact with the justice system to ensure they have the opportunity to change into the future without harmful labels attributed to them
- Government should assertively contribute to the public narrative with transparent crime facts, statistics and education.
- Governments should continue to work with social media companies to moderate more effectively damaging and dangerous content these laws govern the mainstream media including effective defamation opportunities that currently do not exist in the unregulated environment of social media
- Governments should continue efforts that build social cohesion in local communities and effectively deal with concerns of all groups to ensure safety is addressed equally for all residents.
- Transparent disaggregated statistics should be proactively communicated to the public on a routine basis. However, a practical

context of those statistics must be presented to mitigate misinterpretation and manipulation for political or personal causes.

- To complement efforts on statistical transparency, public education campaigns covering topics such as trauma, child development, neuro diverse behaviour and examples of positive rehabilitation would provide helpful contrasts in the public discourse.

## 7. How to improve youth justice system responses to **victims** and ensure they are able to access support services across the state.

### **Aboriginal and Torres Strait Islander children as Victims of Crime**

Through the work that our Member Organisations provide in many Queensland communities, we have learned that many children and young people in contact with the justice system have themselves been victims of crime. They are regularly the subject of chronic abuses that have occurred over time and not just within families but in the broader community.

Our own Domestic and Family Violence (DFV) research “You Can’t Pour from an Empty Cup” highlighted that for some children and young people their experiences of DFV led them to being vulnerable to being in relationships with much older adults too soon, and prone to entering abusive relationships with others prior to adulthood<sup>21</sup>. Our research further highlighted that the failure to provide effective healing and supports to young people who experienced DFV was resulting in many Aboriginal and Torres Strait Islander children entering child protection and youth justice systems as a result of cumulative trauma.

Much of the work in supporting victims has not focused on how to support Aboriginal and Torres Strait Islander children and young people who might be both perpetrators but victims of crime. Current processes that may be available to support young people heal from these impacts in detention rarely follow them to their community with significant failures to have effective culturally safe healing responses available in regional and remote parts of Queensland.

---

<sup>21</sup> 2022, Morgan et al, “You Can’t Pour from an Empty Cup”, ANROWS

## **Culturally safe supports for First Nations Victims of Crime**

It would be also important for the committee to note that Aboriginal and Torres Strait Islander young people also offend against their own communities and currently there are not effective culturally responsive processes to support First Nations victims of crime to seek support. This means many Aboriginal and Torres Strait Islander victims of crime are invisible and are being supported by their family and community, often missing out on vital resources to support their recovery.

## **Restorative Processes important to healing**

As we have outlined previously, we strongly support all Victims of crime to have effective supports but believe the lack of appropriately qualified and professionally resourced systems are leaving victims unsupported, distressed and having no opportunity to heal effectively from their experience. This is leading them to seek support in the unregulated environment of social media which often only serves to create additional trauma and distress.

For many victims the opportunity to face their offender and seek validation of the impact of what has happened to them as a result of the crime is an essential process in healing.

A KPMG evaluation of Queensland's' restorative justice services found that over 70% of victims reported that the conference process helped them to 'manage the effects of crime'.<sup>22</sup>

As a result, we believe that restorative justice conferences warrant investigation as to how more young people and victims can participate successfully. The current youth justice delivered restorative justice product could be enhanced culturally and expanded in scope to the benefit of all Queenslanders.

Enhancement of restorative justice would involve sourcing conference convening duties from community based organisations that employ First Nations staff. Organisations that operate outside of the public service and can leverage cultural connections to improve conference participation and provide more varied authentic opportunities for reparation.

---

<sup>22</sup> [Restorative justice conferencing program evaluation | Department of Employment Small Business and Training \(desbt.qld.gov.au\)](https://desbt.qld.gov.au/restorative-justice-conferencing-program-evaluation)

### **QATSICPP recommends the committee to consider::**

- The criteria for access to financial reparation for victims of crime to be broadened to consider exorbitant out of pocket medical expenses in particular. This must ensure that culturally safe processes are embedded to enable more First Nations victims of crime to have equity in seeking support.
- While financial remuneration may provide a tangible sense of restitution for the harm caused, the psychological trauma should not be underestimated. Counselling services offered should be professional, swiftly accessible and culturally safe to ensure all victims of crime have access to appropriate services.
- Consideration should also be given to examining how Youth Justice systems can enable victims to contribute and participate more fully in reparation processes in the justice process, including community service and restorative justice processes.

## **Conclusion**

Agreement across the political spectrum is growing that increased investment in early intervention is critical to reducing the impacts of youth crime across Queensland. Given the over representation of Aboriginal and Torres Strait Islander children and young people in contact with youth justice, including in detention, First Nations organisations and peaks must be at the heart of designing and implementing new solutions.

Our communities want the responsibility to support their children and young people on pathways to ensure they thrive. They have proven that whenever they have been given the opportunity to innovate, they have delivered timely and practical solutions to support young people in reducing contact with justice systems. What is required is a greater investment in these solutions and opportunities to build on this work and take it to scale.

Investing in Aboriginal and Torres Strait Islander people and their communities to build pathways to address their trauma, build meaningful relationships and ensure that they are engaged in purposeful activities that will set them up for success is at the heart of what will create long term change. The solutions outlined in this submission provide the pillars required to ensure this change can occur expediently and set the preconditions for long term success.

# Contact

For questions about this submission, please contact **Mr Garth Morgan, Chief Executive Officer.**

Ph: 07 3153 7787      Email: [garthmoran@qatsicpp.com.au](mailto:garthmoran@qatsicpp.com.au).