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# UNFINISHED BUSINESS

NSW GOVERNMENT RESPONSE TO THE  
GENERAL PURPOSE STANDING COMMITTEE 3  
REPORT INTO REPARATIONS FOR THE STOLEN GENERATIONS

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## Glossary of terms

<b>ACCP</b>	Aboriginal Child Placement Principles
<b>AHO</b>	Aboriginal Housing Office
<b>ATFRS</b>	Aboriginal Trust Fund Repayment Scheme
<b>BCH</b>	Children of the Bomaderry Aboriginal Children's Home Incorporated
<b>Bringing them home report</b>	<i>Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families</i> , Human Rights and Equal Opportunity Commission, Sydney
<b>Coota Girls</b>	Coota Girls Aboriginal Corporation
<b>KBHAC</b>	Kinchela Boys' Home Aboriginal Corporation
<b>LALC</b>	Local Aboriginal Land Councils
<b>OCHRE</b>	Aboriginal Affairs NSW <i>Opportunity, Choice, Healing, Responsibility, Empowerment strategy</i>
<b>OOHC</b>	Out-of-home care
<b>SGOs</b>	Stolen Generations Organisations
<b>SNAICC</b>	Secretariat of National Aboriginal and Islander Child Care

## Introduction

The General Purpose Standing Committee No. 3 (the Committee) report into reparations for the Stolen Generations *Unfinished Business* (the Report) makes 35 recommendations to address the enduring effects of past government practices in relation to the Stolen Generations. The Government accepts the majority of the recommendations.

In NSW, under the *Aborigines Protection Act 1909*, the Aborigines Welfare Board had wide-ranging control over the lives of Aboriginal people, including the power to remove children from their families and place them into care under a policy of assimilation.

The children removed by the Board suffered an enduring loss of culture and belonging, with many suffering severe abuse and neglect. Child removals had individual and widespread impacts on families and communities. Children separated from their parents suffered trauma, as did their parents, siblings, grandparents and extended family members. This trauma has been passed down to their descendants and continues to be felt today.

Survivors told the Committee of the destructive and lasting impact of their loss of connection to family and culture. As children they believed they were unloved, unwanted and abandoned. In the institutions, children were dehumanised, mistreated and many suffered physical and sexual abuse.

Culture and identity were deliberately and systematically undermined. The children were prohibited from speaking their Aboriginal language and punished if they did so. They were told to 'think white and act white' and many had a long-term sense of 'not belonging' either within the Aboriginal community or 'white' society.

Forced removals disempowered Aboriginal people and trauma has further devastated community social and economic structures. Survivors believe that their removal is intrinsically linked to ongoing discrimination, social and economic disadvantage and current systemic failures in education, health, justice and welfare.

As adults, the survivors have revisited their experience and shared their understanding to support each other in the process of healing. Through their representative organisations they have developed the leadership to support their members to achieve collective healing. Stolen Generations survivors are uniquely qualified to work with government and non-government agencies to influence generational social change and systemic reform to deliver trauma-informed policies and service delivery.

The NSW Government took a thematic approach in response to *Unfinished Business* to enable the Report's recommendations to be addressed meaningfully and holistically (themes outlined below). The response was also developed in consultation with Stolen Generations Organisations (SGOs) to ensure it was properly informed and reflected survivor expectations.

Due to their advancing age, the response recognises the urgent need for meaningful support for survivors.

The Government's response will involve two significant initiatives. The first – the establishment of a Stolen Generations reparations scheme – recognises the profound impacts that removal has had on Stolen Generations survivors. The second – the establishment of a Stolen Generations healing fund and financial support to SGOs – seeks to address those impacts for survivors, their families and their descendants.



The response also includes measures to:

- Formally recognise the damaging and enduring impact of removal on survivors and their families
- Provide ex-gratia payments to survivors in recognition of the damage caused by the act of removal
- Provide improved access to support services, including a funeral fund for survivors
- Reform service delivery to guard against repetition
- Support cultural renewal through language revitalisation and improved access to family records.

## 1. Recognition (acknowledgement and apology)

The Report makes a number of recommendations that seek to provide recognition of the impact of past policies and practices that separated Aboriginal children from their kinship systems and culture. These recommendations seek to provide:

- Public statements and acknowledgements
- Memorials and keeping places
- Education resources.

### Statements, acknowledgements and truth-telling

There have been previous formal apologies in Parliament but these responses have not adequately dealt with the impact of historic government policies and practices on Stolen Generations survivors, their descendants and communities.

The Premier and the Minister for Aboriginal Affairs will make statements on the 20th anniversary of the *Bringing Them Home* report (26 May 2017) to commemorate and acknowledge the wrongs of the past.



### Memorials and keeping places

The NSW Government will work with the SGOs to support the establishment of memorials and keeping places.

Memorials and keeping places (museums) will provide recognition and remembrance for Stolen Generations members and their descendants and allow the history of past forcible removal policies to be adequately told.

These memorials and keeping places will assist healing for Stolen Generations members and their descendants, and educate the public about their experiences.<sup>1</sup>

SGOs have indicated a strong preference for the establishment of a memorial at Central Station in Sydney and for smaller, local memorials within communities and at the sites of the former homes.

### Education

The expansion of public knowledge and awareness of past forcible removal practices and their impact on Stolen Generations survivors, their descendants and communities is an essential component of reparations. It contributes to the social and emotional wellbeing of Aboriginal people and reduces the risk of repetition.

NSW students will continue to study the Stolen Generations in History in Years 7 to 10 and there will be other opportunities for the topic to be investigated, subject to determinations by schools and their communities.

The NSW Government acknowledges the importance of survivors telling their own stories, including recording testimonies and the importance of educational materials to inform the public about the impacts of the forcible removal policies.

## 2. Monetary reparations (compensation)

The Report makes two recommendations in relation to monetary reparations:

- A Stolen Generations survivor reparations scheme
- Re-establishment of the Aboriginal Trust Fund Repayment Scheme.

It is estimated that approximately 1,079<sup>2</sup> children born after 1925 were removed by the Aborigines Welfare Board up until its abolition in 1969. These children were placed in Aboriginal Children's Homes (such as Kinchela Aboriginal Boys' Training Home and Cootamundra Aboriginal Girls' Training Home), other state or non-state run homes, or were adopted or fostered.

Survivors suffered significant long-term harm from the resulting loss of culture, identity, family and community. The Board also administered trust funds, which were used for apprentice wages, family endowment and occasionally other government pensions and allowances. The Aboriginal Trust Fund Repayment Scheme (the Scheme) was established in 2004 to repay funds held in trust and closed in 2011.

The NSW Government will establish a Stolen Generations reparations scheme to enable ex gratia payments to all surviving children removed by the Aborigines Welfare Board, in recognition of their loss of connection to their family and culture.

However, the NSW Government will not reopen the Aboriginal Trust Fund Repayment Scheme. During the Scheme's operation the majority of applicants fell outside the scope of the scheme and 80 per cent of claims were unsuccessful. A re-opened scheme would incur significant administrative cost for relatively little benefit and raise community expectations that cannot be met.

(More information about monetary reparations can be found at Appendix A).

<sup>1</sup> The Report 34 - June 2016 xiii

<sup>2</sup> Estimate based on a search of the surviving indexed AWB records. Based on ABS Aboriginal life expectancy tables for NSW, it is estimated that the number of survivors would be approximately 730. Other estimates conclude that NSW has between 800 and 1,350 survivors of the Stolen Generations (Sphere Consulting, 2014)

### 3. Healing

The Report makes a number of recommendations that support healing for survivors and their descendants, including funding for collective healing initiatives, programs, forums and community centres, to support and assist Stolen Generations survivors.

The forced removal of Aboriginal children by the Aborigines Welfare Board under the Aborigines Protection Act had individual and widespread impacts on families and communities. Separated parents, children and siblings experienced trauma that has been passed down to descendants and continues to be felt today. The children removed by the boards suffered an enduring loss of culture and belonging, with many also suffering severe abuse and neglect.

Past government actions have only responded to the symptoms of trauma. The NSW Government recognises the urgent need for sustained and meaningful support to address the intergenerational impacts of forced removal, particularly due to the advancing age of many survivors.

The NSW Government recognises the important role of the SGOs (Coota Girls' Aboriginal Corporation, Kinchela Boys' Home Aboriginal Corporation, the Children of the Bomaderry Aboriginal Children's Home Incorporated and the NSW/ACT Stolen Generations Council) in supporting survivors and their descendants.

The NSW Government will provide financial and non-financial assistance to SGOs and establish a healing fund to support survivors and their descendants.

### 4. Tailored supports

Children who were removed, particularly those placed in institutions, were exposed to neglect, abuse and poor or truncated education. The psychological and emotional damage many individuals experienced impaired their ability to develop social skills and access educational opportunities. Poor education can have a ripple effect on employment and housing opportunities and the impacts of removal continue to present challenges in education, employment and housing for Stolen Generations survivors and their descendants.

The Report makes a number of recommendations that seek to respond to the lifelong and intergenerational damage caused by forced removal policies being experienced through disproportionately high representation of Aboriginal children and young people in out-of-home care, and Aboriginal people in the juvenile and adult criminal justice system.

These recommendations seek to provide:

- Commonwealth Government support services
- NSW Government support services
- Funeral assistance for Stolen Generations survivors.

#### **Commonwealth support services**

The NSW Government will engage with relevant Commonwealth agencies to advocate for coordinated responses to aged care, health care card, social and emotional wellbeing counsellors, and additional funding to Link-Up NSW.



### **NSW support services**

To ensure that Stolen Generations survivors and their descendants are able to access housing when required, the Aboriginal Housing Office (AHO) and Family and Community Services are committed to working closely with the SGOs and other non-government organisations to provide the information and resources that will assist Aboriginal people become and remain housed. The AHO works closely with Aboriginal communities and alliances to ensure information about housing and housing services is provided to Aboriginal people.

### **Funeral fund**

Removal of children from their families and communities has contributed to entrenched economic disadvantage, resulting in members of the Stolen Generations being unable to afford funerals.

It is important to be able to honour loved ones appropriately. The NSW Government will establish a fund to contribute to the cost of funerals to assist families of the Stolen Generations.

## **5. Guarding against repetition**

The Report makes recommendations to guard against repeating the mistakes of past policies and practices that separated Aboriginal children from their kinship systems and culture. These recommendations seek to:

- Improve government capacity to work effectively with Aboriginal people
- Provide for early intervention and prevention
- Establish an Advisory Committee and a Report to Parliament.

### **Government capacity**

The Committee acknowledged the range of Aboriginal cultural awareness training, frameworks and policies across government agencies, yet noted that concerns were raised about the adequacy of this training – particularly in regard to specialist Stolen Generations knowledge.

The NSW public sector is a major employer and service provider and has a role to play in demonstrating good practice in relation to Aboriginal cultural awareness. While some agencies have existing cultural awareness procedures, there is no common standard of practice across the NSW public sector. The current government commitment to expand the Aboriginal workforce within the public sector will also assist in ensuring a culturally safe service delivery environment.

To build a trauma informed public sector the NSW Government will develop a bespoke e-learning training package, including information about the impacts of past forcible removal policies and practices on Aboriginal communities. The training package will be developed with Aboriginal people, including Stolen Generations survivors.

### Early intervention and prevention

Increased access to appropriate early intervention services and programs for Aboriginal people is a priority of the NSW Government.

The NSW Government will continue current early intervention programs and proceed with initiatives agreed to as a result of the Review of Out-of-Home Care in NSW (Tune Report). Further the development of a new client management system will support caseworkers implement the Aboriginal Child Placement Principles and the Aboriginal child protection and OOHC outcomes research project will inform the review of the Department of Family and Community Services systems and procedures and explore frontline employees understanding of the principles to help improve implementation. The Department of Family and Community Services will also work with the Secretariat of National Aboriginal and Islander Child Care to implement a national reporting and compliance framework.

Through extensive consultation with Aboriginal stakeholders a new Cultural Care Plan has been developed for children in OOHC. The Cultural Care Plan will be reviewed one year after implementation and a monitoring and evaluation framework will be developed.

### Advisory Committee and Reporting to Parliament

The NSW Government will establish an advisory committee for an initial period of two years to support the development of a 2018 report to Parliament on the implementation of the Government's response to *Unfinished Business*.

## 6. Cultural Renewal

The Report makes a number of recommendations aimed at:

Supporting survivors and their descendants to verify their Aboriginality to ensure they are not disadvantaged

- Revitalising Aboriginal languages
- Improving access to family records.

### Aboriginal identity

The criteria of "being accepted as Aboriginal by the community in which you live or formerly lived" is often difficult to prove for Stolen Generations' survivors and descendants. Survivors were taken as children and their return to their community of origin as an adult was not always a positive or welcoming event. This can have real, long-term material and social effects on those seeking verification of their cultural identity.

The NSW Government will work with Aboriginal organisations to identify records that may assist survivors and descendants in proof of their Aboriginality. The NSW Government will also improve access to family records, which may assist survivors and their descendants meet documentation requirements for proof of Aboriginality.

### Support for Aboriginal languages

The Aborigines Welfare Board deliberately and systematically undermined the speaking of Aboriginal languages. Speaking language was prohibited and punished. Reconnection with Aboriginal language and culture is an important part of the healing process for members of the Stolen Generations. However survivors expressed the view they are unable to access language learning opportunities at the local community level because of ongoing disconnection resulting from their removal.

While there is high interest in Aboriginal communities to increase the number of Aboriginal Language and Culture Nests, any decision to expand this initiative is dependent on the current evaluation of the NSW Government's plan for Aboriginal affairs, *OCHRE*.

However, the Report identifies the need to increase opportunities for Stolen Generations survivors to reconnect with Aboriginal language and culture, through participating in language learning and accessing language resources.

The NSW Government is consulting with communities to establish a state-wide NSW Aboriginal Languages Centre to support Aboriginal language revival efforts in NSW. It is proposed that the centre will adopt and promote effective methods of language revival, identify priorities for revival effort, coordinate investment in language revival activities, promote outreach language learning opportunities and build the evidence of the wellbeing benefits of Aboriginal language revival. It is proposed that when established the centre will facilitate access to language resources and networks to allow Aboriginal people to reconnect with their language and culture.

### Improved family record services

Aboriginal Affairs' Family Records Service provides access to the records of the Aborigines Protection Board and Aborigines Welfare Board, covering the period from 1883 to 1969. It was established in 2002 in response to the *Bringing them Home* report's recommendation that support be provided to members of the Stolen Generations to reconnect with their family and community and to re-establish links to their Aboriginal cultural heritage.

The *Bringing Them Home* report also recommended that Aboriginal people should have right of access to any government archival records relating to them and that this should be provided free of charge. Access to Family Records is subject to the State Records, Privacy & Personal Information Protection and Government Information (Public Access) Acts.

Aboriginal Affairs is currently undertaking a strategic policy review to ensure that the Family Records Service is accessible and makes available information for the benefit of Aboriginal communities and the broader NSW population.

The NSW Government will implement streamlined and improved access to family records.

## Recommendations

### Recommendation 1

The Premier and Minister for Aboriginal Affairs establish a Stolen Generations Advisory Committee, comprised of a majority of Aboriginal representatives including members of the Stolen Generations, with responsibility for:

- advising the Premier and Minister for Aboriginal Affairs on any matters related to the Stolen Generations
- monitoring and reviewing the implementation of recommendations in this report, with a progress report to be tabled by the Premier in Parliament every two years.

Response: **Accepted in principle**

The Advisory Committee will be established initially for two years with a focus on implementation of the Government's response. Committee to be appointed by Premier and Minister for Aboriginal Affairs and will include two representatives from each Stolen Generations Organisation.

### Recommendation 2

The NSW Government establish a reparations scheme for Stolen Generations survivors, in accordance with the principles of self-determination and doing no further harm, with the scheme to:

- be developed in close consultation with Stolen Generation survivors
- complement the current group action involving Stolen Generation survivors
- provide appropriate communal and individual responses, including a personal letter of apology from the Premier and Minister for Aboriginal Affairs
- include a right of appeal
- consider learnings from the South Australia and Tasmanian reparation schemes.

Response: **Accepted**

The NSW Government will establish a Stolen Generations reparations scheme, providing ex gratia payments of up to \$75,000 to those removed by the Aborigines Welfare Board up until the time the Board was repealed in 1969.

### Recommendations 3 and 8

The NSW Government provide funding for collective healing initiatives, programs, forums and community centres, to support and assist Stolen Generations survivors and their families and communities, with contributions sought from relevant churches, religious bodies and other organisations and institutions that were involved in past forcible removal policies and practices.

The NSW Government collaborate with and provide support, both financial and non-financial, to the Coota Girls' Aboriginal Corporation, Kinchela Boys' Home Aboriginal Corporation and the Children of the Bomaderry Aboriginal Children's Home Incorporated, to establish healing centres in appropriate locations to support the healing of individuals formerly institutionalised in those homes and their families and communities.

Response: **Accepted**

Financial support for the four Stolen Generations Organisations will be provided over the next 10 years (funding will vary between the organisations depending on their role and function). In addition, a grant-based Stolen Generations healing fund will be established to support priority healing initiatives, such as healing centres, keeping places and memorials (see also Recommendations 11, 12 and 13). Furthermore the NSW Government, through Transport for NSW, has offered premises at Central Station to the Coota Girls, for four years due to the upcoming redevelopment of Central Station, for their important work in supporting survivors and their families.

### Recommendation 4

The NSW Government establish a Stolen Generations scholarship scheme to support Stolen Generations survivors and their descendants in accessing educational opportunities.

Response: **Accepted in principle**

Aboriginal Affairs will scope existing scholarship programs available to Aboriginal people in NSW and work with Stolen Generations Organisations to explore and advocate access for survivors and descendants.

### Recommendation 5

The NSW Government seek the support of the Australian Government to create a health care card for Stolen Generation survivors, similar to other Commonwealth health care cards, that will provide better access to medical services (including mental health services) and reduced costs of medication and gap fees payable under Medicare.

Response: **Accepted**

The NSW Government will advocate with the Commonwealth Government to implement this recommendation.

### Recommendations 6 and 29

The NSW Government develop a plan to build a trauma-informed workforce to support Stolen Generation survivors and their families and communities.

The NSW Government ensure that all public sector staff undertake Aboriginal cultural awareness training, and that the training include mandatory information about the impacts of past forcible removal policies and practices on Aboriginal communities.

Response: **Accepted**

Recommendations 6 and 29 have been considered together. The NSW Government will establish a bespoke e-learning training package, including mandatory information about the impacts of past forcible removal policies and practices on Aboriginal communities, to build a trauma informed public sector workforce. The training package will be developed with Aboriginal people, including Stolen Generations survivors

### Recommendation 7

The NSW Government request the Department of the Prime Minister and Cabinet to consider amending the role and title of Social and Emotional Wellbeing Counsellors to ensure there is a clear focus on the provision of support to Stolen Generation survivors and their families.

Response: **Accepted**

The NSW Government will advocate with the Commonwealth Government to implement this recommendation.

### Recommendation 9

The NSW Government, on the 20-year anniversary of the tabling of the *Bringing Them Home* Report, acknowledge the wrongdoing of past government policies and practices, and the ongoing commitment to provide reparations to Stolen Generations survivors, and that it request the Office of Local Government to encourage local governments to do the same.

Response: **Accepted**

The Premier will make a statement on the anniversary in May 2017.

### Recommendation 10

The Parliament of New South Wales acknowledge and promote the strength and importance of Aboriginal culture and heritage at the commencement of each new parliament

Response: **Accepted**

The Premier and Minister for Aboriginal Affairs will request that the Speaker of the Legislative Assembly and the President of the Legislative Council acknowledge and promote Aboriginal culture and heritage at the commencement of each new Parliament.

### Recommendations 11, 12 and 13

The NSW Government, in consultation with Stolen Generation survivors, establish a memorial to acknowledge and commemorate members of the Stolen Generations in a prominent location in Sydney and other memorials in areas of significance for members of the Stolen Generations.

The NSW Government, in cooperation with the Australian Government, collaborate with and support the Coota Girls' Corporation, Kinchela Boys' Home Aboriginal Corporation and Children of the Bomaderry Aboriginal Children's Home incorporated and relevant local Aboriginal land councils to establish Keeping Places or museums at the sites of these former homes.

Response: **Accepted**

The NSW Government will work with Stolen Generations Organisations to explore the development of a memorial as part of Central Station Precinct re-development, as well as a Keeping Place/Museum based in Sydney.

The Stolen Generations healing fund will assist with the establishment of other memorials and keeping places.

### Recommendation 14

The NSW Government work with relevant organisations to investigate and search the sites of the former Cootamundra Aboriginal Girls' Training Home, Kinchela Aboriginal Boys' Training Home and the Bomaderry Aboriginal Children's Home to locate the remains of any Aboriginal children.

Response: **Accepted**

The Office of Environment and Heritage and Aboriginal Affairs will work with Stolen Generations Organisations to implement this recommendation.

### Recommendation 15

The NSW Government work with the Australian Government to establish a dedicated fund to assist families with the cost of funeral expenses for members of the Stolen Generations.

Response: **Accepted**

The NSW Government will establish a Stolen Generations funeral fund. The fund will provide payments of \$7,000 to contribute to the costs of funerals for Stolen Generations survivors.

### Recommendation 16

The NSW Government, in consultation with the Aboriginal community, re-establish the Aboriginal Trust Fund Repayment Scheme to continue repaying the 'stolen wages' of Aboriginal people, taking into account any lessons learnt from the previous operation of the scheme, with the scheme to operate for an open-ended period of time

Response: **Not Accepted**

The NSW Government will not re-open the scheme. A reopened Scheme would likely incur significant administrative costs for relatively little benefit and raise community expectations that cannot be met.

### Recommendation 17

The NSW Government, in consultation with Stolen Generation survivors and the NSW Aboriginal Land Council, review the requirements and costs involved for survivors and their descendants to verify their Aboriginality, to ensure these stakeholders are not disadvantaged in obtaining proof of Aboriginality letters due to record-keeping issues.

Response: **Accepted in principle**

The NSW Government will work with Aboriginal organisations to identify records that may assist survivors and descendants in proof of Aboriginality. The NSW Government will also improve access to family records, which may assist survivors and their descendants meet documentation requirements for proof of Aboriginality.

### Recommendation 18

The NSW Government ensure that Stolen Generation survivors have priority access to social, public and affordable housing.

Response: **Accepted**

Family and Community Services will explore priority access for survivors as part of its development of an Aboriginal Social Housing Policy. To ensure that Stolen Generations survivors and their descendants are able to access housing when required, the Aboriginal Housing Office (AHO) and the Department of Family and Community Services are committed to working closely with the Stolen Generations Organisations, other non-government organisations, Aboriginal communities and alliances to provide the information and resources that will assist Aboriginal people become and remain housed.

The AHO through its goal of creating 1,000 new housing opportunities, will continue to provide stable housing to ensure better outcomes for Aboriginal people who are impacted by disadvantage, including intergenerational trauma associated with the forced removal of children. The AHO currently provides the housing component in partnership with agencies that support Aboriginal young people leaving care and women exiting the justice system.

### Recommendation 19 and 20

The NSW Government, in consultation with Stolen Generation survivors, partner with the Australian Government to identify and deliver innovative and culturally appropriate aged care services for Stolen Generation survivors. The NSW Government explore opportunities for Stolen Generation survivors to better access existing aged care facilities.

Response: **Accepted**

The NSW Government will work with and advocate that the Commonwealth Government adopt this recommendation.

### Recommendation 21

The NSW Government encourage the Australian Government to negotiate the return of incarcerated Stolen Generations survivors from overseas jurisdictions.

Response: **Accepted**

The NSW Government will work with and advocate that the Commonwealth Government adopt this recommendation.

### Recommendations 22 and 23

The NSW Government, in consultation with Stolen Generation survivors, explore options for government agencies to identify and capture the needs of survivors and their descendants, for the purpose of ensuring services are tailored appropriately.

The NSW Government establish a direct point of contact that:

- will assist Stolen Generation survivors to navigate the service system by providing information and making referrals to appropriate services
- is staffed by people who are trauma-informed and have specialist knowledge about the Stolen Generations, and who are preferably Aboriginal or Torres Strait Islander.

Response: **Accepted**

The resourcing of Stolen Generations Organisations will enable advocacy for the needs of survivors and descendants.

Aboriginal Affairs will work with Service NSW and Stolen Generations Organisations to establish points of contact. Resourcing will also be provided to Stolen Generations Organisations (via responses to recommendations 3 and 8) to enable advocacy for the needs of survivors and their descendants.



The NSW Government will also respond to this recommendation through the planned establishment of a Child Protection Academy by Family and Community Services to build and sustain the capability of a world-class and professional workforce.

#### **Recommendation 24**

The NSW Government consider increasing the number of Aboriginal Language and Culture Nests under its OCHRE strategy.

Response: **Not accepted at this time**

The expansion of the Aboriginal Language and Culture Nests is dependent on the evaluation of OCHRE initiatives, and cannot be resourced at this time.

In recognition of the importance of Aboriginal languages to the whole community, the NSW Government will develop legislation to recognise and protect NSW Aboriginal languages, and consult on the establishment of a NSW Aboriginal Languages Centre to support language revival in Aboriginal communities.

#### **Recommendation 25**

The NSW Government, in consultation with Stolen Generation survivors, undertake a comprehensive review of how records relating to the Stolen Generations are managed and accessed, with a view to:

- removing any barriers that inhibit Stolen Generation survivors and their descendants from accessing records related to their family and history, including any fees that may apply when individuals apply for records from government agencies, such as the Registry of Births, Deaths and Marriages
- ensuring that appropriate mechanisms are in place for Stolen Generation survivors to correct, alter or supplement records relating to their removal
- allocating additional funding to the Aboriginal Affairs NSW Family Records Unit so that it can provide increased assistance to those accessing records and better promote its services.

Response: **Accepted**

The NSW Government will:

- Streamline access to the former Aborigines Welfare Board (AWB) records
- Establish a new ongoing role of Aboriginal Research Historian to contextualise the AWB records and enable links to be made with contemporaneous information from Stolen Generations survivors

- Build capacity within Aboriginal Affairs to refer those accessing files to other support services.

#### **Recommendation 26**

The NSW Government provide funding to the Coota Girls' Corporation, Kinchela Boys' Home Aboriginal Corporation and Children of the Bomaderry Aboriginal Children's Home Incorporated for the purpose of recording the testimonies of Stolen Generation survivors.

Response: **Accepted**

See response to Recommendations 3 and 8. Financial assistance will be provided to the four Stolen Generations Organisations over the next 10 years. In addition, a grant-based Stolen Generations healing fund will be established to support priority healing initiatives, including recording of testimonies.

#### **Recommendation 27**

The NSW Government:

- request the Department of the Prime Minister and Cabinet to provide additional funding to Link-Up NSW so that it can provide an increased number of reunions for Stolen Generation survivors each year;
- review if any state funding can be provided for the reunification program.

Response: **Accepted**

The NSW Government will work with and advocate that the Commonwealth Government adopt this recommendation.

See response to Recommendations 3 and 8. Financial support for the Stolen Generations Organisations will be provided over the next 10 years that will increase capacity for these organisations to facilitate reunions for survivors. The establishment of a Stolen Generations healing fund (\$5 million over 10 years) will support priority healing initiatives including survivor reunions.

#### **Recommendation 28**

The NSW Government ensure that the history of past forcible removal policies and practices and its continuing impacts on Aboriginal people are compulsory modules in primary and secondary school curricula, and encourage private providers to do the same.

Response: **Accepted**

Existing History curricula already includes the Stolen Generations for all year 7 to 10 students.

### Recommendation 29

The NSW Government ensure that all public sector staff undertake Aboriginal cultural awareness training, and that the training include mandatory information about the impacts of past forcible removal policies and practices on Aboriginal communities.

Response: **Accepted**

See Recommendation 6.

### Recommendation 30

The NSW Government collaborate with community organisations to develop educational resources about the Stolen Generations for the broader community, with the resources to be made available in public libraries.

Response: **Accepted**

See response to Recommendations 3 and 8. Financial assistance for the Stolen Generations Organisations and the establishment of a grant-based Healing Fund will be provided over the next 10 years to support priority healing initiatives, including the recording of testimonies and the development of educational materials that can be used by the broader community.

### Recommendation 31

The Department of Family and Community Services, in consultation with Aboriginal organisations and communities, identify strategies to promote early intervention services and programs that aim to prevent Aboriginal children and young people being removed from their family.

Response: **Accepted**

The NSW Government will continue the operation of current early intervention programs and will proceed with the initiatives agreed to as a result of the review of out-of-home care in NSW (Tune Report).

### Recommendation 32

The Department of Family and Community Services commission an independent audit of adherence to the Aboriginal and Torres Strait Islander Child Placement Principles, with a view to improving compliance and reporting.

Response: **Accepted**

The NSW Government will introduce a new client management system, Child Story, to support caseworkers in implementing the Aboriginal placement principles and, as part of the Improving Aboriginal Child Protection and Out-of-Home Care Outcomes research project, test frontline worker understanding of the Aboriginal Child Placement Principles and review systems/procedures. The NSW Government will also work with the Secretariat of National Aboriginal and Islander Child Care to implement a national reporting and compliance framework.

### Recommendation 33

The Department of Family and Community Services will review a newly re-designed care and culture plan one year after implementation and will develop a monitoring and evaluation framework.

Response: **Accepted**

The NSW Government will review the plan one year after implementation and will develop a monitoring and evaluation framework.

### Recommendation 34 and 35

The Premier and the Minister for Aboriginal Affairs be given joint responsibility for overseeing the NSW Government's implementation of recommendations from this inquiry and that they provide a report to Parliament in 2018 for review by General Purpose Standing Committee No. 3 on the implementation of the recommendations of its 2016 report into reparations for the Stolen Generations in New South Wales. That, in conjunction with its consideration of the findings and recommendations of this inquiry, the NSW Government review the commitments made in its 1999 response to the *Bringing Them Home* report.

Response: **Accepted**

The NSW Government will establish a Stolen Generations Advisory Committee for an initial period of two years to support the implementation of the NSW Government Response to the Standing Committee's recommendations, including an Implementation Report to Parliament in 2018. This report will also consider the commitments made in the NSW Government response to the *Bringing Them Home* report in 1999.

## Appendix A: Monetary reparations (compensation)

The Report makes two recommendations in relation to monetary reparations:

- A Stolen Generations survivor reparations scheme
- Re-establish the Aboriginal Trust Fund Repayment Scheme.

### Stolen Generations survivor reparations scheme

Recommendation 2 seeks that the NSW Government establish a reparations scheme for Stolen Generations survivors, in accordance with the principles of self-determination and 'doing no further harm'.

The scheme will:

- Be developed in close consultation with Stolen Generations survivors;
- Complement the current Stolen Generations Group Action involving Stolen Generations survivors<sup>3</sup>;
- Provide appropriate communal and individual responses, including a personal letter of apology from the Premier and Minister for Aboriginal Affairs;
- Include a review process; and
- Consider learnings from the South Australia and Tasmanian reparation schemes.

It is estimated that approximately 1,079<sup>4</sup> children born after 1925 were removed by the Aborigines Welfare Board up until its abolition in 1969. These children were placed in Aboriginal Children's Homes, other state or non-state run homes, or were adopted or fostered. Survivors suffered significant long-term harm from the resulting loss of family, community, culture and identity. However, there is no legal recourse for survivors to claim compensation for the act of removal as the decisions of the Board to remove Aboriginal children – while entirely at odds

with current child placement principles that recognise the central importance of family, kinship, connection and culture – were permitted under the Aborigines Protection Act 1909.

The NSW Government will establish a Stolen Generations reparations scheme to enable ex-gratia payments to all surviving children removed by the Aborigines Welfare Board in recognition of their loss of connection to their family and culture.

The scheme will be underpinned by the NSW Government Ex-Gratia Payments Policy that enables the relevant Minister, in this case the Minister for Aboriginal Affairs, to provide payment to those that have suffered a financial or other detriment as a result of the workings of government, where there is no legal recourse available to remedy the issue.

The act of removal by, or committal to, the care of the Board will be the basis for the payment and all those removed and placed in homes, fostered or adopted will be eligible.

Consistent with the Committee's recommendation, the scheme will only be available to survivors, not descendants. The Reparations scheme will also not make payments for personal injuries as a result of physical mistreatment and sexual abuse. Compensation for physical mistreatment and sexual abuse are currently being provided through the legal action initiated by Stolen Generations survivors (Stolen Generation Group Action). Stolen Generation survivors may also be eligible for compensation through the recently announced Commonwealth Redress Scheme for survivors of institutional child sexual abuse. The Commonwealth scheme is expected to be established in 2018.

<sup>3</sup> The current Stolen Generations Group Action is a legal process providing compensation to claimants for personal injuries as a result of harm and abuse suffered after being removed by the Aborigines Welfare Board and placed in either specific Aboriginal Children's Homes, other state-run homes, homes run by non-government institutions or foster care.

<sup>4</sup> Estimate based on a search of the surviving indexed AWB records. Based on ABS Aboriginal life expectancy tables for NSW, it is estimated that the number of survivors would be approximately 730. Other estimates conclude that NSW has between 800 and 1,350 survivors of the Stolen Generations (Sphere Consulting, 2014).

The Stolen Generations reparations scheme will not provide payments for other types of loss and harm identified by survivors including:

- Denial of educational opportunities and life skills by limiting training to domestic services and farm hands, which in turn limited life potential and opportunity.
- Distress and trauma caused by the forced removal of the children of survivors while they were still wards of the Board, although the children removed by the Board would be eligible under this scheme.
- That the actions of the Board were arguably race-based human rights violations.

To implement the Reparations Scheme it is proposed that Guidelines, outlining eligibility, the application process, role of independent assessors and an administrative review process, will be approved by Social Policy Cabinet Committee.

An ex-gratia payment of up to \$75,000 per applicant will be provided. The \$75,000 payment is benchmarked against the ex-gratia payments made through the 2006 Tasmanian reparations scheme that paid \$58,000, allowing for CPI increases over the last ten years.

Survivors have repeatedly said that the long-term impacts of removal – including the loss of family and community connections, language, culture and identity – have been as great, if not greater, than the long-term impacts of sexual or physical abuse. For survivors, no amount of money can undo the harm caused, and it is acknowledged there may be expectations that payments should be higher. However, the NSW Government is seeking to balance expediency – due to the advanced age of many survivors – with low levels of documentation available. As such, a payment of up to \$75,000 allows for only minimal documentation to be required, establishing of proof of removal only.

The eligibility requirements for applicants would take into account that the Board's records are incomplete due to loss, deliberate destruction and poor record-keeping practices. Official Board records, and evidence in the form of statutory declarations, oral evidence and other documentary sources, including photos, and corroborative evidence from other survivors and SGOs, would be accepted.

## **The scheme will be rolled-out in two phases.**

**Phase 1:** Payments will be fast-tracked to Stolen Generations survivors who have participated in the Stolen Generations Group Action and who, therefore, have already provided sufficient documentation. Many claimants are elderly and require fast settlement.

**Phase 2:** The Scheme will then be publicly advertised inviting anyone who was removed by the Aborigines Welfare Board up until it was repealed in 1969 to apply for payment under the Scheme. To ensure survivors have sufficient time to make a claim, and based on the experience of the Aboriginal Trust Fund Repayment Scheme, the Scheme will be operational for at least five years.

## **Aboriginal Trust Fund Repayment Scheme**

Recommendation 16 of the Report seeks that the NSW Government, in consultation with the Aboriginal community, re-open the Aboriginal Trust Fund Repayment Scheme (ATFRS) to continue repaying the 'stolen wages' of Aboriginal people.

The NSW Government does not support this recommendation. A reopened Scheme would incur significant administrative costs for relatively little benefit and raise community expectations that cannot be met. This would create further harm for Stolen Generations survivors and damage broader Aboriginal community relations.

Eighty per cent of claims under the original scheme were unsuccessful, with the majority falling outside the scope of the ATFRS. The large number of out of scope claims were the result in part of campaigns seeking to expand the scheme to consider other forms of 'stolen wages'. Broadening the range of 'stolen wages' is not a realistic option given that most categories of 'stolen wages' fall outside the jurisdiction of the NSW Government and would require the cooperation of private employers (or their descendants), church organisations and the Commonwealth Government.

