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**To:** Christina Kenny **Phone:** 9284 9728  
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**From:** Anna Needs **Phone:** 9228 4962  
Social Policy Branch **Fax:** 9228 4120

**Subject:** NSW Actions in Response to the *Bringing Them Home* Report

**Date:** 21 May 2007

**Pages:** 7 including coversheet.

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Dear Christina

As discussed, attached is a copy of the NSW response to Mr Calma's letter seeking information on NSW actions in response to the *Bringing Them Home* Report. A hard copy of the letter and response has been mailed today.

Kind Regards

A handwritten signature in black ink, appearing to be 'A Needs', written over a horizontal line.

Anna Needs



New South Wales Government

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Hon. John von Doussa QC  
President  
Human Rights and Equal Opportunity Commission  
GPO Box 5218  
Sydney NSW 2001

ATTENTION:  
Mr Tom Calma  
Aboriginal and Torres Strait Islander Social Justice Commissioner  
National Race Discrimination Commissioner

Dear Mr von Doussa,

I refer to recent correspondence to the Premier seeking an overview of New South Wales Government actions in response to the *Bringing Them Home* Report, in the context of the tenth anniversary of the tabling of the Report in the Federal Parliament.

The NSW Government welcomes the opportunity to honour the tenth anniversary of the *Bringing them Home* report by outlining a number of government actions addressing the Report. These actions are outlined in the attachment.

A Sorry Day March will be held in Sydney on 26 May 2007 as part of national Sorry Day activities.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robyn Kruk', with a large, stylized flourish above the name.

Robyn Kruk  
Director-General

21/5/07

## *Overview of NSW actions in response to Bringing Them Home Report*

In June 1997, the NSW Parliament passed a bipartisan motion to apologise to the Stolen Generations for the systematic separation of generations of Aboriginal children from their parents, families and communities. The apology acknowledged Parliament's role in enacting laws and endorsing policies of successive governments which had caused profound grief and loss for Aboriginal Australians, and reaffirmed the Parliament's commitment to the goals and processes of reconciliation in NSW and throughout Australia.

The NSW Government has also taken a number of steps to address key findings in the *Bringing Them Home Report*. Across government, there have been significant legislative reforms, establishment of the Aboriginal Trust Fund Repayment Scheme, initiatives relating to land ownership and usage, along with measures to improve government's engagement with Aboriginal groups in developing policy and delivering services. These have been supported by specific initiatives in the areas of services for families and carers, mental health, Aboriginal trust funds, culture and heritage and accessing personal and family records.

### **Legislative reforms**

The NSW Government has undertaken a number of legislative reforms in response to the *Bringing Them Home Report*, particularly in the areas of child protection and adoption, and juvenile justice.

#### *Child protection and adoption*

The *Children and Young Persons (Care and Protection) Act 1998* contains a range of provisions that address key recommendations. These provisions -

- provide for the relevance of language and cultural identification when a child is placed in care;
- mandate the keeping of records regarding Aboriginal children that come into contact with the child protection system, and the setting of standards of access to such records;
- recognise the importance of children maintaining contact with their Aboriginal family, community and culture;
- provide that Aboriginal and Torres Strait Islander people are to participate in the care and protection of their children and young persons with as much self-determination as is possible;
- recognise that the safety, welfare and well-being of the child as the paramount consideration in making determinations about care and protection; and

- require child protection authorities, when determining placements for children in out-of-home care, to give priority to placement with Aboriginal family and kin.

The *Adoption Act 2000* also contains significant protections for Aboriginal children and young people, and includes requirements for consultation with Aboriginal communities in making adoption determinations.

#### *Juvenile Justice*

In the area of juvenile justice, the Government has also put in place laws which address other key recommendation in the *Bringing Them Home Report*. Some of these have generic application, whilst others are specific to Aboriginal people. For example –

- The *Young Offenders Act 1997* establishes a comprehensive, multi-agency approach to dealing with young offenders. It diverts minor offenders from the formal criminal justice system for summary offences by allowing young offenders to be dealt with by way of warnings, cautions and youth justice conferences.
- The *Law Enforcement (Powers and Responsibilities) Act 2002* incorporates the requirement for an Aboriginal legal aid organisation to be notified immediately if an Aboriginal or Torres Strait Islander person is detained, to ensure appropriate representation.
- The *Law Enforcement (Powers and Responsibilities) Act 2002* only permits the detention of Aboriginal children in police cells in exceptional circumstances that make it necessary for the well-being of the child. Where detention is necessary, the custody manager for the child is to arrange for a support person to remain with the child unless it is not reasonably practicable to do so.

In addition, NSW laws contain various provisions dealing with interrogation of juveniles, withdrawal of consent for interviews, recording of interviews and bail, which address recommendations of the *Bringing Them Home Report*.

#### **Aboriginal Trust Funds**

In December 2004, the NSW Government announced it would establish the Aboriginal Trust Fund Repayment Scheme to repay wages or other money placed in Trust between 1900 and 1969 and never repaid.

The NSW Government has guaranteed that any individual who can establish that money is owed will have it returned. Claims can be made by individuals who had their money placed into trust funds, their authorised representative or, where the direct claimant is deceased, by his/her descendants.

The Scheme is an evidence-based repayment scheme, whereby repayments are ex-gratia payments by the NSW Government, indexed to their current value. The Scheme is administered by the Aboriginal Trust Fund Repayment Scheme Unit located within the

Department of Premier and Cabinet. The Scheme will operate for a period of up to five years, and a review of its operation will be conducted for Government after three years.

### **Land Ownership and Usage**

NSW has undertaken a number of actions to restore Aboriginal land ownership and usage.

The Aboriginal owners regime set out under the *National Parks and Wildlife Act 1974* and the *Aboriginal Land Rights Act 1983* provides for land of cultural significance to Aboriginal people to be returned to Aboriginal ownership and vested in an Aboriginal Land Council(s) which then holds the title on behalf of Aboriginal owners. The land can then be leased by the Aboriginal Land Council(s) to the Minister for the Environment in return for a rental payment and jointly managed by a Board of Management comprising a majority of Aboriginal members. To date Mutawintji National Park, Mount Grenfell Historic Site and Biamanga and Gulaga National Parks have been returned to Aboriginal ownership.

Four Indigenous Land Use Agreements have been registered in NSW since 1999. These include Two Fold Bay, the Tumut Brungle Area Agreement, the Powercoal Pty Ltd, Victor Perry, Stephen Seiver & NSW ALC ILUA Area Agreement and the Bunjalung of Byron Bay (Arakwal) Agreement.

### **Policy development and service delivery**

The NSW Government has invested considerable effort in seeking to address one of the key deficiencies of past policies: the lack of engagement with Aboriginal groups, resulting in a lack of understanding of Aboriginal community and culture.

The need to work in partnership with Aboriginal people and provide culturally appropriate services is central to NSW Government policy in relation to Aboriginal Affairs. *Two Ways Together* (TWT), initiated in 2003, is the NSW Government's 10 year plan to improve the health and wellbeing of Aboriginal people. In 2004, the Government approved \$40 million in funding over 4 years for initiatives in 7 priority areas including health, education, economic development, justice, culture and heritage, housing and infrastructure, and families and young people.

TWT explicitly acknowledges the adverse impact of the forced removal of Aboriginal children, and contains a range of measures aimed at strengthening Aboriginal communities and rebuilding trust in government agencies. A key element is recognising that Aboriginal service delivery is part of the core business of NSW agencies.

The Government's 10 year strategic plan for improved service delivery, *A New Direction for NSW: the NSW State Plan (2006-2016)*, contains priorities and targets for action that will result in improved outcomes for residents of NSW. It also includes targets that are specific to Indigenous people, with a focus on improved health and educational results. The Plan builds on and links commitments made under existing whole-of-government plans such as *Two Ways Together* and recognises the importance of working with Aboriginal communities to achieve its targets.

### Families and carers

The *Aboriginal Child, Youth and Family Strategy* aims to establish parenting and wellbeing programs through government and non-government organisations across NSW. It is implemented in conjunction with *Families NSW* to develop stronger service networks that support families to raise healthy children and build skills and confidence in parenting. The Strategy involves 22 Aboriginal Family Workers across NSW, located in both Aboriginal and mainstream organisations. The Family Workers play a vital role in linking families to relevant support services and programs, in addition to providing culturally appropriate assistance to families.

The *Aboriginal Child, Youth and Family Strategy* has also established a range of support programs for Aboriginal parents and carers, including Aboriginal Supported playgroups and support groups for grandparents caring for grandchildren.

The Government has introduced measures to improve capacity to provide culturally appropriate services for families. The *Foster Care Resources Project* contains three components involving reviewing and amending the Koori Carers for Koori Kids foster care training package for prospective Aboriginal foster care applicants, revising the generic foster care training package to include a greater focus on the cultural needs of Aboriginal children and young people, and the development of an Aboriginal-specific tool for assessment of Aboriginal foster carers.

### Mental Health

The *Bringing them Home* Report highlighted the intergenerational impact of the forced removal of children on the mental health of Aboriginal people. NSW has undertaken a number of actions to ensure appropriate care and support for Aboriginal people with a mental illness. The NSW *Interagency Action Plan for Better Mental Health* was released in July 2005 and aims to enhance the mental health of people at risk of, or affected by, mental illness by improving the responsiveness and coordination of services.

In 2006, the NSW Government released the *NSW: A new Direction for Mental Health* outlining its commitments under the Council of Australian Governments *National Action Plan on Mental Health*. Under *A New Direction for Mental Health*, NSW will provide \$12.2 million for an Aboriginal mental health workforce program that will place local Aboriginal mental health trainees in mainstream community mental health teams to address the high and complex needs of Aboriginal people, and for Aboriginal people to better engage with mental health services. In addition, NSW Health has developed the Mental Health - Aboriginal Outcomes and Assessment Tool to ensure culturally appropriate mental health services are provided.

The NSW Government has also expanded the Joint Guarantee of Service (JGOS), a multi-agency, multi-sector initiative which aims to coordinate the delivery of services to people with mental health problems and disorders who have ongoing support needs living in social housing. The JGOS involves the Department of Housing, NSW Health, Department of Community Services, Aboriginal Health and Medical Research Council of NSW and the NSW Aboriginal Housing Office.

### **Culture and Heritage**

In 2003, the Department of Aboriginal Affairs, in conjunction with other government agencies and in partnership with Aboriginal communities across NSW, developed a NSW Aboriginal Languages Policy. The Languages Policy assists Aboriginal communities to revive and preserve their traditional languages. The NSW Aboriginal Languages Research and Resources Centre was established to foster and support the recording, retention and understanding of Aboriginal languages. The language Centre provides Aboriginal Communities with technical linguistic and teaching advice, research assistance, mentoring, networking and collaboration between language initiatives across NSW and advocacy for the revival of Aboriginal languages.

The Language Centre administers the Department's Community Language Assistance Program which provides grants of \$5000 to \$25 000 for projects to revive Aboriginal languages.

The Department of Aboriginal Affairs is working with other government agencies to establish a permanent facility in Redfern for the NSW Sorry Day Committee. The Committee was established to further the rights of the Stolen Generations in NSW and provide them with support. A Sorry Day March will be held on Saturday 26 May 2007 in Sydney as part of National Sorry Day.

### **Access to Records**

In relation to the preservation of records of Aboriginal families and assisting individuals to locate them, the NSW Government has established a Family Records Unit within the Department of Aboriginal Affairs. The Unit enables individuals to obtain access to their own or their families' records from the NSW Aborigines Welfare Board (formerly the Aborigines Protection Board). The Board operated from 1883 to 1969 and was the main NSW government agency responsible for implementing and administering legislation and policy affecting Aboriginal people throughout NSW. The Department is also working to facilitate access by introducing better indexing.

Similarly, the Department of Community Services has undertaken a number of projects in relation to the accessibility of its records. These include publishing *Connecting Kin: Guide to Records*, a book which identifies the types of surviving records held by the NSW Government and non-government organisations about children and young people who were placed in care, and on how to access them. The Department also funds the Link-Up (NSW) Aboriginal Corporation to assist members of the Stolen Generations to obtain access their own government records, trace family members and facilitate reunions.