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**THE LEGISLATIVE ASSEMBLY FOR THE  
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**CO-DESIGNING AN ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN'S  
COMMISSIONER FOR THE ACT – REPORT SUMMARY**

**Presented by  
Tara Cheyne MLA  
Minister for Human Rights  
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# Co-Designing an Aboriginal and Torres Strait Islander Children’s Commissioner in the ACT

## *Report Summary*

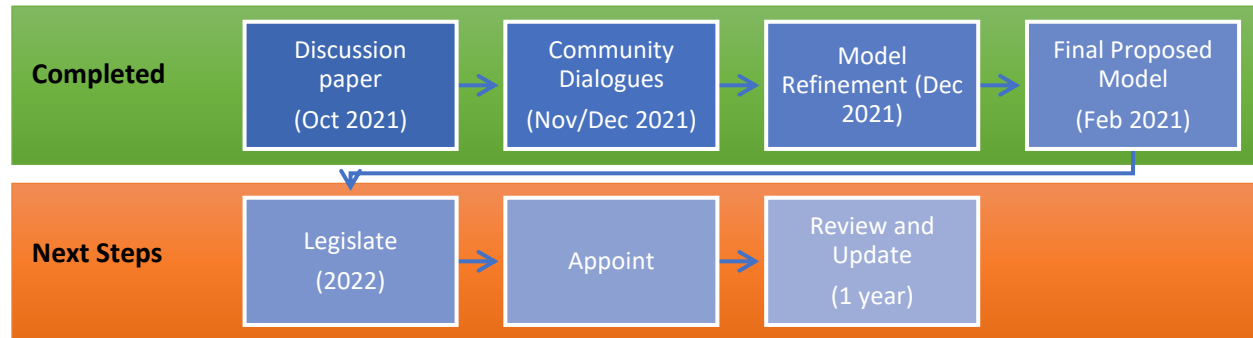
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Prepared by:

The Jumbunna Institute for Indigenous Education and Research  
University of Technology (UTS) Sydney

## Background

The *Our Booris, Our Way Report* recommended that the ACT establish an Aboriginal and Torres Strait Islander Children’s Commissioner. That Commissioner would provide “monitoring, advice and advocacy” on the rights and interests of Aboriginal and Torres Strait Islander children in the ACT, as individuals and as a community, across issues like education, health, housing and child protection. The ACT Government committed to working with the community to decide how it could happen, including the roles and functions, governance, relationships and process for the appointment of Commissioners. Through the process, the following timeline emerged:



## Principles to Protect and Promote Human Rights

The foundations for the Commissioner were informed by international human rights standards for similar organisations, including:

- a clear authority to act independently from governments and organisations, including by being empowered to independently investigate
- engagement with everyone involved, including community, government, service providers and experts
- cooperation with other human rights bodies
- the power to influence systems and practice,
- resources to effectively do their work
- a clear and transparent and appointment process in which community can participate

The right of Indigenous peoples **to self-determination** is also important in how the Commissioner will do their work to protect and promote the rights of Aboriginal and Torres Strait Islander children and young people in the ACT.

## Key Findings

The Commissioner should:

- have a broad human rights agenda, including all areas affecting the lives and wellbeing of Aboriginal and Torres Strait Islander children and young people.
- have a clear legal framework for advocacy to promote and protect the rights of Aboriginal and Torres Strait Islander children, individually and as a community.
- be independent and have independent powers.
- have close relationships with Aboriginal and Torres Strait Islander communities across the ACT and keep those relationships going. This should include an accessible and welcoming office

space and outreach through community-based ‘hubs’ that give community access to the Commissioner, including a regular presence at youth detention and other residential facilities

- provide effective independent oversight of services to promote and protect the rights of Aboriginal and Torres Strait Islander children
- be independent of, but have close working relationships with, the ACT Human Rights Commission, including supporting Aboriginal and Torres Strait Islander community members to engage with existing complaints processes
- be appointed through a clear and transparent selection process, including community representatives and engagement with Aboriginal and Torres Strait Islander children and young people.

An outline of the proposed is provided in the table below.

### Further considerations

Appointing an Aboriginal and Torres Strait Islander Children’s Commissioner for the ACT is important, however it is not enough by itself. More structural change is needed to address inequalities, and to move towards a healing, restorative approaches that align with the goals and protocols of Aboriginal and Torres Strait Islander communities. Community also pointed out further actions that should support an effective Commissioner, including

- ongoing direct relationships with Aboriginal and Torres Strait Islander communities about establishing the role and further systemic changes, including how to strengthen self-determination and self-governance
- resourcing Aboriginal and Torres Strait Islander child and family organisations to meet need
- an opportunity to review how things are going early in the life of the new role, and an opportunity to strengthen law and processes.

### Next Steps

The ACT Government has committed to working with Aboriginal community stakeholders to develop laws to establish the model. It is important that Aboriginal and Torres Strait Islander communities are able to actively participate in that process, to make sure that the law reflects their views. These conversations should also include the resources required for the Commissioner to do their work, and establishing a transparent process for appointing the first Commissioner.

ACT Aboriginal and Torres Strait Islander Children’s Commissioner – Proposed Model

Domain	Legislative	Non-Legislative enablers
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>Functions and Powers</b></p>	<p>Explicit mandate to promote and protect the rights of Aboriginal and Torres Strait Islander Children, with a broad scope across all systems affecting Aboriginal and Torres Strait Islander children and young people</p>	<p>Adequate resourcing of Commissioner’s office to enable individual and systemic advocacy, including experienced case managers and advocates, as well as community liaison</p>
	<p>Linked to key human rights instruments (including UN Convention on the Rights of the Child and UN Declaration on the Rights of Indigenous Peoples), aligned to existing human rights legislation in the ACT</p>	<p>Collaborative work agreement with the ACT Human Rights Commission, including with respect to complaints handling and support, as well as compliance and monitoring functions to coordinate efforts particularly in areas of potential overlap.</p>
	<p>Explicit reference to focus on Aboriginal and Torres Strait Islander children and young people, cultural standpoint, and importance of connectedness – to family, community, culture and Country – as critical to best interests.</p>	<p>Increased investment in Aboriginal and Torres Strait Islander child and family services to enable action given anticipated increase in demand</p>
	<p>Clear expectation for transparency and accountability to the Aboriginal and Torres Strait Islander community, including at least annual reporting to the ACT Legislative Assembly and Aboriginal and Torres Strait Islander community. Reporting to be independent of government.</p>	<p>Commitment to future review of role design, ensuring functions and framework fit for purpose</p>
	<p>Authorised for individual and systemic advocacy, own-motion inquiry, investigation and research, with a holistic framework that recognising children and young people in their developmental context</p>	<p>Effective relationship with government to enable input to policy development activities where relevant, including notification mechanisms for relevant policies that are of particular importance to the role of the Commissioner advocating for Aboriginal and Torres Strait Islander children and young people in the ACT</p>
	<p>Enable active oversight of government systems interactions with Aboriginal and Torres Strait Islander children, including those monitoring and compliance responsibilities invested in the current Public Advocate and Children and Young People Commission, as well as Official Visitor and other provision to enable access to Aboriginal and Torres Strait Islander children, particularly in closed institutions.</p>	
	<p>Inclusion into scope of role the opportunity to provide advice to government regarding relevant policy development activities, at the discretion of the Commissioner</p>	

	<p>Proactive focus. Authorised to recommend action from government agencies and relevant child and family services to promote and protect the rights of Aboriginal and Torres Strait Islander children (individually and collectively), with provision to require a response outlining the steps taken.</p> <p>Authorised to join matters at any stage, including as a party in court proceedings relevant to the rights and interests of an Aboriginal and Torres Strait Islander child or children, to inform the decision makers including the Court</p> <p>Clear authorisation to share and receive information regarding Aboriginal and Torres Strait Islander children and young people, including from government agencies, service providers, and the ACT Human Rights Commission</p>	
<p><b>Governance and Connection</b></p>	<p>Clear statutory independence, established as a standalone office (not positioned within the ACT Human Rights Commission)</p> <p>Clear expectations to engage continuously with all segments of the Aboriginal and Torres Strait Islander community of the ACT</p> <p>Enablers for the establishment of an Aboriginal and Torres Strait Islander Community Advisory and/or Children and young People Advisory, at the discretion of the Commissioner and according to their own processes.</p>	<p>Resourcing for continuous engagement, including possible Advisory group(s), accessible office space and 'hub' design (including presence at Bimberi).</p> <p>Collaborative work agreement with the ACT Human Rights Commission, including with respect to complaints handling and support, as well as compliance and monitoring functions to coordinate efforts particularly in areas of potential overlap.</p>
<p><b>Selection Process</b></p>	<p>Guidance that the appointment process is to be undertaken in partnership with the Aboriginal and Torres Strait Islander community</p> <p>Appointed by Minister, based on recommendations from transparent and collaborative appointment process</p>	<p>Transparent, multi-staged recruitment strategy, including attributes and expectations, community representation in process and management of possible conflicts of interest</p>