



12th February 2020

Committee Manager
Legislative Assembly, Legal and Social Issues Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002

RE: Inquiry into the issue of historical forced adoptions in Victoria

The Victorian Aboriginal Child Care Agency (VACCA) welcomes the opportunity to provide input into the Parliament of Victoria's Legal and Social Issues Committee inquiry into the issue of historical forced adoptions in Victoria. Our submission addresses the issue of forced adoptions within the context of the Stolen Generations – that is, any Aboriginal or Torres Strait Islander person who was removed, adopted, fostered or placed in an institution, or family who are searching for loved ones that were removed, adopted, fostered or placed in an institution.

We believe that the needs of Aboriginal people who were affected by forced adoptions require a different set of responses and supports in order to be culturally safe, to reconnect what was lost when Aboriginal children were removed, and to provide collective healing and reunification with family, community, country and culture.

This submission:

- Outlines our definition and understanding of 'forced adoption' in the context and experiences of the Stolen Generations and their descendants
- Provides a detailed account of practices of forcible removal of Aboriginal children through forced adoption in Victoria and the ongoing intergenerational impacts of colonisation and assimilation policies on the Victorian Aboriginal community today; and
- Expresses VACCA's position on what is required to effectively respond to, and provide support to, Aboriginal people in Victoria who have been affected by forced adoption.

About VACCA

VACCA's submission is based on our unique position as a statewide Aboriginal Community Controlled Organisation (ACCO) and the lead Aboriginal child and family welfare agency in Victoria, with 40 years of experience and expertise in leading and delivering services that meet the needs of Aboriginal and Torres Strait Islander children, families, communities and the Stolen Generations,

through a framework of self-determination, healing approaches and cultural safety. Our purpose is supporting culturally strong, safe and thriving Aboriginal communities. Fundamental to our work is the commitment to provide programs and deliver services in an Aboriginal way, reflecting the priorities and needs of the community.

VACCA delivers over 50 different programs which include out of home care and child and family services to support children, families and adults experiencing vulnerability, especially in parenting and family violence. VACCA also auspices reunification services to the Stolen Generations through the Link- Up Victoria program – a state-wide program. Link- Up Victoria has been operating since 1990. Link-Up Victoria is funded to support the Stolen Generations, and provides family tracing, reunion and counselling services to the Stolen Generations to reunite them with their families, communities, traditional country and culture.

From 2013 to mid-2018 VACCA provided the Royal Commission into Institutional Responses to Child Sexual Abuse Support Service. Through Ngarra Jarra Noun (Redress Support Service), VACCA is also funded to provide culturally safe support to Aboriginal survivors of institutional child sexual abuse as they apply to the National Redress Scheme.

Over the years, the development of VACCA's Aboriginal Child and Family Welfare service model has been closely aligned to the state of Aboriginal affairs in Australia and the development of the Aboriginal community in which our service is located. When the Victorian Aboriginal Child Care Agency was established in 1976, our primary concern was stopping the removal of our children into institutional and other forms of care where, more than likely, they became lost to our community because our children were largely in non-Aboriginal care. From small beginnings with modest objectives, we have developed into a sophisticated organisation that is an integral part of the fabric of services aimed at Aboriginal families and children at risk. For more than forty years, VACCA has been a pivotal advocate for Aboriginal children to be connected to their culture and identity; to their families and communities.

Defining 'forced adoptions' in the context of the history of forcible removal of Aboriginal people from their families

The forcible removal of Aboriginal children from their families, including in Victoria, has had profound and ongoing impacts on every Aboriginal family in Australia; effects which include, but are not limited to, the historical period of forced adoptions (1950s to 70s) investigated in this inquiry. The Commonwealth Senate Inquiry Report, *Commonwealth Contribution to Former Forced Adoption Policies and Practices, 2012* defines forced adoptions as an '*adoption where a child's natural parent, or parents, were compelled to relinquish a child for adoption*'. However, given that the context shaping the experiences of the Stolen Generations differs significantly from the non-Aboriginal context, VACCA's response to this Inquiry defines historical forced adoptions as a form of '**forcible removal**' as defined in the first term of reference of the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, as follows:

The Inquiry's first term of reference requires the tracing of 'laws, practices and policies which resulted in the separation of Indigenous children from their families by compulsion, duress or undue influence'. Throughout this report, for ease of reference, we refer to 'forcible removal'. The term contrasts the removals which are the subject of this Inquiry with removals which were truly voluntary, at least on the part of parents who relinquished their children, or where the child was orphaned and there was no alternative Indigenous carer to step in.¹

Given the overwhelmingly repressive and coercive situation that Aboriginal people faced during the historical period which is the subject of this present Inquiry, Stolen Generations experiences of forced adoptions need to be understood differently from the societal factors that led to the historical forced adoptions of non-Aboriginal children in the 1950s to 1970s.

Some of the key ways in which the experiences of forced adoption were different for the Stolen Generations include:

- At the time of historical forced adoptions, there was already in place a substantive number of laws and policies across successive generations and decades, which were specifically designed to control and regulate the movement, freedom, rights and lives of Aboriginal people. This included the existence of missions and reserves with managers who exercised absolute control over the lives of Aboriginal people;
- The existence of widespread systemic racism and discriminatory and dehumanising attitudes towards Aboriginal people, and a context of coercion and discrimination that created an environment of fear and repression at this time. This context meant that "voluntary consent" was impossible, even if this was given.
- The general environment of pressure on Aboriginal parents to give up children as part of assimilation and 'protection' policies and societal attitudes.

Colonisation has had a devastating impact on the physical, spiritual, social, emotional, economic and cultural wellbeing of Aboriginal people. The experience of Aboriginal people under colonisation has been traumatic and has involved a series of dispossessions; from the land, from ancestors, from culture and from family. These dispossessions often occurred under the banner of 'protection' and of assimilation.

The forcible removal of Aboriginal children from their families, whether through adoption to non-Aboriginal families, fostering or institutionalisation, has been part of an ongoing and far-reaching process of colonisation, systemic racism and genocide.

A gross violation of human rights

In 1997, The Human Rights and Equal Opportunity Commission Inquiry into the Separation of Aboriginal and Torres Straits Islander Children from their Families (Inquiry) found that the forcible removal of Indigenous children was a gross violation of their human rights. It was racially

discriminatory and continued after Australia, as a member of the United Nations from 1945, committed itself to abolish racial discrimination.

The Inquiry found that by the early 1950s, the international prohibition of racial discrimination of the kind to which Indigenous families and children were subjected was well-recognised, even in Australia.

An act of genocide

The Inquiry also concluded that forcible removal was an act of genocide contrary to the Convention on Genocide ratified by Australia in 1949. The *Convention on the Prevention and Punishment of the Crime of Genocide* specifically includes “forcibly transferring children of [a] group to another group’ with the intention of destroying the group.”

Genocide is not only the mass killing of a people. The essence of genocide is acting with the intention to destroy the group, not the extent to which that intention has been achieved. A major intention of forcibly removing Indigenous children was to ‘absorb’, ‘merge’ or ‘assimilate’ them, so that Aboriginal people as a distinct group would disappear. Authorities sincerely believed assimilation would be in the ‘best interests’ of the children, but this is irrelevant to a finding that their actions were genocidal.

On the basis of these findings the Inquiry said that the most appropriate response by governments in Australia should be one based on “reparations”:

The Inquiry concluded forcible removal involved human rights breaches and the denial of common law protections to Indigenous families and children. Governments have a responsibility to respond with ‘reparation’ to those affected.

‘Reparation’ is the appropriate response to gross violations of human rights. According to international legal principles, reparation has five parts:

- acknowledgment of the truth and an apology;
- guarantees that these human rights won’t be breached again;
- returning what has been lost as much as possible (known as restitution);
- rehabilitation; and
- compensation.

It has been twenty-three years since the publication of the *Bringing Them Home Report* but VACCA is still working with families who were damaged by the removal policies; some families with five or six generations affected by institutionalisation and the social and psychological damage of being forcibly removed from their families.

As such, we advocate that the present Inquiry consider forced adoptions in the Stolen Generations context as: distinct from the non-Aboriginal context; as constituting one of many different practices

of forcible removal of Aboriginal children from their families which were exercised during this time, and which occurred through compulsion, duress and/or undue influence.¹

Forcible removal through adoption: the experiences of the Stolen Generations and their descendants

Across successive generations, from the 'protection' era to the assimilation policies of the 1950s to 1970s, it is estimated that tens of thousands of Aboriginal and Torres Strait Islander children were removed from their families and raised in institutions or fostered-out to non-Aboriginal people. This was seen as a way of promoting the 'best interests' of the child. It made little difference what the Aboriginal family situation really was or how the children were cared for, because being Aboriginal was, in itself, seen as a reason to regard children as 'neglected'.

Chapter 4 of the *Bringing Them Home Report* highlights the ways in which the forcible removal of Aboriginal children through adoption took place in the assimilation era of the 1950s to 1970s in Victoria, under both the *Victorian Adoptions Act 1928* and the more 'regulated' provisions of the *Adoption Act 1964*. Practices of removal through adoption were often carried out without the consent of the mother, and frequently under duress, compulsion, undue influence and deception.

"The Victorian Adoption Act 1928 allowed anyone to arrange an adoption. The process involved the mother signing a consent form and thereafter losing all rights in relation to her child. In a wide variety of situations the consent requirement could be waived. The child would then be matched with an adoptive couple by the agency or individual making the arrangements. In the meantime the child would be cared for by the arranger of the adoption, often in an institution associated with the adoption agency... The low level of financial support

¹ **'Compulsion'** is defined in the *Bringing Them Home Report* as "force or coercion...It encompasses both the officially authorised use of force or coercion and illegally exercised force or coercion. The term clearly extends to removal of a child on a court order...A common practice was simply to remove the child forcibly, often in the absence of the parent but sometimes even by taking the child from the mother's arms."

'Duress' is distinguished from 'compulsion' "...in that it can be achieved without the actual application of force. However, we usually understand it to involve threats or at least moral pressure. One meaning of 'duress' is 'the infliction of hardship' while another encompasses the threat of such infliction. Definitions commonly refer to illegally applied compulsion, a feature which distinguishes duress from compulsion because compulsion can be either legal or illegal. The last feature of duress is that it does not exclude acceptance by those affected by it. Rather the individual submits to what is demanded."

'Undue influence' "has a similar meaning to 'duress'. An 'influence' which is 'undue' is an influence 'by which [a] person is induced not to act of his own free will. At law the term means 'any improper pressure put on a person to induce him to confer a benefit on the party exercising the pressure. This definition is not entirely appropriate unless surrendering one's child is viewed as 'conferring a benefit'. However, the essence of the legal meaning is relevant: putting improper pressure on the family to induce the surrender of the children"

Reference: *Australian Human Rights Commission (1997). Bringing them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Part 1: Introduction.*

that non-government agencies received to keep children in their institutions meant that the agencies were keen to find permanent homes for these children as quickly as possible.”²

There was an emphasis by adoption agencies at the time on secrecy, and frequent acts of deception of both Aboriginal parents and non-Aboriginal adoptive parents. As highlighted by the testimony of a survivor, it was common for adoption forms to be signed without consent of the mother, the justification for adoption almost always manufactured through claims of neglect or the child being unwanted when this was not the case:

“...back in the sixties...the way society was then, they felt the best thing was, you know, adopting kids... On the adoption forms it's got written there in somebody else's handwriting - not [my mother's], because it just doesn't match her signature [that the] reason for giving up the child is 'no visible means of support'. Now, generally that could be accurate, but in the case of [the] Aboriginal community and kids, that's on nearly every form...Considering I come from a big family - my mother had lots of brothers and sisters who could've looked after me ... So, I mean, why was I different?”³

The Aborigines Welfare Board was one of 23 adoption agencies in Victoria at this time, and it was frequently the case that infertile, non-Aboriginal married couples would go to the Board to adopt an Aboriginal child if they had experienced difficulty adopting a child from a mainstream agency, and would find fewer barriers to adopting an Aboriginal child.

Some of the practices of forced adoption during the time of the assimilation era overlapped with the practices also affecting under-aged non-Aboriginal mothers at this time in Victoria. As highlighted in the *Bringing Them Home Report*, it was not uncommon for police to become involved and threaten to charge fathers with ‘carnal knowledge’ if any woman under the age of 16 who was giving birth did not consent to their child being adopted.

The forcible removal of Aboriginal children overseas through adoption

In Victoria and throughout Australia, forcible removal through adoption also led to Aboriginal children being separated from their families and taken overseas by white adoptive families. With no Australian citizenship, many of these children and their descendants have never been able to come home or connect with their families, country, culture and communities. These experiences, as shown by the testimony of a Stolen Generations survivor in the *Bringing Them Home Report*, have had profound impacts on wellbeing throughout their lives:

“I was adopted by a white Australian family and came to live in New Zealand at the age of 6 months. I got teased often about being Aboriginal and became very withdrawn and mixed up, I really did not know where I belonged... As a result of this I started having psychiatric problems...[In adulthood] I got in touch with my birth mother...[and] I have met my birth father... but I feel we will never be able to make up for lost time, as my birth

parents live in Australia and myself in New Zealand... It has been very emotional and the result of this caused me to have a complete nervous breakdown. I am on medication daily and am having to see a counsellor to help me come to terms and accept the situation, where I am at right now and to sort out some confused feelings. My adoptive family really don't want to know too much about my birth family, which also makes it hard. " – Karen, Confidential submission 823, New Zealand, Bringing Them Home Report.

One of the most well-known cases of international removal has been the harrowing experience of Russell Thomas Moore and his late mother Beverley Moore Whyman, who sadly passed away while her son still remains in prison in the United States. In 1963, Russell was forcibly separated from his mother at birth and adopted days later by a white missionary couple, the Savage family. The Savages subsequently moved to the United States with Russell when he was six years of age. Russell was Beverley Moore Whyman's first-born son. When she fell pregnant at the age of 14, Beverley was sent by the Victorian Welfare authorities to a Salvation Army home for unwed pregnant women in Melbourne. Russell was removed the moment he was born, without her consent and under compulsion from authorities. When Beverley had refused to have Russell taken from her at birth, she was threatened with having her brothers and sisters taken away. Like many Aboriginal mothers who had their children forcibly removed, the welfare authority deemed that Beverley was unable to take care of her son.

Raised by the name James Hudson Savage, Russell grew up far from home, community and culture and as a child was not made aware of his Aboriginality or birth family. There is evidence, outlined in the *Bringing Them Home Report*, that Russell was afraid of his adoptive father and was disciplined more harshly than his white, adopted siblings. Russell struggled with significant emotional distress from a young age, stemming from the impacts of his removal, his experiences in his adopted family, and growing up subjected to racial prejudice and ostracisation in a predominantly white community. By the age of 15 Russell was placed in reform school (equivalent of a youth detention centre) and subsequently left alone in the United States by his adoptive family at the age of 17, when they returned to Australia without him. This led to Russell living in a state of homelessness and struggles with drug and alcohol misuse throughout his 20s, and subsequently in and out of prison for drug and alcohol related offences.

In 1989, Russell was convicted of murdering a woman in the course of a violent robbery, and faced the death penalty. During the trial, it was made known that Russell was an Aboriginal man, and it was through this case that Beverley, Russell's mother, first became aware that her son was alive and living in the United States. After an appeal in 1990 to 1991, Russell's sentence was reduced to 25 years in prison without parole. It was during this appeal that Russell and Beverley met for the first time. In the years leading up to her death, Beverley fought a tireless campaign for decades to be able to see her son again and to extradite him home to Australia to see out the remainder of his sentence. Despite Russell having now served his full 25 years term, he remains in prison in the United States. As Beverley told the media at the time of her son's murder trial:

"[If I had known my son's whereabouts when he started to get into trouble] he could have been helped. A lot of people in Australia - there's legal services and Aboriginal organisations - it just could have taken them one phone call. Now they have kept him in jail when he could have been in Australia."⁴

There is an untold number of Aboriginal children and their descendents who, like Russell Moore, are prevented from being able to return home as citizens or permanent residents, or who will never be able to trace their families. For many, their journeys towards reconnecting and healing have been stopped in its tracks by legal barriers.

How Australia's history of the forcible removal of Aboriginal and Torres Strait Islander children from their families continues to have an impact today

In 1927 the New South Wales based Australian Aboriginal Progressive Association sent the Premier a petition which called on the Government to "...restore to us that share of our country of which we should never have been deprived", and requested that, "The family life of the Aboriginal people shall be held sacred and free from invasion and that the children shall be left in the control of their parents."⁵ In 1938, Bill Ferguson and J. T. Patten signed a declaration calling for the abolition of the Aboriginal Protection Board and the "repeal of all existing legislation dealing with Aborigines". Amongst other reasons for this call, they mentioned the Boards' powers to apprentice children and to "assume full control and custody of the child of any Aborigine".⁶

Although the late 1970s is considered by the Australian Government to be the 'cut-off' point when the Stolen Generations era ended, Aboriginal families continue to be subjected to child removal and separation, and the impact of colonisation is ongoing. The story of the Stolen Generations is full of examples of how the principle of 'the best interests of the child' has led to Aboriginal children being badly treated, economically exploited, unable to form meaningful relationships and, not only alienated from their own culture but also unable to fit into an alien culture which they did not understand, had different values and was not accepting of them.

Discrimination, marginalisation and past trauma that Aboriginal people have experienced as a result of colonisation have multigenerational consequences which impact upon the wellbeing of Aboriginal children and young people today, and the capacity and resources available to Aboriginal parents and families. These factors have contributed to the continued removal of Aboriginal children from their families and the over-representation of Aboriginal children in out of home care up to the present day in Victoria. The most recent statistics nationally indicate that Aboriginal children are in out of home care at 11 times the rate of non-Aboriginal children.

Like all Stolen Generations survivors, Aboriginal survivors of forced adoptions experience multiple layers of trauma. The Stolen Generations not only suffered the same loss, grief and trauma as most Aboriginal people due to the removal from land, forced re-dispersal onto missions and reserves, loss

of economic security and denial of culture; they also suffered from the removal from family and community, and a loss of identity under assimilation policies.

The *Bringing Them Home Report* also brought to light how many Stolen Generations survivors had suffered physical, sexual and emotional abuse from those who were supposed to take care of them. This has, in many cases, created devastating life-long impacts including on subsequent generations.

The continuing, inter-generational effects on Victorian Aboriginal communities means that responses and support services provided to Stolen Generations who were affected by historical forced adoptions require a different approach; one which is inclusive (providing the same supports to Aboriginal people affected by forced adoptions as all other Stolen Generations survivors), and grounded in the principles of Aboriginal self-determination, cultural safety, collective healing and redress. In the following section, we express our position on what is required to effectively respond to, and provide support to, Aboriginal people in Victoria who have been affected by forcible removal, including forced adoptions.

Responses and support services in Victoria: what needs to be done to support Stolen Generations survivors affected by forcible removal through adoption

We outline below the key issues and responses that are needed in Victoria to address the needs of Aboriginal people affected by forcible removal:

1. Aboriginal people who were forcibly adopted need the same support as all Stolen Generations survivors

Aboriginal people in Victoria who were affected by forced adoptions to non-Aboriginal families need to be included in the same range of supports that are available to all Stolen Generations. VACCA believes that all Aboriginal people removed from their families should have access to services that help them regain connections, heritage and culture regardless of how or when they were removed. Link Up Victoria has never regarded forced adoptions of Aboriginal people – whether historically or currently - as separate to other forms of child removal. To do so would divide Aboriginal communities, and that would be a contradiction to what Link Up does. Responses and services need to bring communities together and provide culturally appropriate support, regardless of the form of removal. This is why VACCA supports any Aboriginal person who was taken and disconnected from their family and culture.

It is also important that support services are resourced to provide the same level of support to Aboriginal people affected by forced adoptions who were abused by their adoptive families. While Stolen Generations survivors who were sexually abused in the care of institutions can now seek redress through the National Redress Scheme, survivors who were forcibly adopted do not fall within the scope of the National Redress Service. Through Ngarra Jarra Noun (National Redress Support Service), VACCA is funded (federally) to provide support to Aboriginal survivors of child sexual abuse whose abuse occurred while in the care of institutions, but there

is no provision to support survivors of forcible adoption. Support services are not adequately resourced in Victoria to provide holistic, specific, ongoing support to those who were forcibly adopted and abused in the care of adoptive families. This is a source of ongoing pain and inequity for Aboriginal survivors of child sexual abuse who were forcibly adopted.

2. Mainstream support services are not appropriate to meet the needs of the Stolen Generations and their descendants, including those affected by forced adoptions

It is crucial to focus on Aboriginal services providing supports to Stolen Generations including those affected by forced adoptions. Mainstream services are not culturally appropriate and are not sufficient to address the cultural, spiritual, social, emotional, economic and cultural wellbeing of Aboriginal people who have been affected by successive government policies of forced child removal. The lack of cultural safety and appropriateness of mainstream services contributes to the poor uptake of these services by Aboriginal people affected by historical forced adoptions. In Victoria, DSS-funded Forced Adoption Support Services (FASS) are provided by Relationships Australia RA (Vic) through their Compass Forced Adoption Support Service.

As highlighted by the findings of the Department of Social Services, *Forced Adoption Support Services Post Implementation Review, Final Report (2018)*,⁷ out of 338 people surveyed across Australia who had accessed forced adoption support services through Compass, only a total of 13 respondents identified as Aboriginal and Torres Strait Islander (3.8%). Of those 13, two respondents identified as being part of the Stolen Generations. Aboriginal clients also reported lower satisfaction with FASS than other clients.

The key barriers and reasons identified in this report which contributed to Aboriginal people not accessing FASS included:

- Not knowing about FASS
- Prior negative experience of other services
- Already using another service, such as Link Up or Connecting Home
- In the case of mothers, being unsure of their eligibility to use FASS

For service users of FASS, the majority of clients have accessed the service by phone (80%) with the remaining 20% accessing face-to-face support. We believe this is not sufficient or appropriate support for the Stolen Generations, who require culturally safe and ongoing support with family finding, cultural healing, outreach and reconnection to country, community and culture.

3. Resourcing is needed for Aboriginal models of support, promoting Aboriginal social and emotional wellbeing, reconnection and cultural healing

The Stolen Generations, which includes those affected by forced adoptions, need ongoing support and healing, both in person and through group support and cultural healing. Aboriginal self-determination and connection to culture are now recognised as central to any approach to healing from the legacy of trauma experienced by Aboriginal children, young people and families as a result of colonisation. As embodied in the approach of the Balit Murrup framework:

“The Aboriginal concept of social and emotional wellbeing is an inclusive term that enables concepts of mental health to be recognised as part of a holistic and interconnected Aboriginal view of health which embraces social, emotional, physical, cultural and spiritual dimensions of wellbeing.”

Cultural healing programs contribute to individual healing and wellbeing and in turn contributes to the overall wellbeing of family and community. Through consultations with survivors which VACCA’s Royal Commission Support Service carried out in previous years, survivors told us it is important not only to focus on counselling that targets distress and trauma (i.e., symptoms management and reduction). It is equally important to have strength-based programs that focussed on improving self-worth and cultural wellbeing and identity. This is particularly important because the Stolen Generations and Aboriginal survivors of child sexual abuse in care, experience two layers of trauma - interpersonal trauma alongside the loss of connection to culture, country and heritage. Cultural activities and cultural camps can greatly assist in enhancing self-esteem and strengthening identity.

By way of example, the cultural healing camps which Ngarra Jarra Noun currently provides (under federal funding) to Aboriginal survivors of institutional child sexual abuse have been demonstrated through evaluation to have provided significant benefit for participants:

“Participants in the camps said these programs allowed them to reclaim their cultural identity and cultural pride, and build on their cultural knowledge. Their shared histories helped survivors support each other. Survivors were also empowered to continue healing, fuelling a sense of hope.”⁸

Ongoing resourcing for these forms of support and healing are crucial and, should be a priority for both the Australian Government and the Victorian Government going forward, including for the Stolen Generations affected by forced adoptions.

In line with the recommendations of the *Bringing them Home Report*; the Victorian Government’s focus on supporting Aboriginal self-determination and Aboriginal social and emotional wellbeing; and the Victorian Aboriginal Affairs framework – *which states that addressing trauma and supporting healing is one of four key priority areas* - it is crucial that the state government focuses on resourcing Aboriginal services to provide holistic support services to the Stolen Generations, including those affected by forced adoptions. More needs to be done on behalf of the Victorian Government to also improve archiving, preservation and

accessibility of photos and records of all Aboriginal children who have been removed from their families, so that they can be more efficiently accessed by Aboriginal people looking for their personal records and histories. This is in line with Recommendation 22A of the *Bringing Them Home Report*.

In Victoria, effective, culturally appropriate Aboriginal specific support services which need to continue to be resourced include:

- Link-Up Victoria, which supports Aboriginal and Torres Strait Islander people searching for family after removal through forced adoption, fostering or institutionalisation.
- Connecting Home - a service for Stolen Generations which supports and addresses the needs of people affected by practices and policies of removing Aboriginal and Torres Strait Islander peoples from family, community, country and culture.
- Support services and programs provided by the Victorian Aboriginal Health Service
- The Kinship Family Finding Program (provided by VACCA) for children and young people in care who have been separated from their family and kin and whose family members may have been Stolen Generations survivors, including those affected by forced adoptions.
- Ngarra Jarra Noun cultural healing support for survivors who were forcibly removed and fall outside of the criteria of National Redress Service.

Link Up Victoria is of the position that VACCA is supported by the Victorian Government to continue to manage the Stolen Generations support service and welcomes the opportunity to continue to support any Aboriginal person who has had experience of being in care and disconnected from family and culture.

4. Victoria needs a state funded Victorian Stolen Generations Reparations Scheme, including for Aboriginal people affected by historical forced adoptions

While there have been formal state government and Australian government apologies to the Stolen Generations for the harms caused by past policies; and formal apologies in Victoria and federally for historical forced adoption practices and policies, there has to date been no progress on behalf of the Victorian government in relation to reparations or redress, both for survivors of the Stolen Generations, and survivors of historical forced adoptions.

We believe that a reparations scheme in Victoria for the Stolen Generations is necessary, overdue and crucial for the Victorian Aboriginal community, Stolen Generations and their descendants, including those affected by forced adoption. VACCA and the Aboriginal Executive Council (the peak body of all Victorian Aboriginal statewide community controlled organisations) have been advocating on behalf of the Victorian Aboriginal community for the establishment of a Victorian Stolen Generations Reparations Scheme. Victoria remains the only

state in Australia to not have implemented a reparations/redress scheme for the Stolen Generations. This is despite the state government's stated commitment to advancing Treaty, self-determination, and recognition of the harms of forced child removal and discriminatory past government policies.

It is of significant urgency that the Victorian Government implements a reparations scheme, particularly given that many of the Stolen Generations are ageing and are facing significant physical and emotional health concerns due to the devastating impacts of colonisation, discrimination and loss of connection to family and culture. Many of the Stolen Generations are at the end of life, and will not see a reparations scheme, healing, or full public acknowledgement of past wrongs in their lifetime. This scheme should not be delayed.

Committing to a reparations scheme similar to that which was successfully implemented by the NSW Government is crucial to advancing the Treaty process, reconciliation, addressing some of the harms of past policies and building the social and emotional wellbeing and future of the Victorian Aboriginal community. The ongoing failure of the state government to provide reparations is deeply inconsistent with the Victorian Aboriginal Affairs Framework and the recommendations of the *Bringing them Home Report*.

In line with recommendation 3 of the *Bringing them Home Report*, reparations and monetary compensation are one of the key principles of addressing the gross human rights violations committed by past government policies against the Stolen Generations – alongside acknowledgement of past wrongs and apology, guarantees not to repeat past wrongs, measures of restitution and rehabilitation. For any Aboriginal person who was removed from family and denied Aboriginal identity and heritage, including those removed through forced adoption, a Reparations Scheme with monetary compensation and public acknowledgement of harms done, will go some way to providing healing, support and restitution.

5. The Victorian Government needs to support and advocate for the Commonwealth to enable Aboriginal people forcibly removed overseas, and their descendants, to return to Australia and take up permanent residence

VACCA strongly endorses the fulfillment of recommendations 31A, 31B and 31C of the *Bringing Them Home Report* in relation to the return of those who were forcibly removed overseas, and their descendants. It is crucial that the Victorian Government supports and advocates for the Commonwealth Government, as per the *Bringing Them Home* recommendations, to:

- a. create a special visa class under the Migration Act 1951 (Cth) to enable Indigenous people forcibly removed from their families and from Australia and their descendants to return to Australia and take up permanent residence.
- b. amend the Citizenship Act 1948 (Cth) to provide for the acquisition of citizenship by any person of Aboriginal or Torres Strait Islander descent.

c. take measures to support the extradition and international prisoner transfer of Aboriginal and Torres Strait Islander people who were forcibly removed from their families overseas and who are in prison or custody overseas.

6. The Victorian Government needs to resource and improve the implementation of the Aboriginal Child Placement Principle, and connection to culture and community, to prevent the cycle of continuing child removal and over-representation in out of home care

Over the years, Aboriginal people and our organisations have always argued for our human rights as espoused by the world's community of nation states. Whilst not forgetting that children have all the protections of all Human Rights Instruments, *Article 30 of the UN Convention on the Rights of the Child* clearly states that:

"In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language."

In the 1980s, the Aboriginal Child Placement Principle became the focus for policy and legislative change, and the principle has found its way into all child and family welfare legislation in a variety of versions. In the 1990s, the *Bringing Them Home* report examined the removal of children under child welfare laws and made several recommendations about the welfare system as it was in the nineties. The Royal Commission into Aboriginal Deaths in Custody also investigated the child welfare system and its role in funnelling children into the youth justice and criminal justice systems and made further recommendations about the need for the proper implementation of the Aboriginal Child Placement Principle.

In legislation in most, if not all, jurisdictions, the incorporation of the Aboriginal Child Placement principle aims to ensure the best possible placement for Aboriginal children with an emphasis – along with the paramount need for safety – on culture, self-determination and connection. Under this principle, adoption and permanent care are a last resort – as the *Bringing Them Home* report demonstrates:

*"... an order for adoption of an Indigenous child is not to be made unless adoption is in the best interests of the child and that adoption of an Indigenous child be an open adoption unless the court or other decision maker is satisfied that an open adoption would not be in the best interests of the child."*⁹

The Aboriginal Child Placement Principle was never meant to be an end in itself however, and it has become all too evident that the Principle needs policy, services and resourcing behind it to make it work. Implementation has presented its own challenges and whilst it may have meant more Aboriginal children with Aboriginal carers, it has not stopped the flow of Aboriginal children into care.

After more than 40 years of change since the assimilation era, it ought to be clear that Aboriginal children should be connected to their culture and identity and to their families and communities, and that the Aboriginal Child Placement Principle and the 'best interests' principle, including child safety, are not mutually exclusive.

Kenn Richard, the Executive Director of the Canadian Native Child and Family Services of Toronto argues for the cultural connection of Native children, who should remain with their communities. He says that:

"...instead of disappearing from their communities they would stay together with their people in a place where all those around them wants them including their grandparents, aunts, uncles, cousins and they have a clear identity, life plan and unconditional love. In this environment they would benefit from their treaty rights and they would be wrapped in community love that values them."

When children are adopted from overseas to Australia, there are strict requirements of the adoptive parents to retain the child's connections to their culture. Overseas countries require regular reports from adoptive parents about this. Aboriginal children have the same fundamental right to be connected to culture and community. The alternative to this is disconnection, fragmentation and loss of identity and culture including the loss to the community of its most valuable resource in terms of its sustainability and continuity.

Recommendations

VACCA recommends the following in relation to improving and addressing responses and support services for Aboriginal people and the Stolen Generations affected by historical forced adoptions:

1. That the state government supports the Stolen Generations and their descendants who are affected by historical forced adoptions to receive the same supports as any Aboriginal person who has had experiences of being removed from their family and has been disconnected from culture, country and community.
2. That the State government, in consultation with existing Stolen Generations services review funding provided to Stolen Generations services with the view to increasing funding levels for expanded services.
3. That the state government continues to sustainably resource ACCOs, including Link Up Victoria, to provide culturally appropriate support services and healing programs to the Stolen Generations including those affected by historical forced adoptions.
4. That the state government consider options for funding and/or extending specialised, Aboriginal specific support services to be inclusive of, and meet the needs of, the Stolen Generations who were subjected to forced adoption and subsequently sexually abused by their adoptive families but fall outside the scope of the National Redress Scheme.
5. That, in line with *Recommendation 22A – Record Preservation – of the Bringing Them Home Report*, the Victorian Government makes measures to improve collections of photos and records of all Aboriginal children who have been removed from their families, so that they

can be more efficiently accessed by Aboriginal people looking for their personal records and histories.

6. That, in line with Recommendations 31A through 31C of the Bringing Them Home Report, the Victorian Government supports and advocates for the Commonwealth Government to:
 - a. create a special visa class under the Migration Act 1951 (Cth) to enable Indigenous people forcibly removed from their families and from Australia and their descendants to return to Australia and take up permanent residence.¹⁰
 - b. amend the Citizenship Act 1948 (Cth) to provide for the acquisition of citizenship by any person of Aboriginal or Torres Strait Islander descent.
 - c. take measures to support the extradition of Aboriginal and Torres Strait Islander people who were forcibly removed from their families and who are in prison overseas, to serve their sentence in Australia.
7. That the Victorian Government urgently establishes and implements a Victorian Stolen Generations Reparation Scheme, which will provide monetary compensation and a public acknowledgement of the harms of past policies, to all Stolen Generations members in Victoria, including those who were forcibly adopted.
8. That the Victorian Government further resources and improves implementation of the Aboriginal Child Placement Principle and the rights of Aboriginal children to be connected to their culture and community.

VACCA looks forward to being informed of the outcomes of this Inquiry.

For any further information please contact Pauline McLoughlin, Senior Policy Officer, Client Services Practice and Development paulinem@vacca.org or 03 9287 8800.

Yours sincerely,



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Chief Executive Officer

¹ Australian Human Rights Commission (1997). Bringing them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Part 1: Introduction, Scoping the Inquiry: Tracing the History.

² Australian Human Rights Commission (1997). Bringing them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Chapter 4: Victoria, Adoptions

³ Bringing Them Home Report, Confidential evidence 136, Victoria: man adopted at 3 months when his mother was 22. At the time his mother had 2 sons and 2 daughters who remained with her. She died two years later at 24.

⁴ Groer, A. (1989) Savages Family Coming From Australia adoptive parents, mother to stay until murder trial ends, Orlando Sentinel, <https://www.orlandosentinel.com/news/os-xpm-1989-09-08-8909086138-story.html>

⁵ Briskman, L. (2000) Aboriginal Activism and the Stolen Generations: The Story of SNAICC. Thesis submitted for the degree of Doctor of Philosophy, National Centre for Australian Studies - Monash University. Melbourne

⁶ As above.

⁷ Department of Social Services, Forced Adoption Support Services Post Implementation Review, Final Report January 2018 V1.1

⁸ Black, C., Federico, M. & Bamblett, M. (2019). ['My mob is telling their story and it makes me feel good': here's what Aboriginal survivors of child sexual abuse told us they need](#)

⁹ Bringing Them Home Report, Chapter 22.

¹⁰ Bringing Them Home Report recommendation 31A.

