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Queensland Aboriginal and Torres Strait Islander
Child Protection Peak Ltd

Submission to
Queensland Child Protection
Commission of Inquiry

October 2012

Queensland Aboriginal and Torres Strait Islander
Child Protection Peak Ltd
ABN: 21 132 666 525

Commissioner Carmody
Queensland Child Protection Commission of Inquiry
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23 October 2012

Dear Sir,

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) appreciate the opportunity to provide the Queensland Child Protection Commission of Inquiry with a submission.

QATSICPP is the non-Government Aboriginal and Torres Strait Islander peak body representing and working together with its members and partners to improve the safety and well being of Aboriginal and Torres Strait Islander children, young people and families. We play a key role in ensuring the different stakeholders across the child protection sector work together to achieve better outcomes.

Our vision is that all Aboriginal and Torres Strait Islander children and young people are physically, emotionally and spiritually strong, live in a safe, caring and nurturing environment within their own families and communities, and are afforded the same life opportunities available to other children and young people to achieve their full potential.

This submission addresses the particular Terms of Reference that go to:

- 6 (a) any reforms to ensure that Queensland's child protection system achieves the best possible outcomes to protect children and support families;

- 6 (b) strategies to reduce the over-representation of Aboriginal and Torres Strait Islander children at all stages of the child protection system, particularly out-of-home care.

- 3 © Reviewing the effectiveness of the Queensland's current child protection system in the following areas:
    - i. Whether the current use of available resources across the child protection system is adequate and whether resources could be used more efficiently

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ii.   The current Queensland government response to children and families in the child protection system including the appropriateness of the level of, and support for, front line staff

iii.   Tertiary child protection interventions, case management, service standards, decision making frameworks and child protection court and tribunal processes; and

iv.   The transition of children through and exiting the child protection system.

QATSICPP is able to provide any additional assistance to the Queensland Child Protection Commission of Inquiry in the form of written advice as requested, and we thank the Commission for the opportunity to be a part of the Advisory group.

There is a strong and committed Aboriginal and Torres Strait Islander sector that are willing to work together to achieve better outcomes for our children and families and committed to working alongside this Commission of Inquiry to achieve the Terms of Reference.

Yours faithfully,

Ms Elizabeth Adams

Chairperson

Queensland Aboriginal & Torres Strait Islander Child Protection Peak

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**Submission to the Queensland Child Protection System
Commission of Inquiry**

Executive Summary

The current strategies for dealing with Aboriginal and Torres Strait Islander families and their children 'at risk' are manifestly not working. The data proves this; there is an ever-increasing number of Indigenous children inside the State's child protection system, to the point today where the number of these children as a proportion of all children in care is scandalous and unacceptable. Different strategies are required; the Government has the opportunity of this Commission's *Inquiry* to instigate fundamental and sweeping changes.

None of this is news to the Commission or to the Government. QATSICPP welcomes the decision of the LNP Government to establish the Commission to try to fix up the systemic errors perpetuated by its predecessors. Our Submission presents a *Child and Family Wellbeing Program* that we believe is a rational and better value for money solution for the Government as well as a more effective service for Aboriginal and Torres Strait Islander families and their children 'at risk'.

Any solution should propose a more balanced alternative to the present system where the one agency in the State bureaucracy polices the legislation, manages the resource allocation process, rations client referrals, monitors performance, and controls decisions over continuity/termination/transfer of service agreements.

QATSICPP welcomes this opportunity to present a solution which differs from the current model and which is described below. Our solution is based on a number of rational premises which we believe will resonate with the Government, taxpayers and Aboriginal and Torres Strait Islander families.

There are six of these premises, which we invite the Commission to endorse:

(i) The family has to be the focus of the Government's strategies and related investments, not as at present where strategies and investments are set up as separate 'silos' with their own entry criteria and a requirement for navigational skills, access, time and energy beyond the capabilities of many families.

(ii) The multi-risk factors that are universally acknowledged to be associated with many Aboriginal and Torres Strait Islander families require strategies and investments appropriate to the complexity of their situations, which in turn indicates that a thorough intake and assessment process is required up front and a case management response for effective follow-through implementation.

(iii)   Culture must be understood to be integral to the safety and well being of Aboriginal or Torres Strait Islander children. Whilst significant changes to legislation and policy have occurred, these changes do not sufficiently reflect the importance of culture and, in particular, an understanding of the place of the child in Aboriginal and Torres Strait Islander cultures and its relationship with kinship structures. Any decision about the safety and well being of children must include consideration of their cultural identity and their connections with family, community and culture. An information paper developed by QATSICPP is attached for your further consideration.

(iv)   Intelligent interventions that are aimed at getting 'ahead of the curve' by reducing the numbers of Aboriginal and Torres Strait Islander children 'in care', supplemented by reunifying strategies, will reduce financial costs to the Government and will also be a benefit to family functioning and reduce psycho-social damage. This in turn makes a contribution to the strategic objective of limiting public sector outlays, and to 'downstream' costs to society in the juvenile justice and criminal justice systems.

(v) Government investments may continue to specify minimum acceptable output measures, such as indicators of hours staff work and numbers of children or families staff engage with, but these cannot be at the expense of information on outcomes that the interventions have achieved. The Government and the taxpayers need to be able to receive reports on what 'bang for the buck' they are getting out of their investments.

(vi)   Sensible efficiency reforms that have a lineage of advocacy from practitioners in the sector should be implemented. The *Child and Family Wellbeing Program* will retain a significant element of current strategies in the tertiary intervention level around the arrangements under the Act. There are a number of reform practices which will make a big improvement in the tertiary interventions and as a matter of common sense these reforms should be implemented immediately.

The key features of the *Child and Family Wellbeing Program* would be:

1. The service scope of the integrated *Child and Family Wellbeing Program* will be through contracted regional service providers encompassing:
(i) Prevention focused on Early Intervention
(ii) Prevention focused on Secondary Intervention
(iii) Tertiary Interventions under the Child Protection Act.

2. QATSICPP will continue as a member-based Peak fulfilling four government-funded core roles which directly complement and underpin the resource allocation process for the *Child and Family Wellbeing Program*:
(i) Service innovation
(ii) Quality standards of service
(iii) Performance monitoring
(iv) Collaboration with Regional Managers

3. QATSICPP will incorporate a subsidiary company which would manage the regionally-based, state-wide competitive resource allocation process for the integrated *Child and Family Wellbeing Program*. The four components of this process would be:
(i) Applications
(ii) Assessments
(iii) Contracts
(iv) Funding acquittals and outcomes reports

4. The essential Operational Guidelines for the integrated *Child and Family Wellbeing Program* will be:
(i) Rigorous and evidence-based intake and assessment processes conducted by professionally-qualified assessors to manage demand and set family goals
(ii) Case management of family and child needs recognizing multiple risk factors and the limitations of the Program to address all of them
(iii) Efficient referral systems and procedures negotiated with providers of complementary services identified through regionally driven mapping
(iv) Workforce solutions both short term and medium term that match service provider capability to the deliverables involved in case management, recognizing the need for professionally qualified personnel at the intake and assessment front end and a range of competencies through the case management cycle at the three intervention levels.

5. Implementing the changes associated with the *Child and Family Wellbeing Program* will necessitate a planned change management process that will need to be sustained over a period of at least 2 years.

1. Child and Family Wellbeing Program

1.1.   Considerations

The need for tertiary or statutory intervention for protection of children is determined predominantly by assessment of risk through examination of deficit factors within the family unit.

When unpacking the concept of neglect in Aboriginal families, it is apparent that the key drivers include poverty, poor housing and lack of equitable access to appropriate services. Both poverty and poor housing are arguably outside of the domain of parental influence so it is unlikely that a family wellbeing and child protection system could effectively redress these risks in the absence of other social investments and strategies to alleviate poverty and improve access to appropriate housing.

It is also accepted that domestic violence, drug and alcohol abuse and mental health issues are recognised risk factors. A Departmental report[1] that examined the characteristics of parents involved in the child protection system identified a high prevalence of these factors and an increased likelihood of the presence of multiple parental risk factors amongst Indigenous families.

Each of these factors exists within the personal domain for change. As long as equitable access and appropriate pathways to appropriate services exist for families, these factors could, theoretically, be sufficiently resolved to ensure that unacceptable risk is not posed to any child. The existence of a criminal history of a primary parent and or previous abuse of a primary parent as a child may be more accurately considered as potential predictors but should not, in isolation, be sufficient determinants in consideration of risk.

QATSICPP, through this submission and active participation in the Inquiry, advocates the need for the following;

1. a robust strategy to build community capacity and mobilize supports for families, ensuring the right supports at the right time;

2. clarification and strengthening of the practice role and legislative mandate of the Recognised Entity and examination of the relationship between the Recognised Entity and the Department and the existing dynamics that are an impediment to fulfilling the intent of the legislation ;

3. to enhance the coordination of out of home care with strict adherence to the Aboriginal and Torres Strait Islander Child Placement Principle and other legislative provisions which promote acknowledgment and preservation of a child's culture.

There is compelling evidence, including that which has been presented to the Inquiry, which indicates a direct relationship between the lack of (accessible, universal) primary and secondary options that could mitigate risk of family crisis and the high proportion of Aboriginal and Torres Strait Islander families who experience family crisis and child maltreatment. It is suggested that providing diversity of primary and secondary services augmented by a deliberate service co-ordination approach would reduce the scale of crisis related interventions. Unless the orientation becomes one of prevention and early intervention, then the longer term outcome is a substantially more costly enterprise for the community to fund.

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[1] Department of Child Safety "Characteristics of parents involved in the Queensland child protection system Report 2: Parental risk factors for abuse and neglect" March 2008

As the peak body for Aboriginal and Torres Strait Islander child protection, QATSICPP would suggest that strategic and sustained investments in prevention services would provide families the best opportunity to have children remain safely in their homes. These services, however, must be reflective of local culture and context and also consider the broader structural risks that impact on child safety such as community and individual poverty, lack of infrastructure and inadequate or overcrowded housing.

A shift in funding mentality is vital. Reductions in the numbers of children in care should be designed as an outcome of interventions intended to strengthen families and communities. Currently services are fragmented and inadequately funded. Further, the Service Agreements for Aboriginal and Torres Strait Islander Family Support Services, do not allow individuals or families to self- refer based on their own identification of a need for assistance; nor do they allow for other non- statutory organisations to refer clients with whom they have identified a need.

A balanced package of interventions would facilitate non-stigmatised access along a continuum of services determined by need and complexity rather than by directed referral to a particular service as a result of contact with the statutory system. It is clearly understood that families' circumstances are constantly changing and as such, the service model needs to be flexible and able to respond in a dynamic way, allowing mobility between service types and intensity along the continuum.

Integrated service delivery models that promote greater interdisciplinary and holistic interventions are required to enable families to access the right service at the right time. A critical element of successful service delivery (defined by the achievement of real outcomes for our children and families) is the ability to build strong connections between different service elements and to mobilise a range of services to meet a families diverse needs.

A range of systems impact upon our families and the effective coordination of the services provided by Government and NGO's in the domains of housing, education, employment, health and justice could ultimately have a direct positive effect on the goal of reducing overrepresentation of Aboriginal and Torres Strait Islander children in the tertiary child protection system.

The proposed model is fundamentally dependant upon on a clear and shared focus across all elements of the service system on promoting the wellbeing of our children and families. A designated 'system minder' – the state-wide body – is a critical element of delivering services holistically. The role is responsible for maintaining the clear and shared focus across the system, facilitating communication channels and feedback loops, building relationships and collaboration and hearing and implementing responses to issues and concerns. This final element is a key mechanism for the success of a delivering holistic support for families.

1.2.   Program Principles

The development of the Queensland Aboriginal and Torres Strait Islander *Child and Family Well Being* service system would be underpinned by the following principles:

- The Aboriginal and Torres Strait Islander *Child Placement Principle.*
- Every child and young person has a right to protection from harm.
- Families have the primary responsibility for the upbringing, protection and development of their children.
- Self determination through the delivery of services to Aboriginal and Torres Strait Islander children and families by Aboriginal and Torres Strait Islander services.
- The appropriate way of ensuring the safety and wellbeing of children and young people is through the support of their families and the communities in which they live.
- The need for the community sector and government to work in partnership.
- All Aboriginal and Torres Strait Islander children and young people have rights under international and national conventions regarding their exposure to, participation in, and practice of, their cultures.
- The Charter of Rights for a Child in Care[2] is to be upheld.

1.3.   Regional Service Model

QATSICPP's proposed regional service model will be a single entry point for Aboriginal and Torres Strait Islander children and families who need support and assistance to restore and sustain wellbeing.

Core functions of the model will be initial screening and assessment, provision of advice and information, case coordination across relevant programs, referral, supported access and service coordination across specialised service types. The service integration and coordination model QATSICPP is proposing would place the child, family and their community at the conceptual centre of the Program, instead of what currently exists which is traditional, separate and distinct service delivery where families access to the service they require and mobility between services is compromised.

QATSICPP proposes that there be a network of Regional Service Providers – which we refer to as 'Hubs' – that manage local service delivery in locations of significant population density validated by current ABS Population Census data and data held by the Department/QATSICPP/NGOs on service need.

 A Regional structure is cost effective in that financial, human resources and business systems are centralized. This also accommodates the opportunity to ensure uniform systems across Regions and the State. QATSICPP's Sector Development positions and state-wide quality assurance function delivered to the regional providers will ensure consistency of practice standards and provide quality assurance frameworks and practice for service delivery to Aboriginal and Torres Strait Islander children and young people and their families. It will be expected that these Regional Hubs will be operated by Community Controlled Aboriginal and Torres Strait Islander organisations.

The Regional provider Hub will be the 'operational centre' for intake and assessments to ensure families can access non stigmatised services at the time they are needed; case coordination

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[2] *Queensland Child Protection Act 1999* s74

across the continuum of services offered internally by the *Children and Family Wellbeing Program;* manage specific delegated child protection functions such as that of the Recognised Entity and out of home care coordination unit (foster and kinship care services, wraparound and intensive family support services, Safe Houses); and will coordinate integrated service delivery with other sectors, ie health, housing, education, specialist service providers.

Hence, the Regional Hub would coordinate services through a mix of direct service provision and service integration amongst a network of providers to ensure a holistic response is available to families, delivered according to assigned practice standards and that outcomes are clearly defined and measurable.

Advice provided by QATSICPP in the development of regional services models would be drawn from our collective experience as the Peak body and its membership as well as literature reviews of national and international child protection systems.

A fundamental feature of any service type or configuration of programs provided through a regional service model is the concept of healing. Interventions that aim to address the social disadvantage Aboriginal and Torres Strait Islanders face without first addressing the healing needs of individuals, families and communities are likely to be limited in their effectiveness. An information paper provided by the National Healing Foundation is attached to this submission for you reference.

The Child Protection Community Response is the tertiary interface of the proposed Child and Family Wellbeing Program. It is comprised of the Recognised Entity function and an out of home care coordination unit consisting of Foster and Kinship Care, wraparound services, intensive family support and where appropriate, Safe Houses.

To increase effectiveness and capacity to deliver outcomes for children and families within the Recognised Entity function and reflect the intent of United Nations Declaration on the Rights of Indigenous Peoples, it is suggested that consideration be given to exploration of legislative amendments that enables;

- Implementation of a delegation model with case work responsibility as opposed to current limitations of "participation and consultation" in decision making. Current practice is generally limited to the provision of cultural advice and engagement is primarily at the discretion of individual child safety offices. Largely, current practice does not appear to fulfil the intent of the legislation.
- Facilitation of family group conferencing by the Recognised Entity to mitigate perceived power imbalances and provide a more inclusive and culturally responsive decision making process. This has the potential to promote family based solutions and clearer progression towards addressing child protection concerns, and reunification,
- active transfer of responsibilities for case work activities for intensive cultural preservation and mentoring or supporting transition to adulthood to Recognised Entity professionals
- Recognised Entity to provide the authority of the court with independent and professional child protection advice from an Aboriginal or Torres Strait Islander professional.

The Care Coordination Unit could achieve improved outcomes for Aboriginal and Torres Strait Islander children and families through case management delegations and enhanced responsibilities focused on the identification of kin, recruitment and assessment of carers, and the provision of placement support that links carers with appropriate levels of support to comprehensively meet children's needs and ensure preservation of a child's connection to family, country and culture. With regard to the assessment of carers, once the Departmental screening checks are undertaken, if risks are identified, there should be a functional consultative process undertaken with the Care Coordination Unit. This provides considered advice as to whether the risks can be mitigated by the provision of support in order to maintain the child within family or community to effectively remove potential risk for the child. Exhausting all opportunities to maintain a child safely in their home or with kin is particularly important given the inevitable risks posed to a child through the trauma and disconnection suffered as a result of removal into a placement with effective strangers.

An additional component of the Care Coordination Unit would include capacity to provide wraparound services, including in home, short term intensive family preservation and stabilisation services, access to 24 hour on call support for particularly vulnerable families, and coordinated access to specialists services. Wraparound services and intensive family support can be effectively mobilized to assist in supporting children to stay safely at home and are particular beneficial in supporting reunification. Services can facilitate reintegration of cultural approaches to child rearing through engagement of elders, appropriate use of mentors, and reinforcement of positive parental behaviour.

Given the complexity of needs of Aboriginal and Torres Strait Islander families involved in the child protection system, the regional model will have to ensure specialist services, including addiction and family violence services, are available and accessible through the integrated network.

2. State-wide Peak Body's Roles and Functions

2.1.   QATSICPP's Regional Membership

The Regional Service Providers (the Hubs) will make up the membership of the peak body in the State, QATSICPP.
Regional Service Providers could be stand-alone entities, or specialized Business Units of existing Indigenous regional organizations.   Both kinds of structures are represented in the current membership of QATSICPP. For example, almost 40 per cent of QATSICPP's current membership is comprised of ATSICCHSs which have established such specialized Business Units, in Toowoomba, Gold Coast, Brisbane Central, Townsville, and Cairns. There are clear synergies emerging between the preventative health, maternal health and vulnerable families initiatives within this sector and the need identified for access to these services for families at risk of involvement in the child protection system.   Where these services are effective and accessible to all families QATSICPP can see no value in duplicating the service response, instead would be encouraging regional services to develop robust interagency partnerships and establish clear referral pathways to promote holistic integrated service delivery.

2.2.   QATSICPP's Roles and Functions

QATSICPP would set the strategic direction of the service system at regional and state levels by leading the change management processes for establishing the *Children and Family Wellbeing Program*. The details are described in Section 5 below.

Each Regional Service Hub would be supported by QATSICPP sector development positions to provide hands on local support to strengthen capacity strengthen, implement defined practice standards, regulate procedures and report outcomes. Further, QATSICPP would provide support in the development and monitoring of cross-sector linkages and facilitate a process that "feeds up" local issues to the Peak to inform state wide policy development and advocacy at a strategic level.

The Regional Hub, supported by QATSICPP sector development staff would identify training needs and coordinate professional development drawing upon QATSICPP's training resources and capitalising on partnerships with Universities and other training organisations to continually up skill and professionalise the workforce where required for existing staff.

Clear processes and communication strategies will need to be developed to ensure local services and regional needs are tabled at the State wide level and that feedback from the Peak body filters out to regional service hubs to influence local service delivery.

QATSICPP would seek a collaborative commitment to the development of an outcomes indicator matrix and outcomes measurement framework will support a system wide evolution of services focused on what works for children and families. In contrast to the existing outputs framework that focuses largely on effort and volume of work undertaken, the opportunity to reorient the focus on the impacts of services upon children and families will promote best practice. Measurement of effectiveness of service delivery allows informed practice and policy development and uses outcomes data to promote ongoing quality improvement at a local, regional and state wide level.

The initial phase for implementation of the proposed reform to the service system, requires a focused process of regional planning. Taking a collaborative approach means that service gaps are more easily identified and addressed, and importantly, services are connected to each other and centred on the needs of the child and family. Recognising the diversity that exists across Queensland, locally designed responses will have the benefits of community ownership and tailored to the specific needs of the area.

In addition to the community/sector development function described above, the QATSICPP will be contracted by the Department to provide a lead role in:

- Innovation in service delivery practice
- Developing state-wide frameworks and practice standards, and support the implementation thereof
- Systems advocacy in the context of practice, program and policy development
- Member support in terms of cost-effective technologies and organizational systems and procedures, and effective governance
- Applied research – specifically facilitating the development of a localised evidence base for Aboriginal and Torres Strait Islander child protection
- Workforce development and capacity building
- National sector liaison and representation.

3. Resource Allocation Model

3.1.   Subsidiary Company

QATSICPP proposes to establish an incorporated subsidiary company which would manage the entire resource allocation process for the *Child and Family Wellbeing Program* on an independent, transparent and accountable basis. The subsidiary company would be limited by guarantee and would be regulated by the Australian Securities and Investments Commission (ASIC).

The core *Objects* of the company would be:

(i)   to manage an annual round of applications, assessments and contracts – over time the rounds could be conducted every two years;

(ii)   to receive and analyse standard reports from Regional Service Hubs addressing compliance and performance obligations; and

(iii)   to publish reports on the performance of the *Children and Family Wellbeing Program*.

3.2.   Board Composition

The Directors of the company would be no more than seven (7), comprising, ideally:

- 2 x Aboriginal and Torres Strait Islander people with substantial professional experience in the child and family wellbeing sector and specifically with experience in and knowledge of the child protection system. One of these Directors would be the Chairperson.
- 2 x non-Indigenous professionals with recognized policy/operational/educational expertise in the child and family wellbeing sector and specifically with experience in and knowledge of the child protection system
- 1 x Chief Executive Officer of QATSICPP, ex officio, to ensure that the company has direct access to contemporary, comprehensive and accurate information relating to service delivery realities at regional and local levels that will help to inform judgements and decisions
- 1 x retired, senior public servant with experience in contracts management processes and probity standards
- 1 x recognized professional from mainstream providers in the child and family wellbeing sector and specifically with experience in and knowledge of the child protection system.

QATSICPP could readily identify individuals who could be approached as Directors, and has access to experienced, established firm of solicitors so that the company could be incorporated and registered within four (4) weeks.

QATSICPP believes that this company structure with this composition for the Board of Directors would allay any concerns that the Government and/or the Department might have in transitioning the resource allocation process out of the public service and into a normal business environment. Specifically it should be obvious that typical concerns about nepotism, family dominance, lack of expertise, or lack of governance competence would not be realistically applied to the company.

All the Directors of the company would be required to be independent of any interest in any service provider under the *Corporations Act (Cth) 2001*.   Their analyses and decisions will not be influenced by considerations of career, position or authority.

### 3.3.	Funds Management

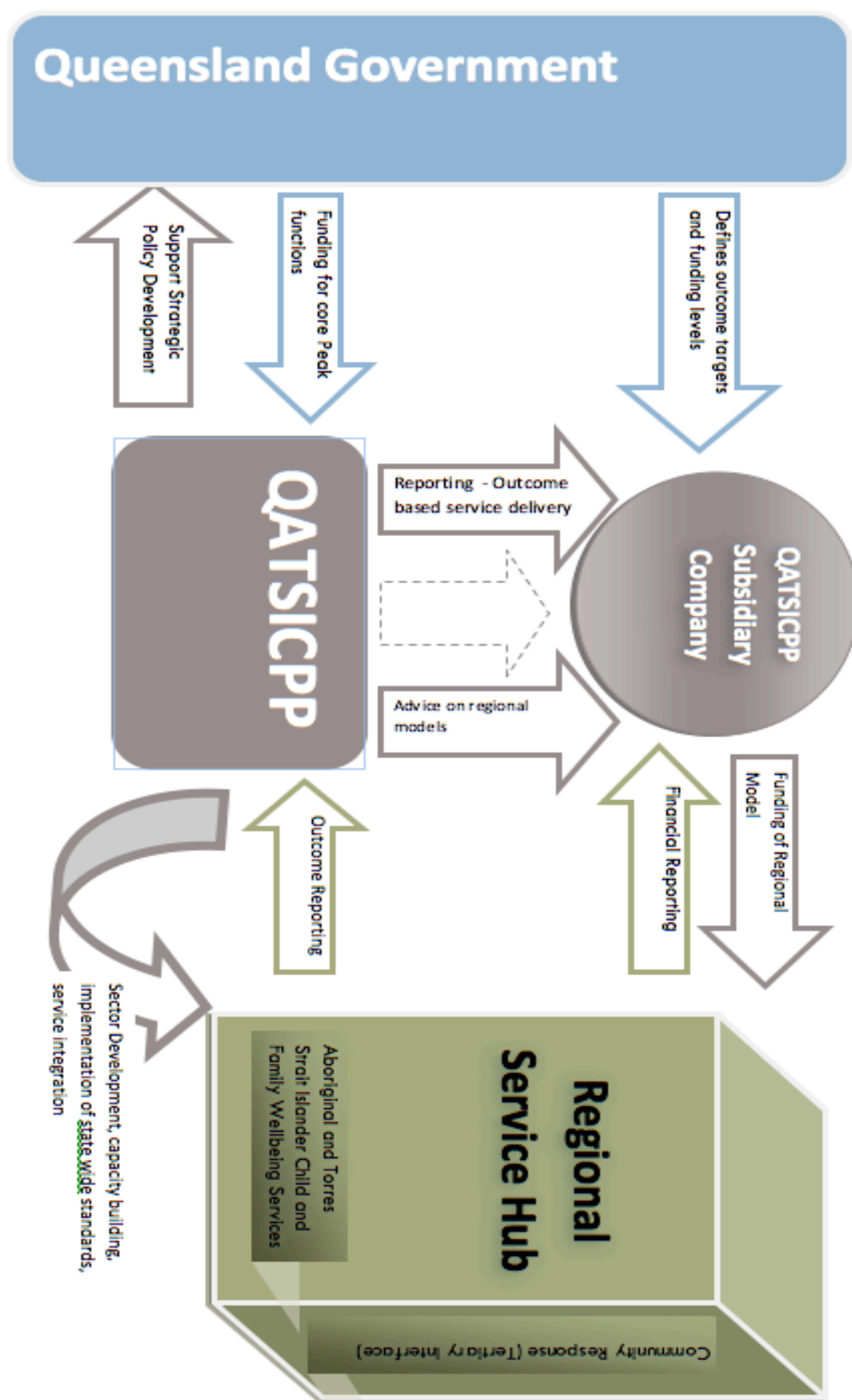QATSICPP proposes that the Government funding for the *Child and Family Wellbeing Program* be sourced in three ways:

(a) A reasonable operating allocation to QATSICPP to fulfil its strategic change management role and the other four core roles.

(b) Consolidating all of the 2012/2013 "Indigenous " program funding streams,

(c) Additional funding from the State Government required to resource the new model's preventative and integrated case management approach.

The total quantum of funding would be paid to QATSICPP. QATSICPP would maintain its own operating account and the remaining funds - (b) and (c) above – would be deposited into an account in the name of and operated by the subsidiary company. Each company would be accountable for all financial statements and audited annual accounts relating to the monies held in its accounts, in line with the Corporations Act.

QATSICPP takes the view that the company would require a lean staffing infrastructure, the essence of which would be:
*   the principal officer being an experienced, qualified accountant,
*   supported by two contracts officers and
*   a secretariat- administrative officer.
*   analysts would be contracted in to produce interpretive reports
*   an ICT professional would be contracted in to develop the specifications for and oversight the roll-out of an electronic client records and management information system.

Queensland Government

Support Strategic Policy Development

Funding for core Peak functions

Defines outcome targets and funding levels

QATSICPP

Reporting - Outcome based service delivery

Advice on regional models

QATSICPP Subsidiary Company

Funding of Regional Model

Outcome Reporting

Financial Reporting

Sector Development, capacity building, implementation of state wide standards, service integration

Regional Service Hub

Aboriginal and Torres Strait Islander Child and Family Wellbeing Services

Community Response (Tertiary Interface)

4. Core Operational Guidelines

4.1. Intake & Assessment Process

Rigorous and evidence-based intake and assessment processes conducted by professionally-qualified staff to manage demand and develop holistic case management plan.

Fundamental to the proposed model is the intake and assessment process. This role will be undertaken by a suitably qualified professional, with tertiary qualifications in a relevant discipline such as social work or psychology. While QATSICPP would advocate the need to employ Aboriginal and Torres Strait Islander professionals to these positions, it is recognized that the professionalization of certain aspects of the service model may take time to transition to a full complement of Indigenous staff in these roles and reach intended capacity. Strategies are discussed below under workforce issues.

A strength based assessment will be conducted through use of validated assessment tool, such as the current tool used in the 'Helping Out Families' initiative. A number of tools have been canvassed, but further examination is required to ensure validity with regard to cultural appropriateness.

Case plans can be developed utilizing a range of supports and services available within the integrated service network. A client's access will be supported by clearly established referral pathways and feedback on progression towards client goals provided through shared commitment to integrated case management.

4.2. Integrated Case Management

Integrated Case Management of family and child needs, recognizing complexity of needs and the limitations of a single program to address all of them.

Client focused and integrated practice places the child, family and community at the centre of interventions. Whilst services currently have the ability to refer on to other specialised services, a lack of operational coordination or linking to services through a common care coordinator means that families are often left to negotiate their own way through a complex system of service delivery that often does not meet their needs.

Many of the families at risk of involvement in the child protection system have complex needs and struggle accessing and engaging with services. A client focused approach, such as evident in the model proposed by QATSICPP would provide these families with a Case Coordinator who would ensure the families were linked with appropriate services, supported to attend and engage and be able to access the right services at the right time.

The Case Coordinator would be expected to be aware of the services available within their community, have established partnerships that are supported by static agreements, nurtured by local relationships, and be able to coordinate timely responses for families. Similarly they would be the one key contact person for the family and enable them, through the provision of support, to negotiate an often complex and fragmented system.

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It is anticipated that the positions would assist families to engage in an assessment process and may be required to deliver services such as the provision of practical support, budgeting, setting routines/family schedules, parenting skills, identifying and encouraging commitment to goals and the identification of strengths and personal resources.

In order to optimize the effectiveness of this support role to families and in recognitions, it is expected that all Case Coordinators would ideally be of Aboriginal or Torres Strait Islander descent, and have access to appropriate training, supportive supervision and professional development.

4.3. Referral Systems and Procedures

Efficient referral systems and procedures negotiated with providers of complementary services identified through regionally driven mapping.

As the 2012 *Report of the Protecting Victoria's Vulnerable Children Inquiry* (Cummins et al., 2012) noted, to provide a comprehensive system for protecting children and safeguarding their wellbeing, an integrated system of government and non-government support services is necessary. Strong collaborative partnerships are the basis of the ChildFIRST system in Victoria to ensure families access the sorts of help they need when they need it.

Effective coordination of an integrated service system can enhance the quality of services provided to children and their families. A common purpose of integrated services systems is to improve the connections between services or between people and services in order to improve outcomes for children, families, communities and society. Our model would propose to do both. The service integration and coordination model QATSICPP is proposing would place the child, family and their community at the conceptual centre of the approach, instead of what currently exists which is traditional, separate and distinct service delivery where families access to the service they require is compromised.

4.4. Workforce Issues

Workforce solutions both short term and medium term that match service provider capability to the deliverables involved in case management, recognizing the need for professionally qualified personnel at the intake and assessment front end and a range of competencies through the case management cycle at the three intervention levels.

'While legislating a more central and determining role in case-related decision making for Indigenous controlled organisations is required, this must go hand in hand with a deliberate and broadly scoped strategy to build an Indigenous professional workforce in child protection'[3]. We must recognise the need for, and aspire to more than the attainment of Certificate IV level qualifications and "vocational training" options for our sector if we are serious about building the capacity of service providers to provide case management interventions and coordinated referral pathways for families with complex needs. It is important that, as a sector, we ensure that staff have the opportunity and are supported to progress to tertiary qualifications, to open up opportunities for advancement or diversification of skills, increase individual and organisational capabilities and ensure that key professional roles are able to be filled, ultimately, by Aboriginal and Torres Strait Islander staff.

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tatement to QLD Child Protection Commission of Inquiry, Professor Bob Lonne Professor of Social Work, Faculty of Health in the School - Publ alth and Social Work QUT

Building on existing relationships with our higher education partners is crucial in identifying and resolving issues that limit the engagement or participation of Aboriginal and Torres Strait Islander people in tertiary education. We should encourage flexible learning options, beyond "internal" or "external" course delivery options. Recognition of diverse learning styles, motivations, family and community responsibilities that impact upon the availability of time and focus required to succeed academically along with the accepted fact that many of our staff would not be in a position, or of the inclination, to leave paid employment to take up full time study are realistic considerations for professionalization of the existing workforce.

These are not insurmountable obstacles. In evidence previously provided to the Commission, Professor Bob Lonne made reference to innovative approaches that have been successfully operationalised by the University of Calgary to overcome similar barriers. Professor Lonne indicated that academic staff travel to the remote communities to deliver social work courses in situ and that this approach had resulted in a sizeable growth in the numbers and proportions of First Nations people in the child welfare and community services workforce.

Formal partnerships with Universities through, for example, the coordination of student placements or by actively contributing to undergraduate curriculum development, encourages development of a workforce that has the opportunity to develop knowledge and practice skills for working with Aboriginal and Torres Strait Islander children, families and communities interwoven throughout their university degree, rather than through a singular elective subject focused on "Indigenous issues".
It is acknowledged that some of our educational institutions have made significant progress in the embedding of Indigenous content through the dedication and commitment of individual faculty members.

Whilst acknowledging the efforts of the Department in promoting the need for cultural competency through cross cultural training for staff and as a requirement for licensing of services, there needs to be a greater focus on recruitment of staff that reflects the cultural demography of the statutory client population across all cultures, but for the purposes of our submission, particularly for Aboriginal and Torres Strait Islanders.   We would be well served to recognise and address the issues that arise from having non-Indigenous staff practising in ways that are not culturally safe.

History has shown us that unless we have a social care workforce that is knowledgeable about colonisation and its impacts, and skilled in relating to Indigenous people, over-representation will continue to be a shameful, enduring feature of the child protection. QATSICPP proposes that cultural competency cannot be attained, especially through delivery of a module or series of modules on Aboriginal and Torres Strait Islander issues. The provision of focused training could be augmented by mandatory placement experience working alongside Indigenous service providers within our communities. Suitability to work with Aboriginal and Torres Strait Islander families, demonstrated through the provision of non-value based, culturally sensitive practice should be a distinct professional development goal for all staff delivering human services.

It has been suggested during the Inquiry that there is a clearly demonstrated need for a significant increase in the number of Aboriginal and Torres Strait Islander staff within child protection. Whilst QATSICPP would agree with that position, the recruitment of Indigenous staff is not a stand alone proposition. Reforming statutory service delivery involves a fundamental incorporation of Indigenous world views and ideologies into staff and policy understandings about society, cultural connection, family, childhood and child rearing practices. The model proposed by QATSICPP, encourages the placement of a community based Child Safety Officer within the regional service hub. Co-location offers a range of benefits attained through the sharing of experiences, immersion in an Indigenous community context and the opportunity to improve community perceptions of the Department by building open and trusting relationships with Aboriginal and Torres Strait Islander communities.

Whilst there is a clear focus to professionalise certain components of the model proposed, for example the intake and assessment function, we must emphasise the value of learned, practical knowledge and the dimension that is brought to this type of work by local, lived experiences. Failure to acknowledge and value the richness brought to an organisation by personal experiences and undertake a drastic shift to a workforce comprised of mandatory university qualifications would deplete capacity to deliver the best possible service to our families. The multi-disciplinary service approach needs to include recognition of the unquantifiable skills brought by our local people. We need to maintain a balance of personal attributes and diverse life experiences with professional skills.

5.   Change Management

5.1.   Transition to Outcome-Based Service Delivery

The current Departmental approach to the measuring of outputs (in terms of numbers and hours) as opposed to outcomes for families, limits the evaluation of the actual effectiveness of services and skews considerations of capacity towards a target number orientation.

In the transition to the measurement of outputs, Departmental officers were relegated to a function of contract management. As a result, there has been a depletion of the content or program specific knowledge base required of staff in those roles and the opportunity to work with Services to support community practice initiatives and build (and evaluate) capacity to respond to families' needs has been diluted. QATSICPP's proposed model would require that the function of capacity strengthening, adherence to quality standards and the development and ongoing evaluation of local practice models be transferred to the community controlled sector.

Through the proposed model QATSICPP would provide a sector development role for each region, with oversight by a state wide quality assurance function, in recognition of the required focus on capacity strengthening. This regionally based sector development staff (1 per region) would be transitioned in during the final stages of the change management process described below. The 'handover' from change management to the sector development function would enable introduction of a permanent regional presence to ensure sustainability of the model and monitor ongoing implementation. This would be clearly be an extension of the current role provided by QATSICPP but necessary to ensure regional models are robust, have requisite infrastructure, strong governance and skilled staff with clear understandings of the roles/functions and core components of the model.

Regionally based positions would have an ongoing focus on sector development, monitoring of outcomes and management of continual improvement processes. Additionally, the regional positions would maintain partnerships and processes to facilitate service integration. This work may entail the development of memoranda of understanding or protocol documents between external service providers to resolve potential issues such as confidentiality, assignment of lead agency and processes for information sharing.

The role would also support the Regional Service Hub in the establishment of referral pathways, local interagency forums or case coordination panels etc to ensure a coordinated holistic response is available to families.

5.2. Change Management Strategy

QATSICPP proposes that it be the lead agency driving the change management process across a minimum work plan timeline of three years, annually renewable for a further two years. In 2010, QATSICPP led the change management process for the initial introduction of regionally-based Recognised Entities and Family Support Services on a shoe-string budget from the Department, against very tight timeframes, and in doing so QATSICPP demonstrated that it had the capacity to make tough decisions and manage sensitive negotiations without fear or favour with established Member Services and non-Members.

For this original 2010 change management process, QATSICPP assembled and contracted a small, professional, multi-disciplinary team that systematically worked with the QATSICPP chief executive officer and Board region-by-region and with real-time policy feedback to the Department and Minister.

While there are some similarities with the installation of the *Child and Family Wellbeing Program,* two of the major differences will be:
(i) regional level mapping analyses to identify the scope of meaningful referral systems and necessary 'gap filling'; and
(ii) state level re-engineering of QATSICPP, to align membership with Regional Service Hubs and to establish the subsidiary, independent resource allocation company.

QATSICPP recommends that a Joint Management Committee with Departmental representation be set up with clear terms of reference to provide problem solving, support, access, information and facilitation to the team implementing the change management work plan, to ensure that the strategic directions are achieved on time and in full. There would certainly be operational and workload implications, for Departmental Regional Directors and their staff, if an alternative resource allocation model (such as that proposed by QATSICPP) is to be implemented. Any Departmental restructuring and refocusing needs to be synchronized with the significantly enhanced Regional Service Hub infrastructure.

QATSICPP takes the view that the effective installation and sustainability of the *Child and Family Wellbeing Program* will require a regionally-based network of competent individuals, as the field level executors of the QATSICPP Change Management Team. It is anticipated that this network of Regional Service Development Managers will need to be in place for 24 months. They will have responsibility for identifying service gaps and opportunities for collaboration and service integration, mapping and implementation the referral systems; providing advice regarding the establishment of Regional Service Hubs, supporting operations; and in particular for ensuring that the intake and assessment processes in each region operate professionally and effectively. Periodic reports to QATSICPP Change Management Team will be an integral part of the information content supplied to the Joint Management Committee.

Based on the distribution of Aboriginal and Torres Strait Islander people across Queensland, and known geographic concentrations of family support need, QATSICPP proposes 10 Regional Service Development Managers deployed as follows:

- 3 Regional Service Development Managers in South-East Queensland, where almost 50,000 Aboriginal and Torres Strait Islander people live
- 3 Regional Service Development Managers in Far North Queensland including Cape York/NPA/TSI
- 1 Regional Service Development Manager in South West Queensland
- 1 Regional Service Development Manager in Central Queensland, including Wide Bay/Burnett
- 2 x Regional Service Development Managers in North Queensland, encompassing Townsville/Palm Island, Mackay, Mt Isa, Lower Gulf

Aboriginal and Torres Strait Islander Child and Family Well Being Program

Intake - Strengths based assessment

Child and family well being - soft entry points fluid access along continuum based on complexity

Prevention

Early intervention

Secondary Services

TERTIARY INTERFACE

Child Protection Community Response Recognised Entity Function

Care Coordination Unit
Wraparound services
Intensive Family Support
Kinship &Foster Care
Safe House

INFORMATION PAPER: COMMISSION OF INQUIRY

CULTURE AND THE BEST INTERESTS OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

INTRODUCTION

Decisions about the protection and care of children are complex and have significant consequences for their connection to family, community and culture. In child protection, the best interests of the child are paramount. In determining whether any decision or action is in the best interests of the child, the safety and well being of the child is the primary consideration. However, children's best interests are indeterminate or open ended, that is, its application in a given situation will not necessarily lead to any particular outcome, or its application across a range of individual circumstances will not necessarily lead to the same outcome (Alston and Gilmour-Walsh, 1996). It is therefore important to be clear about what the best interests of the child means, what factors are to be considered in making a determination, who is involved in making the determination and how the determination is to be made.

The aim of this paper is to explore culture and the role it plays in determining the best interests of Aboriginal and Torres Strait Islander children in Queensland. Culture is important for all children but it is of particular importance to Aboriginal and Torres Strait Islander peoples due to our history of forcibly removing children from their families and communities, and the belief, at that time, that this was in their best interests. Further, Aboriginal and Torres Strait Islander children continue to be over represented in the statutory child protection system today.

This paper:

- sets out the international, national and state legal context for the best interests principle

- examines the extent to which culture is used as a factor for ensuring the safety and well being of children within existing legislative and policy frameworks

- establishes culture as integral to the safety and well being of children

- identifies the implications of this understanding for practice.

CONTEXT FOR THE BEST INTERESTS OF THE CHILD

Both the UN Convention of the Rights of the Child and Queensland's Child Protection Act 1999 refer to the best interests of children when intervening in family life and stress the importance of culture in considering best interests. This section sets out the international, national and state legal context for the best interests of the child principle.

United Nations Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child was adopted in 1989 and ratified by Australia in 1990. The Convention makes reference to:

- the best interests of the child being the primary consideration when a government intervenes in family life (Article 9), and

- governments respecting and providing support for the responsibilities, rights and duties of parents, extended family or, where applicable, the community to provide direction and guidance in the exercise by the child of his or her rights (Articles 4 and 5) .

Specifically in respect of children who are indigenous to their country, the Convention states that:

- these children shall not be denied the right, in community with other members of the group, to enjoy their own culture (Article 30), and

- attention shall be paid to the cultural background of children in out-of-home care placements (Article

20).

Further, the Convention asserts the right of all children to an identity (Article 8) and that those who are capable should be able to speak for themselves in matters that affect them (Article 12).

The particular UN considerations that are relevant for Aboriginal children:

- the interconnectedness between children, communities, culture and context
- their present situation cannot be understood without reference to the historical context and a large history of rights violations
- obstacles to the rights of Aboriginal self-determination remain a real barrier to the realisation of the safety and wellbeing of children
- the significance of land and its loss and violation to Aboriginal people is in part about its centrality in the future lives of the children.

Child Protection Act 1999

The *Child Protection Act 1999* (s5A) requires that any decision made is in the best interests of the child with their safety and well being as the paramount concern.

The Department of Communities (Child Safety) and the Childrens Court make a range of decisions in relation to children including:

- whether the child is in need of protection
- if in need of protection, whether their protection is best secured whilst remaining in the care of their family or through their removal
- the type of court order required - custody or guardianship
- the placement best able to meet the needs of the child
- whether the child can be reunified with their family or requires long term care
- maintaining contact between the child, their family, community and culture.

The Act states 'If the chief executive is making a decision under this Act about a child where there is a conflict between the child's safety, wellbeing and best interests, and the interests of an adult caring for the child, the conflict must be resolved in favour of the child's safety, wellbeing and best interests.'

The Act (s5B) sets out general principles for ensuring the safety and well being of children that must be considered in making best interests determination. The principles are as follows -

a)   a child has a right to be protected from harm or risk of harm;

b)   a child's family has the primary responsibility for the child's upbringing, protection and development;

c)   the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family;

d)   if a child does not have a parent who is able and willing to protect the child, the State is responsible for protecting the child;

e)   in protecting a child, the State should only take action that is warranted in the circumstances;

f)   if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests;

g)   if a child does not have a parent able and willing to give the child ongoing protection in the foreseeable future, the child should have long-term alternative care;

h)   if a child is removed from the child's family, consideration should be given to placing the child, as a first option, in the care of kin;

i)   if a child is removed from the child's family, the child should be placed with the child's siblings, to the extent that is possible;

j)   a child should only be placed in the care of a parent or other person who has the capacity and is willing to care for the child (including a parent or other person with capacity to care for the child with assistance or support);

k)   a child should have stable living arrangements, including arrangements that provide—

i.   for a stable connection with the child's family and community, to the extent that is in the child's best interests; and

ii.   for the child's developmental, educational, emotional, health, intellectual and physical needs to be met;

l)   a child should be able to maintain relationships with the child's parents and kin, if it is appropriate for the child;

m)   a child should be able to know, explore and maintain the child's identity and values, including their cultural, ethnic and religious identity and values;

n)   a delay in making a decision in relation to a child should be avoided, unless appropriate for the child.'

Additional principles for Aboriginal or Torres Strait Islander children are set out in Section 5C of the Act, which states:

a)   the child should be allowed to develop and maintain a connection with the child's family, culture, traditions, language and community;

b)   the long-term effect of a decision on the child's identity and connection with their family and community should be taken into account.

The Child Protection Act (s6) also requires the involvement of a recognised entity for the child to participate in the making of significant decisions by the Department and the Childrens Court.

The Childrens Court (s6) must also have regard to the general principle that an Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community.

Provisions for the placement of Aboriginal and Torres Strait Islander children are set out in section 83 of the Act. This requires that placement options be considered in order of priority, with a family member, a member of the child's community or language group, another Aboriginal or Torres Strait Islander who is compatible with the child's community or language group, or another Aboriginal or Torres Strait Islander person.

EXISTING FOCUS ON CULTURE

The Child Protection Act 1999 sets out sets out general principles for ensuring the safety, well being and best interests of children, whilst the processes for making decisions about the safety and wellbeing of children and the factors that should be considered are set out in the Department of Communities' Child Safety Practice Manual.

The Child Protection Act 1999 (s5A) states 'The main principle for administering this Act is that the safety, wellbeing and best interests of a child are paramount.'
Departmental policies include:

- Working with Aboriginal and Torres Strait Islander Children, Families and Communities

- Aboriginal and Torres Strait Islander Placement Principle.

The Child Safety Practice Manual sets out procedures to guide decision making at each stage of the child protection process. Reference is also made to tools and practice resources to support decision making.

<u>Tools include:</u>

- Safety Assessment

- Family Risk Evaluation

- Child Strengths and Needs Assessment

- Parent Strengths and Needs Assessment

- Family Risk Re-evaluation

- Family Reunification Assessment.

The tools are not available publically.

<u>Practice Resources include:</u>

- Safety Assessment

- Family Risk Evaluation

- The assessment of harm and risk of harm

- Developing a cultural support plan for an Aboriginal or Torres Strait Islander child

- Working with the recognised entity

- Working with Aboriginal and Torre Strait Islander peoples.

A review of child protection legislation, Department of Communities, Child Safety policies and the Child Safety Practice Manual indicates that whilst changes to legislation and policy highlight the importance of culture, policies and procedures do not sufficiently reflect an understanding of the place of the child in Aboriginal and Torres Strait Islander cultures and its relationship with kinship structures and obligations. Further, the increasing over representation of Aboriginal and Torres Strait Islander children at all stages of the child protection process indicate that there is a gap between the requirements of child protection legislation and policy, and practice.

The following specific issues are highlighted.

<u>Best Interests</u>

The wording of the Act, '... the safety, wellbeing and best interests of a child are paramount.' implies that the best interests of a child is something other than their safety and wellbeing. This may lead to different interpretations and unnecessary confusion.

The phrase 'best interests' is not often referred to within departmental policies and the practice manual, and is not clearly linked to the safety and well of children. This may also contribute to an impression that best interests refers to something other than the safety and well being of the child.

Safety and well being

There is increasing concern that policy and practice places too much emphasis on the immediate safety of the child and too little emphasis on their well being. Well being does not appear to be defined in departmental policies and the practice manual in terms of development and stability. It is not sufficiently clear how culture and a child's sense of identity and belonging are to be considered in determining their safety and well being.

Children in context

Whilst legislation and policies reflect a broader understanding of family, insufficient emphasis is placed on understanding the safety and well being of children in the context of their family, community and culture. In practice, the focus on family tends to be on parents rather than the broader kinship structures and obligations of Aboriginal and Torres Strait Islander cultures.

Need for protection

The determination of whether a child is in need of protection is based on an assessment of risk and protective factors present for the child and family, and completion of the Family Risk Evaluation. The Practice Guide 'The assessment of harm and risk of harm' sets out the risk and protective factors that should be considered in relation to the child, the family and the environment.

The criteria used to determine the need for and type of ongoing intervention are:

- level of harm or risk of harm
- what is required to meet the child's protection and care needs
- parent's ability and willingness to protect the child

The Guide sets out the decision making process and the factors to be considered at each stage of the process. There is limited reference to culture and cultural considerations at each of the stages. Appendix 2 'Information gathering prompts when undertaking risk assessments' and Appendix 2: 'Risk

factors relating to harm, the child, the parent, the family context, and the environment', include some reference to cultural factors. However, the emphasis is on the child and parents with limited reference to kin and community. The extent to which Family Risk Evaluation tool (and other SDM tools) considers culture is unclear as it is not available publically. The Child Safety Practice Manual and supporting materials have a strong emphasis on collecting relevant cultural information from, and consulting with, the Recognised Entity.

A consideration of culture is not sufficiently embedded within the overall framework for decision making and insufficient attention is given to how a child's cultural identity and sense of belonging including their connection to family, community and culture is to be considered. Significantly, neither departmental policy or the practice manual appear to set out how consideration will be given to the long term effect of a decision on the child's identity and connection with their family and community as required by the Act.

Decision making

There is a gap between the legislative and policy requirements for the involvement of children, parents, kin and community, and practice. This appears to result from culture not being sufficiently embedded in the framework and processes for engaging stakeholders not being culturally appropriate. For example, Family Group Meetings convened by non-Indigenous people and administered by the Department. A review of 26 Aboriginal and Torres Strait Islander children placed with non-Indigenous carers found limited involvement of parents, kin and community members in Family Group Meetings (Testro, 2010).

As noted previously, departmental policies and the practice manual stress the importance of consulting with Recognised Entities about significant decisions relating to Aboriginal and Torres Strait Islander children. Whilst high levels of involvement are noted, it is not clear how Recognised Entities are being involved, how their views impact decision making, and how disagreements are dealt with.

Interventions

Interventions continue to largely focus on the child and parents, with limited engagement of kin and community to ensure the safety and well being of children. Moreover, the focus is placed on intervening with individual children and their parents rather than on community level interventions.

Statutory child protection systems formally attempt to engage kin in providing placements, without proper consideration of the role and obligations of kin within Aboriginal and Torres Strait Islander cultures. Processes for kinship care have developed out of foster care (the placement of children with strangers) rather than enabling kinship structure and obligations for the care of children.

Cultural Support Plans are important for setting out strategies for maintaining connections between Aboriginal and Torres Strait Islander children placed with non-Indigenous carers and their families, communities and cultures. However, there are concerns about the number of children who have a plan, the quality of the plans and their effectiveness (Testro, 2010; ATSILS, 2012).

IMPORTANCE OF CULTURE

Aboriginal and Torres Strait Islander children provide the link between the past and the future for Aboriginal and Torre Strait Islander cultures.

Culture defines who we are, how we think, how we communicate, what we value and what is important. Children have a right to practise their cultural beliefs, traditions and customs. Children's understanding of, and connection to, their culture is essential in developing a strong, resilient identity, and sense of belonging (Bamblett, 2007).

Culture is therefore integral to the safety and well being of children. Any decision about the safety and well being of children must include consideration of their cultural identity and their connections with family, community and culture.

Central to understanding and considering the cultural beliefs, customs, traditions and rights of Aboriginal and Torres Strait Islander children, young people and families include:

- diversity of cultures and traditions within and across Aboriginal and Torres Strait Islander peoples
- relationship between spirituality, land, language and culture
- kinship structures including affiliation
- child rearing practices including parenting responsibilities, bonding and attachment, child development
- identity and sense of belonging including kinship bonds. communal living, and affiliation.

In particular, the unique kinship obligations and child-rearing practices of Aboriginal and Torres Strait Islander cultures as integral elements of their concept of 'family' must be acknowledged.

The effect of failing to maintain children's connections with family, community and culture are demonstrated in the intergenerational impact of forcible removal of children from their families on individuals, families, communities and cultures. The trauma and associated loss of identity and sense of belonging has had profound implications for the safety and well being of children, families and communities. One of those implications is the increasing numbers of children and families coming into contact with the child protection system including the removal of children from their families.

Connection to culture is a strength, which promotes safety and well being. A strong cultural identity is a protective factor and contributes to a child's resilience (Bamblett, 2007,). Drawing on data from the 2008 National Aboriginal and Torres Strait Islander Social Survey, Dockery (2011) found that cultural attachment is associated with improved well being (based on Aboriginal and Torres Strait Islander peoples own values and preferences) and socio-economic outcomes. Internationally, Chandler and Lalonde (2008) found that 'individual and cultural continuity are strongly linked, such that First Nations communities that succeed in taking steps to preserve their heritage culture, and that work to control their own destinies, are dramatically more successful in insulating their youth from against risks of suicide. .

IMPLICATIONS FOR LEGISLATION, POLICY AND PRACTICE

Culture must be understood to be integral to the safety and well being of Aboriginal or Torres Strait Islander children. Whilst significant changes to legislation and policy have occurred, these changes do not sufficiently reflect the importance of culture and, in particular, an understanding of the place of the child in Aboriginal and Torres Strait Islander cultures and its relationship with kinship structures as detailed above.

This understanding of culture must be reflected in all aspects of child protection legislation, policy and practice as follows.

Best Interests

The safety and well being of a child is the primary consideration when determining what is in their best interests. This should be clarified in the Child Protection Act 1999 to remove any possible confusion around whether 'best interests' is an additional to test to that of 'safety and well being'.

Departmental policies and the practice manual should be amended to more clearly link 'best interests' with 'safety and well being'.

Safety and well being

The needs of children must be considered holistically with emphasis on both safety and well being including identity, development and stability. Culture is integral to the safety and well being of children.   Maintaining cultural identity and a sense of belonging through connection to family, community and culture must be understood to be in their best interests. Victoria has managed this issue by including culture, alongside age and gender, as a lens through which safety, development and stability are to be considered.

Children in context

The safety and well being of Aboriginal and Torres Strait Islander children must be understood in the context of their family, community and culture. Family and community must be understood to include the broader kinship structures and obligations of Aboriginal and Torres Strait Islander cultures. Intervention in the life of a child and their parents involves intervention in the lives of kin and community, and impacts culture.   Parents, kin, communities share responsibility for the care of children.

Need for protection

When assessing an Aboriginal or Torres Strait Islander child's need for protection and determining the level and nature of intervention required to meet their needs a number of factors require more explicit consideration including:

- child's cultural identity and sense of belonging including connections to family, community and culture

- parent's cultural identity and sense of belonging including connections to family, community and culture

- capacity of parents, kin and community to provide of the safety and well being of the child

- the long-term effect of a decision on the child's identity and connection with their family and community.

The Department's policies, the Child Safety Practice Manual and the Practice Guide 'Assessment of Harm and Risk of Harm' should be reviewed and amended to reflect this understanding. This review should be open and transparent, actively engaging Aboriginal and Torres Strait Islander organisations in the process.

The Child Safety Practice Manual and the Practice Guide 'The assessment of harm and risk of harm' should be reviewed and amended to reflect this understanding. This review should be open and transparent, actively engaging Aboriginal and Torres Strait Islander organsiations in the process.

A recent review of the SDM tool adopted by the Department, identified that there is an inherent cultural bias. SDM tools should be further reviewed in terms of their cultural appropriateness and the extent to which they impact the representation of Aboriginal and Torres Strait Islander children and their families at each stage of the child protection process. This review should be open and transparent, actively engaging Aboriginal and Torres Strait Islander organisations in the process.

Decision making

The parents, kin and community are the most informed about their children and must therefore be actively involved in identifying issues impacting the safety and well being of their children and solutions to those issues.

Processes for engaging Aboriginal and Torres Strait Islander parents, kin and community members in decision making should be reviewed and amended. Family Group Meetings involving Aboriginal or Torres Strait Islander children must be convened by an Aboriginal or Torres Strait Islander person, preferably the Recognised Entity, and consideration should be given to ensuring that this person and the process is independent of the Department.

Decisions about the removal of children from their families must take into account the impact of that decision on the child's connection to family, community and culture.

The role of Recognised Entities is critical in ensuring that decisions made are in the best interests of the child. Clarification and strengthening of the role would need to be supported by law reform and in order to ensure that operationalisation of the role fulfils the intent of the legislation, significant changes to the way that the role is currently funded and regulated by Department.   It is envisaged that the Inquiry presents an opportunity to objectively consider the effectiveness of processes for, and outcomes of, involving Recognised Entities in decision making.

Interventions

Intervention in the life of a child and their parents requires an understanding of kinship structures and obligations within their community and culture. In this way, kin and community members can be more effectively engaged in ensuring the safety and well being of children. Beyond the individual child, more attention is required to community development approaches which engage communities in identifying issues and solutions, which promote the safety and well being of all children within a community. This approach can contribute to preventing harm whilst also strengthening community capacity to identify and respond to harm.

Further, in line with this understanding, the engagement of kin in providing care to children must be reconceptualised as family support rather than a placement. A Kinship Care program setting out processes for enabling kinship structures and obligations should be developed.

The need to maintain connections with family, community and culture for Aboriginal and Torres Strait Islander children placed with non-Indigenous carers is essential to their safety and well being. Cultural Support Plans must be subject to regular review and monitoring to ensure their effectiveness. Further, connections are likely to be more effective if the plans are developed with input from the Recognised Entity and if non-Indigenous carers are supported by Aboriginal and Torres Strait Islander Kinship and Foster Care organisations.

Monitoring and review

The implementation of legislation and policy requirements in practice must be actively monitored and an effective feedback loop established between practice and legislation and policy. Monitoring should focus on both quantity and quality. Monitoring and review processes should be open and transparent, actively engaging Aboriginal and Torres Strait Islander organsiations in the process.

CONCLUSION

Culture is integral to the safety and well being of children. The best interests of a child can not be concluded exclusive of consideration of a child's fundamental need and recognised right to maintain their cultural identity. In the current statutory context it is often a secondary consideration. Connection to culture is a strength, which promotes safety and well being of our children and must be embedded in all decisions made that impact upon our children, families and communities. Emphasis needs to be placed by all parties on understanding the safety and well being of children in the context of their family, community and culture. Erosion of an Indigenous child's connection to culture, kin or country through one dimensional decision making processes or practice that does not reflect an understanding or appreciation of Aboriginal and Torres Strait Islander culture is not in the "Best Interests" of a child.

Understanding Healing for Children, Young People and Families

October 2012

Aboriginal and Torres Strait Islander Healing Foundation

The Aboriginal and Torres Strait Islander Healing Foundation is a national, independent Aboriginal and Torres Strait Islander organisation with a focus on healing our community.

Established on the first anniversary of the Apology to Australia's Aboriginal and Torres Strait Islander peoples, the Healing Foundation works to address the profound legacy of pain and hurt of our people caused by colonisation, forced removals and other past government policies.

Building culturally strong community programs, designed and delivered by Aboriginal and Torres Strait Islander peoples, and from an Aboriginal and Torres Strait Islander worldview, the Healing Foundation is improving the wellbeing of our people by:

- developing the story of healing by funding healing programs
- raising the profile and documenting the importance of culturally strong healing programs through research and evaluation
- building leadership and the capacity of communities and workers to deal with trauma through education and training.

The initial priorities of the Healing Foundation were established in June 2010. They include:

- defining what healing means to Aboriginal and Torres Strait Islander peoples
- acknowledging the intergenerational impact of trauma on families and communities
- developing links between Aboriginal and Torres Strait Islander and non-Indigenous healing models
- working with young people to build strong spirits and connections to culture
- supporting Stolen Generations survivors
- developing programs relevant to men and boys
- building on the work women have done to unite and heal families and communities.

Why is there a need for healing?

The trauma experienced by Indigenous people as a result of colonisation and subsequent policies, such as the forced removal of children, has had devastating consequences. The disruption of our culture and the negative impacts on the cultural identity of Aboriginal and Torres Strait Islander peoples has had lasting negative effects, passed from generation to generation. The cumulative effect of historical and intergenerational trauma severely reduces the capacity of Aboriginal and Torres Strait Islander peoples to fully and positively participate in their lives and communities, thereby leading to widespread disadvantage.

This is particularly true for our children and young people who we must recognise are hurting. They have been witness to, and experienced first-hand, the trauma that past government policies have had on their families and communities. Without adequate opportunity to overcome trauma, young people internalise their experiences and seek to find their own means to cope with the overwhelming nature of events. This often results in negative behaviours such as high rates of drug and alcohol addiction, violence directed at self and others, criminal behaviour and interaction in the justice system, gang membership, homelessness, and early school leaving.

While the Apology to Australia's Indigenous Peoples and its acknowledgement of the legacy of colonisation, forced removals and other past government policies was an important first step on the road to healing, it must now be followed by concrete policy responses – including the provision of culturally-appropriate healing services to assist Aboriginal and Torres Strait Islander people to begin the process of recovering from trauma (Healing Foundation Development Team, 2009).

What do healing services look like and what is their benefit?

Interventions that aim to address the social disadvantage Aboriginal and Torres Strait Islanders face without first addressing the healing needs of individuals, families and communities are likely to be limited in their effectiveness. Healing programs and services address the root cause of the unbalance and disharmony in our communities, rather than just the symptoms.

According to Carauna (2010) the idea of 'healing' as an approach to Indigenous disadvantage is not a concept that is always well understood. Healing programs encompass a range of practices (traditional and western), cover a range of issues or problems being experienced by individuals, groups of individuals (eg. youth, men, women), families, and sometimes whole communities, and have as their core a focus on spirituality and culture. They span the areas of mental health, social and emotional wellbeing, family violence, child protection, addictive behaviour (alcohol, drugs, gambling etc.), sexual abuse, youth development, justice and corrections. There is also a growing emphasis on the need for preventative and restorative approaches in addition to those which are based on therapeutic intervention (Healing Foundation, 2012).

Critical to healing programs is an emphasis on restoring, reaffirming, and renewing a sense of pride in cultural identity, connection to country and participation in, and contribution to, community. Cultural identity and connection to country are seen as crucial elements of everyday life for Indigenous people. Cultivating a sense of this cultural distinctiveness is inextricably linked with spiritual, emotional, social health and wellbeing and is also an important part of strengthening communities (Healing Foundation, 2012).

When communities are strong they are able to develop their own solutions, negotiate more effectively and ultimately achieve a more equitable share in the wealth of the nation.

Carauna (2010), in her review of the literature on healing programs, has drawn on the current thinking of experts and evidence from program evaluations to suggest a core set of characteristics which are or should be present in effective Indigenous healing programs.

Indigenous ownership, design and evaluation of services	Informed by an Indigenous, not a western, worldview and using culturally sensitive screening and assessment tools.
Holistic and multidisciplinary approach	Addressing mental, physical, emotional and spiritual needs with a focus on familial and community interconnectedness, as well as connectedness to the environment and the spiritual realm.
Centrality of culture and spirituality	Cultural renewal is seen by some as an essential precursor to healing.
Informed by history	Being cognisant of the historical source of trauma rather than focusing too strongly on the individual pathology.
Adopting a positive, strength based approach	Recognising and promoting the resilience of Indigenous people.
Preventative and therapeutic strategies	Rather than reactive responses that merely seek to reduce symptoms.
Commitment to healing	As a process – a journey that takes time rather than a one-off event.
Commitment to adaptability, flexibility and innovation	Programs must be inclusive to ensure they reach people who may not have strong cultural ties and to incorporate localised practices.
Utilisation of particular approaches best suited to the indigenous context	Programs to include approaches such as narrative therapy, group processes and a combination of western and traditional practices, such as the use of traditional healers or Ngangkari.

Table 1: Core characteristics of Indigenous healing (adapted from Carauna, 2010).

Healing services also acts as protective measure for children and young people against risk and harm. For Aboriginal and Torres Strait Islander people cultural concepts such as connection to land, culture, spirituality, ancestry, family and community are common protective factors, *"which can serve as sources of resilience and can moderate the impact of stressful circumstances on social and emotional wellbeing at an individual, family and community level."* (Zubrick et al., p81).

Indigenous healing programs by their very nature focus on the importance of cultural identity and connection to country. In doing so, they can play an important role in helping individuals to shift the balance of the impact of risk and protective factors in their lives. The emerging evidence from the healing initiatives funded by the Aboriginal and Torres Strait Healing Foundation is that by strengthening cultural connection and identity, participants' sense of wellbeing is improved and they are able to more fully participate in family and community life in healthy, safe and confident ways.

Examples of healing programs and services for children, young people and families

Creating conversations

During a boys group held within this project, there was talk about identity and connection to culture. It was clear that many of the children in the group knew they were Aboriginal; however, they didn't seem to have a deep knowledge about their tribal links, language, links to land and spirituality. The children enjoyed learning about these perspectives from the Aboriginal men and they were encouraged to talk to their fathers and families about these things when they returned home. Many of the children later came back to the group, or to talk to the facilitators, and said they had learnt even more from their parents through follow-up conversations.

Strengthening understanding of our culture and building pride in our girls

While on a culture camp, girls participated in workshops with Elders and senior women and learnt about kinship, skin and moiety groups, and the different groups' connections to country. The girls were involved in activities to identify what groups they belonged to and how they were linked as 'family'. They heard about culturally safe 'women's business', including women's law, their responsibilities in ceremony and the importance of 'right way marriage'. Elders spoke strongly with the girls about the need, as young women, to not find babies too early and to have healthy partnerships with husbands who are proper, strong men.

Girls also learnt traditional arts and crafts and bush medicine from the senior women. At night around the campfire the girls heard dreaming stories, and learnt how they came to be here and who they are.

The young participants actively listened to the Elders and senior women—more than is common when they are in their home environments—and talked about the session content among themselves during the camp. We encouraged the girls to take 'ownership' of the camp by working in teams based on skin names, with different groups having designated roles in the camp. The groups had to work collaboratively to make sure the camp ran smoothly. This approach was very effective and increased engagement and participation and how the girls later applied what they learnt.

The camp culminated in the women and girls participating in the Katherine NAIDOC march. This was the first time any of them had ever publicly celebrated their Aboriginal and Torres Strait Islander identity outside their home community. The women and girls led the NAIDOC march and no participants were too 'shame' to participate in the march. Camp participants were the only representatives from remote communities in the Katherine region.

Healing for the children of the Stolen Generations

The healing camp for children of the Stolen Generations offers a structured three-day program. It draws on the Marumali Journey of Healing to reconnect teenage children of the Stolen Generations with elements seen as essential to Aboriginal identity and social and emotional wellbeing—family, community, country, ancestors, spirituality and culture. Facilitators lead the group on a journey to understand the policies that led to the forcible removal of their parents and grandparents, to examine the impact this has had on them, their families and

communities, and to identify protective factors associated with Aboriginal cultures and spirituality. Participants are then given the opportunity to produce art works that draw on the strengths and protection offered by their culture and spirituality.

The healing nature of bush trips

Participants felt a strong connection to their sense of self and cultural significance when on country. When on country participants feel like they fit and they have a place within Arrernte lore. Elders feel they are relevant and know what the younger ones need to learn and understand. This gives a sense of pride and strength. Young people learn and expand their knowledge and enjoy feeling a part of cultural traditions such as dancing, song and language, and especially the humour that often ensues on camps. People feel proud and nourished when they care for their land and each other and self-assured when they feel they have access to visit country.

How can we engage Aboriginal and Torres Strait Islander communities in the healing journey and development of healing initiatives for children, young people and families?

Over the past 12 months, the Healing Foundation has facilitated a number of successful Healing Forums in central Australia and the Torres Strait. These forums have been focused on helping communities to identify the issues that are causing disharmony and imbalance in their lives. In this way, the forums have allowed communities to understand the impacts of colonisation in their local context, and to design and develop solutions that will restore balance and harmony to their people.

The process used by the Healing Foundation in our forums has enabled communities to have a comprehensive view of the difficulties they face and build a holistic and integrated response to support constructive change. The forums are supporting communities to take back agency within their lives and assisting communities to assume responsibility for their future. Communities have been assisted to develop their own local healing plans and have clarity about the processes, working relationships and programs that will be required to assist their children and young people to grow strong in their culture.

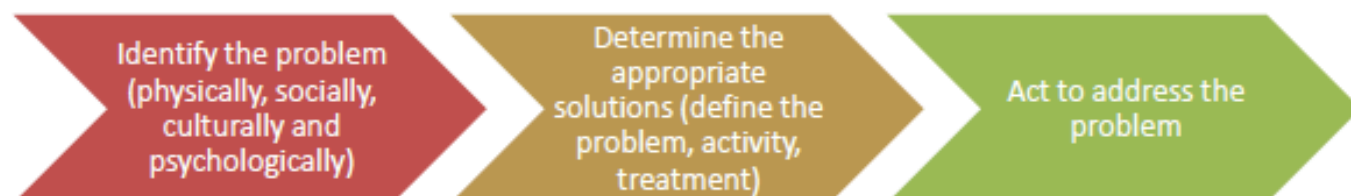The Healing Forums are guided by the following principles:

- community ownership
- respect for kinship structures
- elevating the voice of the local people
- harnessing positive energy
- self-belief and empowerment
- humility
- honour and integrity.

The aims of the Healing Forums are to:

1. Provide a pathway to healing for communities that unities them in a common vision
2. Assist communities to identify the deep issues that cause disharmony and find a pathway back to harmony and balance
3. Help communities to identify healing goals and aspirations and the mechanisms to realise those solutions
4. Secure an honest commitment from participants to discuss the hard issues with integrity and respect
5. Work to create change in the mindsets and behaviours that prevent healing
6. Assist communities to move beyond fear, denial and blame
7. Build our healing leadership so that communities act on solutions and create positive change.

Through the Healing Forums, the Healing Foundation is reinstating an Aboriginal and Torres Strait Islander way of working through issues and helping communities reclaim the strengths of our cultural wisdom. We rely on the knowledge systems held by the local language groups to guide the format of each Healing Forum, with inclusion of key ceremony.

The process used in our Healing Forums allows communities to:

Identify the problem (physically, socially, culturally and psychologically) → Determine the appropriate solutions (define the problem, activity, treatment) → Act to address the problem

The Healing Foundation believes that the inclusion of Healing Forums as a response to the over-representation of Aboriginal and Torres Strait Islander children and young people in contact with the Queensland child protection system would provide an opportunity for communities to utilise an Aboriginal and Torres Strait Islander framework to identify the key issues preventing their children and young people from growing up strong.

Linking the framework of the Healing Forums to healing initiatives for children and young people makes use of Aboriginal and Torres Strait Islander ways of consultation and discussion and incorporates traditional knowledge systems at the core of the work. The Healing Forums framework provides an opportunity for deep engagement and harnesses the wisdom and energy of the community towards building the solutions and identifying the processes that will work within the local context. In this way, communities are driving their change.

The Healing Forums are also a way for the community members to identify the services and supports they have in their community that already provide a means to healing and to work out where the gaps are. This can ensure an ability to better integrate and coordinate work. The forums have also provided a platform for communities to better negotiate with other non-government organisations and government providers the types of services and processes that will meet their goals. As the forums are holistic in nature they help communities to identify not only the healing needs of their children and young people but also the way to support healing for women, men, families and the community as a whole.

The healing forums have helped communities to identify that often healing is about how the community inter-relates and supports improved governance and leadership when struggles become evident. In this way healing does not always become about resources but about how the community reinstates long held community values to provide safety and security for their children and young people.

The inclusion of Healing Forums in the planning and implementation phases of these initiatives is congruent with the Australian Government Department of Finance and Deregulation's Strategic Review of Indigenous Expenditure (2010). In this report, 'engagement' was listed as a key principle for the design of all new initiatives. The report commented that *"effective engagement with the people to be assisted should be an essential part of the design and operation of any Indigenous-specific program ... engagement needs to go beyond mere consultation, providing Indigenous people with a genuine opportunity to influence both the design of the program and the ways in which services are delivered"* (Australian Government, 2010).

How healing is closing the gap

The inclusion of healing initiatives within children and family services can make a significant contribution to the Closing the Gap agenda, particularly the building blocks relating to early childhood, schooling, health and safe communities.

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