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Royal Commission into Violence, Abuse, Neglect and  
Exploitation of People with Disability  
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Dear Commissioners,

The Victorian Aboriginal Community Controlled Health Organisation (VACCHO) welcomes this opportunity to provide feedback on the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Commission) First Nations Issues Paper. The emphasis of the submission is equitable access to disability services by Aboriginal people and those factors necessary to enable Aboriginal people to exercise informed choice and control over the care they receive. As the peak body for Aboriginal health and wellbeing in Victoria, VACCHO is well placed to respond to the Commission regarding the welfare of Aboriginal people with disability. The term Aboriginal is used inclusively throughout the submission to refer to Aboriginal and Torres Strait Islander people.

VACCHO was established in 1996. VACCHO is the peak Aboriginal health body representing Aboriginal community-controlled organisations (ACCOs) in Victoria. The role of VACCHO is to build the capacity of our Membership and to advocate for issues on their behalf. Capacity is built amongst Members through strengthening support networks, increasing workforce development opportunity and through leadership on particular health areas. Advocacy is carried out with a range of private, community and government agencies, at state and national levels, on all issues related to Aboriginal health.

### **About the submission**

VACCHO identified an opportunity with the Royal Commission First Nations Issues Paper to unpack the systemic issues of neglect and abuse that go beyond personal experiences of Aboriginal people with disability. Disability and disability services receive insufficient policy attention and resourcing. VACCHO want to capitalize on any effort to improve the sector as there are unique challenges faced by Aboriginal people with disability and lack of coordination to provide robust and culturally appropriate services. VACCHO has heard from Members about issues with the transition to the National Disability Insurance Scheme (NDIS) and barriers that inhibit provision of adequately resourced and accessible culturally safe disability services.

To ensure the issues from Members were prioritised in the submission VACCHO worked with Rumbalara Aboriginal Co-operative, Mallee District Aboriginal Services (MDAS), Goolum Goolum Aboriginal Co-operative and Victorian Committee for Aboriginal Aged Care and Disability (VCAACD) Members who work as Aboriginal staff involved with the Home and Community Care Program for Young People (HACC PYP). VACCHO also collaborated with the First Peoples Disability Network, IDEAS, the Victorian Aboriginal Child Care Agency and the Victorian Aboriginal Legal Service on the to develop this submission.

VACCHO calls on the Royal Commission to take action and develop robust, well-considered recommendations that will improve the lived experience of Aboriginal people with disability. This includes addressing the thin market for Aboriginal disability services with tangible policy change and a workforce strategy that builds

capacity for increasing demand. VACCHO want to see place-based solutions so Aboriginal people with disability can have agency and meaningful choice over the services they require. There also needs to be a significant shift in the way the NDIA considers self-determination, including empowering staff and clients with the knowledge they need through better training and communications.

## **EXECUTIVE SUMMARY**

VACCHO's Submission builds on information provided by Aboriginal people working in the disability sector, and our Members who offer disability services, to consider the key questions from the First Nations Issues Paper.

A central theme of the discussions is that our Aboriginal Community members who experience disability are safest in the hands of ACCOs and Aboriginal staff. This is due to the shared values, trauma-informed approaches and understanding of Culture, family, Community and respecting the holistic nature of the individual.<sup>1</sup> It is also because Culture is the key protective factor for Aboriginal people with disability, enabling them to remain included and supported.<sup>2</sup>

The one size fits all approach to market principles perpetuated by the NDIS undermines the commitments to achieve health for Aboriginal people. All communities are different, meaning that consideration of the local context and Culture at the outset is paramount to the success of a service.<sup>3</sup> ACCOs are embedded in the local Community they serve and are an expression of self-determination, which is central to enhanced wellbeing and health outcomes for all Aboriginal people, including people with disability. Aboriginal people experiencing disability have a right to Culture, cultural safety and are entitled to be able to choose an ACCO provider of disability supports.

The market-based system of disability service provision that is represented in NDIS embeds systemic racism in access, excluding some cultural supports from funding options. The system impedes entry of culturally safe ACCOs from providing services given the pricing structure and funding models created. Activity based funding models, such as that underpinning the NDIS, require providers to have an adequate economy of scale to be able to provide services in a financially viable manner. In Victoria, ACCOs which are predominantly small to medium organisations are not able to achieve this in the 'thin market' provided by small, dispersed Aboriginal communities. The National Disability Insurance Agency (NDIA) promotes the aspiration for people with disability to live 'an ordinary life'; however, an 'ordinary life' for an Aboriginal person includes Culture, Community and family-based culturally safe services which are not currently supported through the individual- focussed NDIS system. To further exacerbate the issue, there has been insufficient priority placed on cultural safety training by the NDIA and lack of collaboration with Aboriginal communities to tailor and improve either the system design or service delivery by mainstream providers. This is inconsistent with the NDIA Reconciliation Action Plan (RAP). These failures are reflected in the poor uptake of the NDIS by Aboriginal people with disability.<sup>4</sup>

The systemic barriers faced by Aboriginal people with disability who attempt to access culturally safe support—and the persistent inaction of the NDIA to resolve the underlying issues—constitute institutional neglect. While, tragically, Aboriginal people have faced racism and neglectful behaviour by services on an individual level, this type of systemic neglect that leaves Aboriginal people unable to receive safe services must also be addressed immediately. We cannot continue to accept the under-representation of Aboriginal people who experience disability in all forms of disability support. The lack of choice currently experienced contributes to ongoing trauma (with risk of re-traumatization) and racial discrimination.

## SUMMARY OF RECOMMENDATIONS

### VACCHO's recommendations on areas for improvement to address the neglect of Aboriginal people with disability:

**Recommendation 1:** The NDIS to provide training for health professionals, in particular GPs. This training should:

- Increase workers' knowledge of NDIS access requirements
- increase workers' capacity to understand and meet criteria for evidence which demonstrates eligibility of Aboriginal people with a disability seeking to access NDIS supports.

**Recommendation 2:** Revisit the NDIS pricing structures and market principles to promptly address the limitations ACCOs and other specialist service providers face in uptake of NDIS services.

**Recommendation 3:** The NDIA should resource an Advisory Group which includes Aboriginal disability and health service providers, and Aboriginal people with lived experience of disability, to guide the implementation of their Reconciliation Action Plan (RAP), and embed cultural safety in NDIS operations.

**Recommendation 4:** The NDIA needs to develop and implement a policy position that acknowledges and supports service provision in thin markets, such as those experienced by Aboriginal people and Aboriginal providers of disability services.

**Recommendation 5:** NDIA to provide ongoing funding for ACCO based Access and Support staff who will:

- communicate the process of NDIS assessment and allocation of support packages
- liaise with the Local Area Coordinator (LAC)
- provide individual advocacy for Aboriginal clients around eligibility and review of their NDIS funded package of supports.

**Recommendation 6:** NDIA to partner with and fund ACCOs to develop tailored, clear and effective plain English communications for the local community about how to navigate the NDIS services. This information must be tailored to the local region and will complement the advocacy and access support provided by staff.

**Recommendation 7:** NDIA to invest in place-based strategies to increase cultural safety of NDIS assessments for Aboriginal people. This will require:

- The NDIA to develop and resource the implementation of a workforce strategy which encourages the recruitment, employment, and retention of Aboriginal Support workers at all levels across the disability sector (including LACs, service providers and within the NDIS). This strategy would need to complement existing plans for the Aboriginal Health workforce and Aged care.
- NDIA to mandate establishment of brokerage agreements between LACs and local ACCOs to enable choice for an Aboriginal participant who requests an assessment from an Aboriginal staff member, in those instances where the LAC does not have Aboriginal staff.
- NDIA to promote interaction between LACs and NDIS funded ACCO service providers to foster trusting relationships, stronger referral pathways between organisations and culturally safe care for Aboriginal people. This would include a focus on inter-agency collaboration, improved communication flows and consistent advice on access requirements.

**Recommendation 8:** Address disproportionate representation of Aboriginal young people in out of home care (OOHC) by providing diagnostic services where needed, and disability supports to families facing intervention by child protective services.

**Recommendation 9:** Ensure that Aboriginal parents with disability are provided culturally safe and supported assessment services, and family-centred supports such as culturally relevant parenting programs designed and delivered by ACCOs.

VACCHO is confident that by implementing proposed improvements and collaborating with Aboriginal people who receive disability services, the sector will be able to offer a wider range of culturally safe supports that will protect our Community. With the recognition that Culture is a key protective factor and it is necessary to prioritise the voices of Aboriginal people with disability and their Carers, we will prevent further harm including abuse, neglect, violence, and exploitation.

### **Community control**

To understand the full extent and impact of deficits in disability support on Aboriginal people with a disability, the Commission must take into account the many ways in which Aboriginal people experience marginalisation and the importance of self-determination as it applies to the disability sector. ACCOs have a proud history as sustainable, grassroots organisations that assist in building Community capacity for self-determination.

Aboriginal people have the right to self-determination. Under the United Nations Declaration on the Rights of Indigenous Peoples this includes the right to “freely determine their political status and freely pursue their economic, social and cultural development” and the right to “autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”<sup>5</sup>

Community Control is a practical expression of self-determination, which is supported by the Morrison Government.<sup>6</sup> The Morrison Government is also committed to building the Aboriginal Community Controlled Sector with a priority focus on the disability sector. This is an important commitment and one that VACCHO hopes will lead to further alignment between Closing the Gap, the NDIS, and Department of Social Services (DSS), including the upcoming new National Disability Strategy 2020-2030.

### **ACCOs are best placed to serve Aboriginal people**

There is a preference among Aboriginal people for service provision by Aboriginal organisations.<sup>7</sup> ACCOs are the primary choice of Aboriginal people in all geographical areas in which they are located, and many Aboriginal people travel considerable distances to access them, often passing by mainstream services to do so.<sup>8</sup> Aboriginal people are more likely to seek health and community services from a provider that offers cultural safety, and understands the multi-layered concept of Aboriginal health. On the other hand, Aboriginal people may delay seeking medical advice if these services are not available to them. Recent data has confirmed that ‘avoidance behaviours’ (Aboriginal people with disability avoiding mainstream services) were, at minimum, double for Aboriginal people with profound or severe disability when compared to Aboriginal people without disability.<sup>9</sup> This is largely due to the discrimination faced by Aboriginal people with disability in healthcare settings, with 42 per cent of Aboriginal people with disability reporting experiences of racism.<sup>10</sup>

ACCOs have strong networks with the Communities they serve and offer a range of services to Aboriginal people. This means that many Aboriginal people with a disability frequent their local ACCO for a range of supports—including supports that are not related to their disability needs. For example, reviews of sample

data provide strong support for the notion that people with a disability are already accessing their local ACCO's primary health care services. VACCHO also anticipates there are high numbers of people with disability accessing family and community, out of home care,<sup>11</sup> early childhood, tenancy, justice, and employment services and so on. Combined with targeted community engagement strategies, this existing infrastructure and relationship provides unique opportunities to better identify people with disability in the Community and facilitate access to the support that they need. As Jeromey et al. 2020 report states, at least 20% of Aboriginal people with disability avoid mainstream housing, healthcare, police, security, legal, education and general public spaces due to apprehension of racist treatment.<sup>12</sup>

Where an ACCO is not available, does not deliver the service in question or are not the first choice of an Aboriginal person, Aboriginal people maintain their right to cultural safety in accessing mainstream services. This can be ensured through funding for Aboriginal workforce, brokered positions, mandatory culturally safety training and trauma-informed approaches to foster relationships based on trust.<sup>13</sup> User choice for Aboriginal people is meaningless without this standard of service quality.

### **Introduction to the submission**

VACCHO Members have a core role in addressing the social determinants of health for Aboriginal people experiencing disability. Our input is drawn from the experience and expertise of the VACCHO Members. Our Member ACCOs have a cooperative membership structure and offer a range of services to their local communities, including but not limited to primary health services. Additional services vary across the Members but will often include the following services: housing, justice, child and family, social and emotional wellbeing, aged care and, sometimes, disability services.

VACCHO would like to specifically acknowledge the VCAACD Aboriginal Development Workers, whose expertise and key insights led to the development of the themes raised in our submission. The submission is grounded in the obligations and moral imperatives to equitably support Aboriginal people with disability and facilitate improved opportunities for self-determination.

VACCHO believes that Aboriginal and Torres Strait Islander people have an untapped knowledge and best-practice service delivery models that can inform policy and practice across the sector, which can be seen in the area of disability.

This submission takes a rights-based approach to disability, recognising the interlink between the United Nations Convention on the Rights of Persons with Disability,<sup>14</sup> and the UN Declaration on the Rights of Indigenous People—to which Australia is a signatory. Aboriginal people through the human rights and Indigenous rights frameworks are entitled to choose culturally safe disability services. Disability services in Australia have been marketised. The human rights of Aboriginal people cannot be allowed to become a casualty of the status of the market; VACCHO argues the government needs to protect and uphold Aboriginal peoples' right to culturally safe services.

**Response to Question 2** – How do First Nations people think about, identify with, and respond to disability in their communities? What role do First Nations languages and culture play in the inclusion and protection of people with disability in the community?

*“Communities don't necessarily look for a “label” (person isn't 'labelled' with a disability) but particularly once they're looking to be a part of NDIS... 'no label' means no history or evidence.”*

*(VCAACD Member 2)*

There is no word for 'disability' in Aboriginal languages. Aboriginal people view disability as one facet of a person's multi-dimensional identity and often do not identify with disability as a label. The NDIS was envisioned to be based on functional capacity— not diagnosis— and without the barrier of a label to access. However, in reality the NDIS counters the holistic nature of Aboriginal health in Community by requiring people to identify as having a disability, with a paper trail of treatment and diagnosis to access funding.<sup>15</sup> It is frustrating for Aboriginal people to navigate what is often a culturally unsafe medical system to fulfil this requirement, which does not account for the cultural needs of Aboriginal people and can bring up existing fears of institutionalisation and intervention. The onerous process of gaining evidence for eligibility has been a major factor in delayed uptake of the NDIS by Aboriginal people and consequent underrepresentation in the NDIS participant group.

Aboriginal people with disability have an economic right to participate in markets both as consumers and providers. They also should be entitled to access decent services and supports, such as choice of a culturally safe service. However, there is an interaction of multiple factors restricting safe access such as lack of transparency about the NDIS system and access requirements, poor interface between GPs and the NDIS for evidentiary purposes, lack of ACCOs able to sustain service due to funding issues and poor communication about the NDIS to prospective Aboriginal participants. The current NDIS evidence requirements, while onerous, can be handled appropriately by ACCOs who are invested in supporting Aboriginal people with disability, and through strengths-based approaches. However, as will be unpacked in the submission, there are barriers to ACCOs providing ongoing NDIS services.

It is important to note that health must be considered as holistic,<sup>16</sup> rather than simply physical wellbeing. Embedded in the human rights approach to health is active participation by Aboriginal peoples in decision-making at all levels in accordance with the *United Nations Declaration on the Rights of Indigenous Peoples*,

“Aboriginal health means not just the physical wellbeing of an individual but refers to the social, emotional and cultural well-being of the whole Community in which each individual is able to achieve their full potential as a human being, thereby bringing about the total well-being of their Community. It is a whole-of-life view and includes the cyclical concept of life-death-life.”<sup>17</sup>

Addressing healthcare needs for Aboriginal people must include awareness of the whole Community and the family, including adopting family-centred approaches.<sup>1</sup> Integral to Aboriginal Communities and families is Culture, an evolving set of beliefs and behaviours that is reconstituted through social processes and still thriving today.<sup>18</sup> Culture is a vital protective factor for people with disability and has a mitigating impact on intersectional inequality.<sup>19</sup> When engaging with VCAACD members, multiple members mentioned connecting to Culture through trips to Country, art and music as supportive and protective for people with disability who are receiving services.

While disability may not be a focal point for individuals, it is a pressing Community issue given the inconsistency between how many people the Community recognises as needing support, versus the actual number of people getting funding through NDIS. Disability in Aboriginal Communities is twice as prevalent, more complex in terms of co-occurring disabilities, and compressed within a shorter life expectancy compared to other Australians.<sup>20</sup> The socio-economic profile of Aboriginal populations also indicates that more individuals within families require greater levels of support with greater barriers and disadvantage than in the non-Indigenous population. Another barrier to access is the 'lack of fit' between Aboriginal values of

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<sup>1</sup> “This means recognising a holistic view of health that includes the physical, mental, spiritual and cultural needs of the client/patient, which includes their family, Community and Country...services based on Western concepts of family and community generally do not cater to Indigenous peoples'...needs in this holistic way.” McMillan et al. 2010, 163-7.

community supporting all members in mutual dependency, and NDIS mainstream values of individual choice and control and market-based service provision.<sup>21</sup> There is a positive opportunity with this Royal Commission to further acknowledge that Aboriginal people with disability experience a unique form of ‘intersectional discrimination’ and social inequality that is an interaction of discrimination that is both Aboriginal and disability related.<sup>22</sup>

Available data demonstrates the intersectional impact on health, wellbeing and social outcomes on an Aboriginal person experiencing disability.<sup>23</sup> It illustrates how the systemic barriers that affect Aboriginal people have interacted with the systemic barriers that affect people with disability to create compounded disadvantage.<sup>24</sup> There needs to be further discussion as to how the interaction of these barriers create a unique inaccessibility to the NDIS for people who are most in need of support.<sup>25</sup> Aboriginal people with disability are still experiencing racism and racial profiling in mainstream healthcare settings and this is leading to high rates of avoidance behaviours.<sup>26</sup> If these factors are not addressed then existing inequalities will continue to be exacerbated through the NDIS system.<sup>27</sup>

**Response to Question 9** – What are some examples of culturally appropriate responses to preventing violence, abuse, neglect, and exploitation and supporting First Nations people with disability? What lessons can we learn from First Nation communities and their cultural governance systems? What are the challenges in implementing culturally safe and appropriate responses and programs?

1. We know that Aboriginal people being cared for by ACCOs and Aboriginal staff live longer.<sup>28</sup> People with disability whose needs are not met are at risk. Where there is an ACCO available and they are delivering disability services, these are the positive things we see:
  - Aboriginal people identify their local ACCOs and know where to access services they require
  - Accurate, culturally safe, trauma informed assessments of Aboriginal people
  - Ongoing service provision and coordination that is embedded in Community, where there is no risk of retraumatizing people (negatively impacting physical and mental health)
  - Trust between the Community and ACCO
  - Practitioners’ commitment to family-centred care<sup>29</sup>
  - Practitioners have knowledge of clients’ lives, histories, Culture, traumas, fears and policies, practices and safeguards are in place to make sure all people feel safe and supported – in all communications
  - ACCOs that act as places of refuge and respite, with opportunity for Community to socially interact, receive wraparound services and feel safe
  - Aboriginal staff liaise with and advocate to mainstream services to ensure that Aboriginal clients can access services.

The following approaches have demonstrated positive impact:

2. Aboriginal people employed as LACs and Aboriginal Support Coordinators have been a positive addition to disability services for Aboriginal people who experience disability. Ensuring that Aboriginal people are knowledgeable about the NDIS has been key to translating the opportunities provided by the NDIS to Aboriginal people who may be sceptical or resistant to the unknown system. An example of this is the positive feedback VACCHO have heard regarding Aboriginal LACs employed by Brotherhood of St Laurence in Metropolitan Melbourne. There has been substantial positive feedback about the uptake of NDIS service by Aboriginal people who have dealt with these staff. These staff bring the capacity to prioritise Culture, Community and family to the role and communicate in a way that fosters trust and

connection. Later in the submission we raise the opportunity for capitalising on this positive example with growing the Aboriginal health workforce and having ACCOs take on role of LAC.

3. There is an ongoing issue with the roll out of the NDIS as many GPs do not know how to provide information to LACs/the NDIS in formats which are acceptable/accepted by the NDIA. In addition, the NDIA and LACs often provide inconsistent advice and lack transparency about evidence requirements. One of the ACCOs in Victoria has shared with VACCHO an outreach service model that they have found to be effective in overcoming this persistent issue. In this instance, LACs are co-located in an ACCO for a number of days each week with GPs and disability workers. This enables them to share information and collaborate to provide the best care for Aboriginal people with disability. In particular, this method has proved highly effective when it comes to NDIS referrals for people with disability. The other benefit is Aboriginal practitioners are reinforcing best practice for non-Aboriginal staff to maintain a quality, culturally safe service. There are other methods that could be adopted in order to enable workforces, in particular GPs, to know what they need to do and how to fulfill their role in providing evidence to support Aboriginal community members' access to the NDIS. In the first instance, VACCHO makes  
**Recommendation 1-NDIS to provide clearer training and information on the requirements and processes to practitioners, including GPs. GPs in particular must understand NDIS access processes in order to provide Aboriginal people with disability the supporting evidence required to demonstrate eligibility.**
4. There needs to be a better model for delivery of disability care for Aboriginal people that fosters trust and cultural safety. This approach is grounded in principles of holistic wellbeing and aligned with the ethos that government-funded services must reframe their thinking of Aboriginal clients as 'hard to reach' and instead recognise their failure to build trust and safety with clients as 'a symptom of problematic service delivery'.<sup>30</sup> The characteristics of a robust service delivery model include strong relationships between practitioners, trust, efficient communication flows, improved problem-solving, shorter timelines to resolve issues, Aboriginal people receiving service at a location that is comfortable and accessible and, ultimately, eligible Aboriginal people getting access to the NDIS quicker and without trauma. Improved communication between the ACCO and LAC enables advocacy for vulnerable clients. One example of an effective service delivery model is provided by the Victorian Aboriginal Health Service (VAHS) (Melbourne), which is a health centre hub where Aboriginal people can access disability and other services as a one-stop-shop. A key feature of this hub is the regular co -location of LACs who work from the ACCO on a regular basis (1-2 days per week).

## CASE STUDY 1

### **Presenting Situation**

Client xxx contacted VAHS for advocacy and support with an application for NDIS that was submitted and rejected.

### **Background**

Client xxx is in her late 60's and has a daughter C who is in her 30's and resides with her. C has been diagnosed with schizophrenia and she attends regular psychiatric appointments to manage her condition. Her psychiatric condition impacts significantly on C's ability to function independently. She struggles to motivate herself to maintain personal hygiene and to participate in maintaining a clean and tidy, shared home environment. Her mother is required to raise her voice and be forceful to convince her to shower and attend her appointments. Her mother also cooks and does all the shopping and is responsible for all domestic tasks. She is also responsible for providing emotional support to C.

Client xxx stated that she was exhausted and her caring responsibilities for C are taking their toll on her own mental health and stress levels. Her relationship with C had become strained and she was considering asking her to seek alternate accommodation.

Client xxx sought advice from her GP who recommended that C apply for support through an NDIS package. Client xx completed the application on behalf of her daughter and forwarded it to NDIS with a letter of support from her GP.

A response from NDIS was soon delivered, rejecting the NDIS application.

### **Intervention from VAHS**

Client xxx contacted VAHS requesting support with C's NDIS application. The call was transferred to the Manager Community Services. Client xxx explained her situation and was clearly frustrated by the outcome of her application and did not understand why it was rejected. She stated that her daughter requires assistance and that as her carer she was struggling to maintain the high levels of support she was providing.

The Manager requested consent to contact the Local Area Coordinator (LAC) for information. A strong partnership had already been established with LACs because of a recent arrangement for LACs to be co-located at VAHS one day per week. The Manager rang the LAC and was advised that the application lacked necessary information on the impact of the applicant C's condition on her ability to function. She further suggested that this information is more effective if it comes from C's psychiatrist. The LAC offered her email address to be provided to the psychiatrist, so they can contact her for information on what is required to support the NDIS application.

### **Outcome**

The Manager contacted the client and provided the above information in a clear and simple manner. Client xxx was satisfied with the support and reported that she will contact her daughter's psychiatrist, who she stated was very keen to assist in every way possible with the NDIS application.

The result was C's NDIS application was resubmitted and successful.

## Response to Questions

**4** – What do you see as the priority areas that can help prevent and better respond to violence, abuse, neglect and exploitation of First Nations people with disability

**10** – What could be done to strengthen disability support and advocacy services for First Nations people with disability? How might a national First Nations disability sector be developed and sustained?

Clear themes are evident in the feedback from Aboriginal practitioners when it comes to improvements that will protect Aboriginal people with disability from harm, such as:

- ACCOs to offer culturally safe disability services, with disability funding enabling them to do so while remaining financially viable
- Clear information about the NDIS including access processes is necessary for Aboriginal people to make informed choices
- There is a need for strong advocacy for Aboriginal people trying to access the NDIS and which supports Aboriginal people to communicate their support needs during both initial assessment and review of their package
- There is a need for ongoing funding to attract and retain Aboriginal staff for ACCOs & mainstream organisations in the disability sector, including the NDIA.

This section of the submission will expand on the key areas for improvement of the disability service sector to prevent further abuse, neglect, violence, and exploitation of Aboriginal people. Quotes from Aboriginal Development Workers (HACC PYP) are used throughout and are de-identified.

Building on our response to Question 9, point 1 (page 7), Aboriginal Communities place significant importance on cultural safety and value culturally safe services, however there are financial constraints which limit ACCOs from becoming NDIS service providers.

As per the UN Declaration on the Rights of Indigenous People, to which Australia is a signatory, cultural safety and access to Culture and community are inherent rights of Aboriginal people with disability and should not be separated from their disability needs. Aboriginal people consistently show a preference to access services from ACCOs, rather than mainstream services. Aboriginal Development Workers cite the safety and sociality of the services as a key factor, in addition to the way that a visit to an ACCO can provide a unique respite through trusting relationships. In 2012, a national study found that half of the Aboriginal people surveyed have experienced discrimination when accessing mainstream health services.<sup>31</sup> To add to his existing concern, *“Aboriginal Communities have entrenched distrust of mainstream service systems and reluctance to engage with these systems out of fear that this will result in unwanted surveillance and intrusion, including the removal of our children from our families”*.<sup>32</sup>

*“No matter how welcoming a mainstream service tries to be...they’re (Community members) not encouraged to sit and have a yarn.”*

*(VCAACD Member 2)*

ACCOs are unique because they facilitate a comfortable space where people can stop for a conversation, and build relationships and trust.

Given that there are few Aboriginal disability services and uneven distribution of ACCOs, many clients and their families rely on mainstream service providers. For these services to meet the minimum necessary quality for Aboriginal Communities to utilise them, VACCHO argue they need mandatory cultural safety training (tailored

to local community and disability sector),<sup>33</sup> and effective community engagement. One of the VCAACD members suggested a way to protect Aboriginal clients is:

*“those places that don’t have an Aboriginal org(anisation) must have Aboriginal workers [brokering services]/ In one way or another they need to be Community driven, not NDIS driven.”*

*(VCAACD Member 2)*

Ideally mainstream services would partner with and co-locate within Aboriginal organisations and ensure Aboriginal staff could work with Aboriginal clients.<sup>34</sup> In this instance cultural safety is distinguished from cultural ‘awareness’ as it relates to embedding culturally sound practices into all elements of delivery, rather than merely recognising that cultural differences exist. These measures are necessary while the sector transitions to truly upholding the rights of Aboriginal people and providing choice, which includes ACCOs offering disability services without risk of becoming insolvent.

Marketisation and the current NDIS pricing structure impair ACCOs’ capacity to provide viable disability services for people in their communities. Both VACCHO Members and the First Peoples Disability Network (FPDN) consistently report that the utilisation of disability services is significantly lower than the actual number of Aboriginal people needing support in urban and regional areas. However, the Victorian Aboriginal population presents as a ‘thin market’ for prospective providers, since Victorian Aboriginal communities exist as small dispersed populations or are dispersed amongst large non-Aboriginal populations in metropolitan areas. Work that VACCHO has undertaken to assist Members with business modelling suggested that it is not financially viable to begin offering NDIS services unless there is at least 100 Aboriginal people with relatively substantial packages in the local Community. Subsequently, the lack of culturally safe services and ACCO providers of disability services deprives Aboriginal community members with a disability of supports they need. This is exacerbated by lack of transport to reach those few services which are acceptable, which, is a problem in both regional and urban areas especially for Aboriginal low-income families who tend to live in poorly serviced locations.

The other factor which impacts ACCOs’ capacity to operate sustainable disability services in a marketised environment is their lack of economies of scale. The activity-based funding model which underpins the NDIS, paired with relatively small numbers of clients<sup>2</sup> allocated varied funding packages, creates financial risk for ACCOs. ACCOs are relatively small organisations. It is difficult to reduce administration and other overhead costs and the margin on NDIS services is tiny for small organisations who still need HR, finance, and administrative functions to operate. ACCOs lack the IT infrastructure and staff for business development which would enable reduction of administration costs as a viable and sustainable NDIS market provider.<sup>35</sup> Currently, ACCOs need to manage the billing and administrative side of NDIS service offering manually (across different systems) as they cannot afford to transition to integrated information technology system which larger NDIS providers can afford/justify. It is evident that marketisation is not meeting the needs of Aboriginal people who want to spend their funding on culturally safe services which are not viable for the ACCOs to offer. To address the limitations of the current model VACCHO propose **Recommendation 2: Revisit the NDIS pricing structures and market principles to promptly address the limitations ACCOs and other specialist service providers face in uptake of NDIS services.**

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<sup>2</sup> The statistics on numbers of Aboriginal people with disability are regarded as undercounted by those who work in the sector. It is difficult to get a sense of the accurate numbers given the differing perspectives amongst Aboriginal communities on whether to identify and that unsuitable not culturally safe services mean that some people are not accessing the service they need currently.

The overall effect of marketisation is to deprive Aboriginal people with a disability of the culturally safe services to which they are entitled as a human right. The NDIA needs to acknowledge the impact of the thin market on ACCOs' capacity to provide sustainable disability services in metropolitan, rural and remote areas. NDIA must enable access of Aboriginal people to culturally safe services. There is a need to increase the cultural understanding of NDIA staff and cultural safety of NDIS systems. Demonstrated commitment by NDIA to their Reconciliation Action Plan (RAP) will increase the cultural safety of the system. At present the lack of input into the NDIS by Aboriginal people has led to gaps in the service that can lead to neglect of Aboriginal people with disability. To rectify this problem, VACCHO put forward **Recommendation 3, Setting up an Advisory Group which includes Aboriginal providers, practitioners and Aboriginal people with lived experience of disability to provide collaboration, support and oversight of the implementation of the Reconciliation Action Plan (RAP) is essential to the performance of the NDIS for Aboriginal people.**

In addition, measures must be developed to facilitate entry of ACCO providers of disability services and mandate service models which compensate for limited choice of ACCO service providers (by enabling individual ACCOs to be involved in service access and funded delivery of services). This represents a marked departure from current practice which has been designed around mainstream concepts of conflict of interest and 'consumer capture'. The updated policy to address the thin market must also include changes to the conflict of interest rules to acknowledge the necessity for an ACCO to participate in the assessment process, either as an LAC or through brokerage arrangement with an LAC,<sup>3</sup> and also to concurrently offer funded disability supports. The reality is there is rarely more than one ACCO provider of disability services in a given region and few LAC providers that have Aboriginal staff. Failure to authorize and support the adoption of this measure by ACCOs will restrict freedom of choice for Aboriginal participants to access the NDIS and a culturally safe service. User choice for Aboriginal people is meaningless without this standard of service quality. The updated conflict of interest policy should be developed as part of **Recommendation 4: The NDIA needs to develop a policy position that acknowledges the thin market for Aboriginal disability services and creates measures to address this.**

Safety and choice for Aboriginal people with disability is a right and should not be considered an optional extra. While marketisation and the NDIS pricing model are key challenges to ACCOs bring able to provide sustainable culturally safe disability services and supports, other challenges to delivering high level care include:

- Lack of culturally safe, specific respite for Aboriginal families where one or more people have disability. Respite could include individual worker support, group activities, cultural camps, group respite, respite for carers/parents/siblings and Aboriginal community support groups
- Lack of understanding from departments and the NDIS of systemic barriers for Aboriginal people with disability
- Dominance of the deficit approach that focuses on challenges and the limitations of people with disability
- Slow institutional change
- Lack of funding to support data projects that could lead to data flowing in and out of community to assist with policy and program responses.

The NDIS is a complex system. For the person experiencing disability to obtain the services they need, they require knowledge of NDIS access and review processes, information about available choices and both

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<sup>3</sup> Recommendation 7 which relates to place-based strategies to ensure culturally safe assessments provides more context on the conflict of interest issue (page 15).

confidence and capacity to advocate on their own behalf. As previously noted, Aboriginal people who experience disability are also likely to have experienced a range of systemic barriers and compounded disadvantage. It is not safe to assume that an Aboriginal person seeking to access NDIS services has the necessary resources to do so.

There is a distinct lack of Aboriginal individual disability advocates in the current system, with the First Peoples Disability Network regularly called on for individual support (even though they are not a direct service organisation), as Aboriginal people are often resistant to utilising mainstream services. Research on the current service offerings indicate that only two disability advocacy services in Victoria and a few individuals offer culturally safe advocacy with Aboriginal staff, while one other has cultural safety training for all advocacy workers. The lack of culturally safe and tailored advocacy available means that Aboriginal people with disability are either largely going without and/or receiving a service that would not be able to advocate as to the distinct cultural needs that an Aboriginal person has when receiving disability services. VACCHO is currently conducting a project funded through the NDIS Information Linkages and Capacity (ILC) Program which funds NDIS Access and Community Linkage (NACL) Workers in four Victorian regions for a three-year period. This project provides a scalable approach that can increase Aboriginal access to the NDIS and argue that funding should be made ongoing and subsequently, the project should be expanded to other jurisdictions. Discussion with VACCHO Members also suggests that the remit of these roles should include:

- Provision of up to date and clear information on the NDIS to community and ACCO staff
- Support for Aboriginal people with disability to access what they are eligible for, as they would have thorough knowledge of what is possible through the scheme
- Assistance with Aboriginal clients' NDIS application process
- Help in the short term with the issues that arise from quick turnover of LAC staff
- Conveying information about culturally safe services providers that could accept NDIS funding/provide a service.

**Recommendation 5** would increase the effectiveness of the NDIS system and address the gap in advocacy culturally safe advocacy services. **The NDIA should provide ongoing funding for ACCO based Access and Support staff whose remit includes communicating the process of NDIS assessments, liaising with LACs and providing individual advocacy for Aboriginal clients accessing NDIS, and review of people's packages.**

One size does not fit all when it comes to clients with disability. Access and Support workers need to be trained in local cultural safety protocols and commit to communicating key information on the NDIS in a way that is simple and effective. Access and support workers should check that the client understands and/or try another form of communication if information is not understood. VCAACD Members have noticed that there is a workplace culture of 'box ticking' amongst LAC and NDIA staff, including workers not investigating whether a culturally safe service is accessible, not taking initiative to communicate why NDIS access was not granted nor seeking out a staff member to address a problem that the individual is facing. Box ticking implies a focus on being seen to have complied with procedure, rather than assisting the individual to get the service they want and are eligible for. VACCHO argues instead that systemic issues such as institutionalised racism and unconscious bias flows from management into decision making and has tangible impacts on access for Aboriginal people. When a suitable advocate is not available to assist Aboriginal people with disability, they will continue without support, which may lead to deterioration of their condition due to lack of cultural and/or culturally relevant supports. This is problematic in relation to the NDIS where there is a risk that when funding is not used in a package allocation the funding for next year's allocation will be reduced. Aboriginal people with intellectual disability are particularly susceptible to having their right to health diminished through misdiagnosis (attributing physical symptoms connected to intellectual disability),<sup>36</sup> lack of advocacy, and

institutionalized discrimination. These factors lead to severe impacts on Aboriginal people including not getting the vital health services they need.

As previously noted, ACCOs and ACCO providers of disability services are a thin market and it is likely that if there is an ACCO provider of disability services in an area, there will only be one ACCO provider. As per **Recommendation 4: The NDIA needs to develop a policy position that acknowledges the thin market for Aboriginal disability services and creates measures to address this.** An example of this is acknowledging the right for an Aboriginal person to request an Aboriginal involvement in their assessment process and mandating LAC agencies to broker an appropriately trained ACCO staff member to undertake the assessment, even in those instances where the ACCO is a provider of NDIS funded disability supports. NDIS champion the rights of Aboriginal people experiencing disability to a culturally safe service; this point is echoed in a quote from VCAACD Member 3:

*“choice...talking a bit more about the choice, about what the person with the disability wants on their journey...supporting choice was one of their calling cards when they were rolling it (the NDIS) out.”*

*(VCAACD Member 3)*

The NDIS and other disability services, such as Victoria’s Home and Community Care Program for Young People (HACC PYP), must uphold the right for Aboriginal people with disability to have choice of providers.

Aboriginal community members need simple, clear information to enable informed choice in relation to disability services. The NDIA needs to partner with ACCOs to facilitate more effective and timely sharing of information for Aboriginal people experiencing disability. Aboriginal health workers reflected that understanding and navigating the NDIS is challenging and it is unsurprising that people with disability have difficulty understanding all the information. VCAACD Member 2 mentioned the following:

*“Mainstream Healthcare services (are) potentially failing Aboriginal people. We don’t always know what’s out there...Mainstream systems assume we do.”*

*(VCAACD Member 2)*

There are assumptions made by non-Aboriginal staff and mainstream services that Aboriginal clients know all the services available to them and merely choose not to access them. This is a false assumption; clearer information about services that is tailored to Aboriginal people would help and bridge the gap in some instances where advocacy is not available or not provided for the client. As we have recently witnessed with the success of COVID-19 messaging from ACCOs, Community

*“seek information from ACCOs...(it’s) important to have resources to channel people to head in the right direction.”*

*(VCAACD Member 4)*

There are frequently barriers for Aboriginal people accessing and trusting communications from mainstream organisations.<sup>37</sup> VACCHO staff also recognise how effective ACCO tailored communications are for Aboriginal people. To address the issues with communication to Aboriginal people with disability, VACCHO propose **Recommendation 6: ACCOs should be resourced through partnerships with the NDIA to create and disseminate culturally relevant material for Aboriginal people with disability, to assist service access and system navigation.**

A key improvement to protect Aboriginal people with disability from harm or abuse would be the provision of culturally safe respite services. Families need respite in a way that suits their needs, that is available to the family network and is sourced from the local community rather than from a mainstream formal agency. Worker 3 shared this anecdote about current respite availability,

*“My wife’s brother had a child with a disability. Their respite is with family members (During COVID-19) there’s no culturally safe respite...(family) does all the caring...there’s no other place that they think is safe....we don’t feel safe not knowing that he’s (child) safe.”*

*(VCAACD Member 3)*

This is more than just an isolated case as caring arrangements for Aboriginal people with disability are mostly through informal arrangements with family/kin and this can cause added stress and strain on the family. People who are unable to be cared for by family have historically utilized mainstream residential facilities that are unable to provide for the cultural needs of Aboriginal people, which can lead to neglect and/or abuse. Workers articulate that COVID-19 and the response to education changes through lockdown have highlighted the importance of culturally safe respite, particularly for those juggling at home learning for young people. The education system has not previously provided meaningful consideration of the home environment for Aboriginal children and the reality that carers may be responsible for several children and/or adults simultaneously—all with varying needs. The Victorian Carers Strategy 2018-2022 promotes that DHHS will continue to work with ACCOs that support Aboriginal people and their carers. However, more support and a stronger commitment is needed.

**Response to Question 6** – How can current systems better prevent or respond to experiences of violence, abuse, neglect, and exploitation of First Nations people with disability?

The type of NDIS service participants receive is largely dependent on the skill of the Local Area Coordinator (LAC). Some LACs are willing to interpret NDIS legislation and policy in ways that enable Cultural needs to be accommodated, while others do not. For example, VCAACD Member 3’s brother,

*“was on a HACC package (pre NDIS)...flexible enough for him to access art supplies, to stay active, do his art, return to country. Since he’s transferred to NDIS all that’s been taken away from him....He thought NDIS was supporting choice, but they’re not culturally appropriate for our Mob...Art kept his Culture strong...kept him healthy...he’s deteriorated...he really looked forward to going to country....(it provides) spiritual healing.”*

*(VCAACD Member 3)*

LACs who are non-Aboriginal and not educated in the needs of Aboriginal people with disability are unlikely to recognise In addition to requests being assessed by non-Aboriginal staff, the NDIS requires ‘evidence-based solutions to prove suggested outcomes’, a criteria traditional forms of healing, without documented evaluation are unlikely to meet.

The LAC is the gate keeper for Aboriginal people to receive the proper level of funding they are eligible for through NDIS. The strict distinction between Tier 2 individuals (who receive minimal funding) and Tier 3 individuals, who receive an extensive range of support, places pressure on the operation of the assessment mechanism which is a crucial aspect of the scheme.<sup>38</sup> To improve the difficulty faced by inaccurate assessments and/or lack of cultural awareness with applying funding, the system requires assessment staff who genuinely understand and care about the Community and value the participants in a holistic way, including their Cultural needs. As culturally safe assessments are critical to the success of the NDIS, VACCHO has raised that the way the NDIA articulates conflict of interest should be altered to acknowledge the thin market of Aboriginal disability service providers and general lack of Aboriginal staff in LACs. There is a need for investment in place-based solutions to make NDIS assessments safer and more effective. One solution is unlikely to work for all ACCOs and regions, and a ground up approach involving local communities is necessary.

A key feature of the suite of solutions mentioned below is involvement of Aboriginal staff in the assessment process. This would mean Aboriginal people with disability get the positive initial engagement, care and support during access process.

**Recommendation 7: NDIA to invest in place-based strategies to increase cultural safety of NDIS assessments for Aboriginal people. This will require:**

- The NDIA to develop and resource the implementation of a workforce strategy which encourages the recruitment, employment, and retention of Aboriginal Support workers at all levels across the disability sector (including LACs, service providers and within the NDIS). This strategy would need to complement existing plans for the Aboriginal Health workforce and Aged care.
- NDIA to mandate establishment of brokerage agreements between LACs and local ACCOs to enable choice for an Aboriginal participant who requests an assessment from an Aboriginal staff member, in those instances where the LAC does not have Aboriginal staff.
- NDIA to promote interaction between LACs and NDIS funded ACCO service providers to foster trusting relationships, stronger referral pathways between organisations and culturally safe care for Aboriginal people. This would include a focus on inter-agency collaboration, improved communication flows and consistent advice on access requirements.

The anticipated outcome of this recommendation is increased participation in NDIS by Aboriginal people, as well as an increase in the accuracy of assessment and better alignment of resource allocation to client need.

As noted above, increased Aboriginal participation in the disability sector is integral to increasing the range and choice of culturally safe support options. There is a need to attract and retain Aboriginal workers in the disability sector. Recruiting Aboriginal people to support coordination and access support roles improves the access pathway and reinforces Aboriginal people's entitlement to have their support needs met by an Aboriginal person if they choose. This is one of the rights Aboriginal people with disability should be able to exercise to receive culturally safe service at all stages. This will require the NDIA to resource community consultation to determine the best ways to retain Aboriginal support workers at all levels of the system, and needs to include review of wages, career progression and mentorship.

Expanding the number of Aboriginal staff in the disability sector provides the additional benefits of an expanded NDIS knowledge base in Aboriginal communities and staff who can convey this information clearly to Aboriginal people seeking services. Currently, NDIS Aboriginal Support Coordinators are only resourced through activity-based funding as an NDIS support, which is not a viable option for small ACCOs. Aboriginal workers themselves have recognized this is not sufficient to meet the needs of the organisations delivering NDIS services, as Aboriginal people with disability are at risk of neglect or going without service due to not having the right information. There would be many benefits from investing ongoing grant funding to grow the Aboriginal workforce and more Access and Support workers; as previously noted, these staff could:

- Provide up to date and clear information on the NDIS to community and ACCO staff
- Support Aboriginal people with disability to access what they are eligible for, as they would have thorough knowledge of what is possible through the scheme
- Assist with Aboriginal client's NDIS application process
- Increase capacity for NDIS administration and billing
- Help in the short term with the issues that arise from quick turnover of LAC staff
- Convey clear information about culturally safe services providers that could accept NDIS funding/provide a service<sup>39</sup>
- Use their knowledge of NDIS processes to increase ACCO staff capacity for administration and billing.

*"Lots of mainstream org(anisation)s don't get it – it's not enough to have an Aboriginal traineeship, you need an ongoing role...you need to invest in the Aboriginal staff member that has come in...traineeship learn on the job, which is fabulous and then it's a 12 month position and then the funding's gone."*

*(VCAACD Member 2)*

VCAACD workers have noted a variety of disability services which have used the expedient of providing short contracts or trainee positions for Aboriginal staff. Whilst this has been positive in the short term, there has not been funding to turn these positions into ongoing job opportunities that correspond to the value of the Aboriginal staff member's skills and relationships. The progress made and relationships formed with Aboriginal clients is lost when the Aboriginal staff member leaves. These relationships between Aboriginal workers and clients with disability aid the NDIS system to better support people. Retention of skilled Aboriginal workers could lead to them taking up roles as Support Coordinators, Access and Support workers or Local Area Coordinators, who are great assets to the services. In addition to the lack of staff being 'brought up' through the organisations, there is burnout of Aboriginal staff working in the sector. A robust Aboriginal workforce would ensure Aboriginal staff have support from other Aboriginal staff who could step in to work with vulnerable clients if another staff member becomes unavailable. Another suggestion is to have Aboriginal workers and Support Coordinators mentor other younger Aboriginal staff members for succession planning to build the Aboriginal disability workforce over time. This information points to the gaps in the disability service sector that could be addressed through **Recommendation 5: provide ongoing funding for ACCO based Access and Support staff and Recommendation 6 (point 1) investment in a NDIA workforce strategy.**

**Response to Question 7** – What are the experiences of First Nations people with disability, including children, in early learning services, with child protection and/or out of home care systems? Do you have any examples that illustrate those experiences?

Mainstream practitioners frequently use assessments and tools to provide a diagnosis that is based on Western perspectives of disability, failing to recognise a holistic approach to health. Adopting a Western perspective can lead to inaccurate assessments, possible misdiagnosis or the over-representation of a particular diagnosis. For example, an Aboriginal parent may not give the full picture of how much help they need with their child's development because they are scared of being typecast, shamed or racially vilified and/or having their child removed and institutionalised. Another example is an Aboriginal man may not describe challenges to being able to care for himself or maintain hygiene because of shame of disclosing information like this to non-kin and potential interventions that may change the way he can interact with Culture, Community or family. Consequently, clinicians need culturally appropriate tools for accurate diagnosis and cultural safety training if Aboriginal staff are not available. Assessments for Aboriginal (and CALD) people with disability should consider the role of Culture in identification, treatment and support. As FPDN state: "If disability is not accurately diagnosed and supported at the earliest opportunity, it places a person on a trajectory of disadvantage that accumulates over the rest of their life".<sup>40</sup>

VACCHO has received feedback that NDIS services are not facilitating access and are generally unsupportive of people coming forward to request an Early Childhood Early Intervention (ECEI). Early intervention should be available to those who request it, not limited to those with disability or only children. However, in practice it is not being accessed on a wide scale. More communication and better-quality messaging are needed to make sure people are utilising the service and are aware that an assessment or diagnosis is often not required to access this service. In addition to the lack of support for access, programs are not working efficiently in practice as demand far outstrips supply and children are on waitlists beyond the target early intervention

period or age range. Through the Child Safe Standards, ACCOs and mainstream childcare and early education centres have responsibilities when it comes to children with disability. It is vital that sufficient places are available to provide quality care for children with disability. Demand is far exceeding supply in the Melbourne Metropolitan area and there needs to be consideration of whether funding levels and obligations are working effectively to match the needs of Aboriginal families and all children requiring early intervention.

When considering the inefficiencies with the early intervention process, we are concerned about resistance from LACs to endorse ECEI plans. In some cases, this breakdown happens due to racism and stereotyping about Aboriginal parenting, or the service not listening to the family to prioritise the needs of the child and support them by continuing their learning/schooling. There have been repeated efforts by the Commission for Children and Young People and the Victorian Aboriginal Child Care Agency (VACCA) to advocate for the voice of the child being prioritised throughout service delivery, however in many cases the child's wishes are overlooked.<sup>41</sup> It is enshrined in the *Children, Youth and Families Act 2005* (Vic) (CYFA) that a child's views and wishes, if they can be ascertained, should be given appropriate weight.<sup>42</sup> It is critical that Aboriginal children with disability are active contributors in the planning for their care (at a suitable age). As per the Convention on the Rights of the Child and the United Nations Declaration on the Rights of Indigenous Peoples, Aboriginal children with disability also have a right to special care to ensure they can achieve their fullest possible social integration and individual development.<sup>43</sup> VACCHO has been made aware of many instances where Aboriginal children and adults with disability have been inaccurately assessed by LACs as having a low or moderate level of need, which means they have not had access to services necessary for them to live a full life. Additionally, in some cases it has meant they therefore do not qualify for certain levels of care or services that may be offered by an ACCO that Aboriginal families trust. Families need to be able to communicate their service needs and desires without fear of racism, including requests for culturally safe services which could best facilitate the wellbeing of a child with disability.

Aboriginal children with disability who do not receive early intervention support are at a heightened risk of not continuing with their education and/or of acting out and getting caught up in activities that lead to interaction with the criminal legal system. We know that with more risk factors and less protective factors (young person spending less time connecting to Culture, Community and family) a young person with disability is more likely to interact with the criminal legal system or enter a cycle of poverty, alcohol and other drug use and poor mental health. The disproportionate incarceration of Aboriginal and people, particularly those with cognitive and/or hearing impairment, adds trauma to any pre-existing disability.<sup>44</sup>

[“\[there is\] over representation of Aboriginal people in Criminal justice because of... institutional racism in the police force. For example, the Aboriginal person who is perceived to be substance affected when they actually have an acquired brain injury.”](#)

*(VCAACD Member 2)*

VCAACD Members reflected that Aboriginal people with disability are at greater risk of arrest by Police Officers and subsequent harm through the process of being charged and held. People who are incarcerated need to remain connected to kin and Culture to navigate the process and be able to return to Community with the tools to build up their life.

The National Aboriginal and Torres Strait Islander Legal Service (NATSILS) has noted that young people who come into contact with the criminal legal system are not able to access culturally suitable assessments and thus be diagnosed with disability.<sup>45</sup> As a result, they can end up in custody and leave custody without a diagnosis or support to access the NDIS. To address this ongoing issue, all Australian legal jurisdictions need to require that people entering adult or children's prisons are screened for disability using appropriate tools (see

NATSILS recommendations). Every Aboriginal person leaving the justice system who has been diagnosed with disability also requires complex, culturally safe case management and ongoing support.<sup>46</sup>

It is essential that Aboriginal young people who are in the process of entering OOHC are provided culturally appropriate assessments to determine their needs, including disability supports, so that they can be factored into the care plan. Where possible, culturally safe assessments should be provided for young people who are at risk or identified by parents as candidates, so they can receive services and support to prevent escalation and the involvement of Child Protection. This issue is particularly pressing as there is an overrepresentation of Aboriginal young people in OOHC in Victoria.<sup>47</sup> Unfortunately interagency collaboration with Aboriginal services like child protection support are also generally poor. The refreshed Closing the Gap targets now incorporate a commitment to reducing the rate of Aboriginal children in OOHC; to achieve this departments will need to commit to working together and accounting for the holistic wellbeing of Aboriginal children, youth and their families, including disability, social and emotional wellbeing (SEWB) and education. VACCHO argue that what could seem on face value to be insignificant inefficiencies with early intervention can contribute to serious consequences such as overrepresentation of Aboriginal young people in OOHC. In response to the current issues we table **Recommendation 8: Address disproportionate representation of Aboriginal young people in OOHC by providing diagnostic services and where needed, and disability supports to families prior to intervention by child protective services. If a child must be removed then disability supports must be provided.**

VACCHO would like to see disability supports and early intervention programs funded adequately so children who are at risk are not waiting on a list. Disability supports need to be provided before intervention. When families come to the notification of child protection an investigation happens and, if it is not critical, they are referred to Child First and/or a family services program. If the family do engage in this service run through an ACCO then culturally safe assessments can take place and appropriate supports can be provided which may stop the child/ren entering OOHC.

*“One of the ways Community respond [to disability] is wariness about taking up services because so few of them are Aboriginal ... there’s racism...there is that ingrained thing about child protective services.”*

*(VCAACD Member 2)*

One of the major concerns for Aboriginal parents with disability is the removal of their child(ren) and possible trauma or harm from OOHC. Research suggests factors contributing to the over-representation of parents with intellectual disability in child protection include discrimination, prejudice and a lack of support services.<sup>48</sup>

Many people with disability are caring for others with disability.<sup>49</sup> Risks to children who have a parent with disability are exacerbated when combined with factors such as poverty, unemployment, social isolation, stress, and relationship difficulties. Given that Closing the Gap targets, including ‘reading, writing and numeracy results,<sup>50</sup> Child Mortality rates,<sup>51</sup> school attendance and employment outcomes,<sup>52</sup> are each not on track and have not been met means that Aboriginal families are at much greater risk.<sup>53</sup>

Parents with intellectual disability are stereotyped by practitioners as being incompetent, leading to their child being deemed to be at risk of harm.<sup>54</sup> There is an overrepresentation of Aboriginal parents with disability in the OOHC system, yet there isn’t evidence to suggest that parents with disability disproportionately neglect their children. Additionally, there are case studies that suggest that with sustainable and culturally suitable supports, parents with intellectual disability are very successful as parents. It is concerning that Aboriginal people with disability have been conditioned to hold low expectations of their future during their interactions with education and other social support systems.<sup>55</sup> To counteract the current systemic issues that lead to this presumption of neglect, we offer **Recommendation 9: Ensure that Aboriginal parents with disability are**

**provided culturally safe and supported assessment services, and family-centred supports such as culturally relevant parenting programs designed and delivered by ACCOs.**

### **CASE STUDY 2**

An Aboriginal mother with 4 children under 13 was having trouble getting to school on time for pick-up, arriving at random times such as 1pm or 5pm. Child Protection had deemed that she was lazy and did not want her children, resulting in her children being removed.

As part of the VACCHO 'No One's Left Out' Project (2018), staff from the local ACCO participated in a workshop on Disability and Inclusion. After the workshop, staff could apply the knowledge from the session to identify that the mother may have a disability.

Staff discussed this with the client, who agreed she might have a disability and, with the support of her doctor, she is undergoing a neuro-psych assessment process. It is also looking positive that her kids will be returning home.

Case Study 3 illustrates an all too common experience for Aboriginal parents with disability who are unsupported and presumed to be ill-equipped parents. Undiagnosed disability and issues of intervention persist for a variety of factors, including Aboriginal parents with disability may be unable to advocate for themselves and services fail to ask what the parent needs to support them to remain independent or living as a family unit. ACCOs are best placed to provide supports to Aboriginal parents; as seen in this example, they take a strength-based approach and want to invest in supporting Aboriginal people to live independently. With the right knowledge and tools, Aboriginal parents are able to receive culturally safe assessments and culturally relevant supports that can improve the wellbeing of the family and reduce the need for intervention. As mentioned earlier in the submission, tailored cultural safety training that is developed in the local community and includes material on disability is effective in leading to better outcomes for Aboriginal clients in mainstream services. The training used in this case study is from the VACCHO "No One's Left Out" Project, which included Disability and Inclusion education sessions for ACCO health and community staff, and cultural safety sessions for external health and community service organisations delivering mainstream services in their areas.<sup>56</sup>

### **CASE STUDY 3**

Staff from Mallee District Aboriginal Services (located in Mildura, Swan Hill, Kerang and Robinvale), shared the positive case study with VACCHO about a couple where the mother had an intellectual disability and the father participated in Bumps to Babes on behalf of the family. As part of the program the father was taught vital parenting skills, which he could share with the child's mother and provide support so the child could remain at home.

Background:

Bumps to Babe is an award-winning program and has had many evaluations published in national and international journals. However, the program was defunded with no thorough explanation.

The above case study illustrates the effectiveness of a family-centered support program tailored to Aboriginal people with disability and delivered with the local ACCO.<sup>4</sup> Aboriginal parents with disability, such as the mother in this case study, are at risk of Child Protection involvement when culturally safe parenting strategies could help alleviate the stress or challenges the parents are facing. Bumps to Babes is a great example of a trauma-informed, culturally safe and aware family-centered parenting program that was developed with the MDAS and embedded in community.<sup>57</sup> Andrew Jackomos, the Commissioner for Aboriginal Children and Young People in Victoria (2013-2018), praised the success of Bumps to Babes as an example of the community working with local parents to achieve safety and support for Aboriginal people with disability.<sup>58</sup>

It is frustrating for the Aboriginal community to see such a successful program be de-funded without a full explanation or commitment to provide new funding in the future. There are a select number of Aboriginal parenting programs provided by VACCA, which encourage a strengths-based approach for Aboriginal parents akin to Bumps to Babes. These include Aboriginal Family Led Decision Making (AFLDM), Wilka Kwe for families involved in Child Protection and Windook Dads, a culturally safe yarning circle for fathers.<sup>59</sup> Bumps to Babes, if funding had continued, would have provided a complementary and culturally safe support during the transition into parenthood.

Ways to improve support for Aboriginal parents with disability include ACCO support, family-centered practices and participatory programs or services, such as assistance with transport.<sup>60</sup> People with disability have requested help with identifying strengths of their parental capacity, long term and consistent support and a focus on good parental performance rather than knowledge. Bumps to Babes incorporated all of these elements. Aboriginal people with disability who are parents want to be respected, listened to and not judged during their skill development.<sup>61</sup> VACCHO sees these factors present in the ACCO services and programs available; however, there needs to be more of these services and programs with sustainable funding to ensure they are not abandoned. Ultimately Culture is the primary protective factor for Aboriginal parents, their children and all people with disability, and services for Aboriginal parents with disability should have Culture as a cornerstone.<sup>62</sup> There is a gap in parenting supports for Aboriginal people with disability since the defunding of Bumps to Babes and Beyond, resources to address **Recommendation 9** are needed -**Ensure that Aboriginal parents with disability are provided culturally safe and supported assessment services, and family-centred supports such as culturally relevant parenting programs designed and delivered by ACCOs.**

Aboriginal people with disability have unique needs and require tailored, culturally safe disability support to reduce instances of interaction with the criminal legal system. A 2013 Victorian parliamentary inquiry reported that individuals with an intellectual disability were 'anywhere between 40 and 300 per cent more likely' to be jailed than those without an intellectual disability.<sup>63</sup> While there are not specific statistics on the rates for the Aboriginal population, the data is concerning given the implications of compounded disadvantage.<sup>64</sup> Aboriginal people with intellectual disabilities face particular disadvantage in the criminal legal system such as over-policing, unfitness to plead laws (which can mean people are in limbo and housed in prisons), indefinite detention and constant surveillance.<sup>65</sup> Aboriginal people with a history of incarceration and cognitive impairment are significantly more likely to report experiencing racist treatment compared to those without.<sup>66</sup>

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<sup>4</sup> To read another positive Case Study from the success of Bumps to Babes and Beyond you can access material via QEC, at <http://www.qec.org.au/bumps-babes-and-beyond-program-2013-clients-story>.

## Conclusion

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Commission) is an important process and the First Nations Issues Paper has raised valid questions about how Aboriginal people with disability are protected from harm. VACCHO asserts that Aboriginal Community members who experience disability are safest in the hands of ACCOs and Aboriginal staff. The recommendations put forward by VACCHO support this position, reflect a strengths-based approach to solutions and promote self-determination. Key pillars to the ongoing support of Aboriginal people with disability are Culture, family-centred approaches, Community and respecting the holistic nature of the individual.<sup>67</sup> VACCHO recommends this Commissioners take these pillars into consideration when forming the final recommendations from the process.

Thank you for your consideration of this submission.

Authorised by Jill Gallagher on behalf of the Victorian Aboriginal Community-Controlled Health Organisation.

Yours sincerely



Jill Gallagher AO  
Chief Executive Officer  
Victorian Aboriginal Community-Controlled Health Organisation

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<sup>1</sup> Vicki-Ann Ware, *Improving the accessibility of health services in urban and regional settings for Indigenous people*, Resources sheet 27 produced for the Closing Gap Clearinghouse (Canberra: Australian Institute of Health and Welfare, Melbourne: Australian Institute for Family Studies, 2013).

<sup>2</sup> Vicki-Ann Ware, *Improving the accessibility of health services*, 10.

<sup>3</sup> Melissa A Lindeman, Kate Smith, Dina LoGiudice and Mark Elliot, "Indigenous Ageing Research Feature Community care for Indigenous older people: An update," *Australasian Journal on Ageing*, 36, 2 (2017): 3.

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