

## **KALACC Response to Proposal to Establish a WA Office of Aboriginal Accountability and Advocacy**

The Hon Ben Wyatt, Minister for Aboriginal Affairs

04 09 2018

Dear Minister,

Thank you for your correspondence in regards to a proposal to establish a West Australian office of Aboriginal Accountability and Advocacy. This proposal was discussed by KALACC Directors at their Board meeting held in Halls Creek in July. A State Government officer will be speaking on this same matter at the upcoming AGMs for KALACC, KLC, KLRC and Aarnja.

The KALACC Board of Directors is of the view that the relationship between Aboriginal people and the State of Western Australia has to profoundly change. The Board takes the view that the establishment of this accountability office may be one small step in that right direction. However, the fear and the concern is that in embarking on this course of action the Government is prioritising an issue of secondary importance – at the same time as we are yet to see progress on critical issues of primary importance and concern. Aboriginal people have told government innumerable times that real progress and transformational change will occur when we see a government focus on:

- A strengths - based Aboriginal policy agenda, with Aboriginal culture and identity being recognised as being central to promoting Aboriginal wellbeing;
- Empowerment of Aboriginal people to deliver the services which they need to their communities.

On 10 October 2001 the Gallop Labor Government signed its ***Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians***. The very first words in that document are these:

Aboriginal people and their culture are a unique and invaluable part of our State.

The same document also states:

To achieve improvement Government and Aboriginal people need to work together in partnership and share responsibilities.

The KALACC Board supports the establishment of an office of Aboriginal Accountability and Advocacy. However, this is a second order priority issue because the premise underlying the proposal is that improved Government service delivery is the key to improved outcomes for Aboriginal people. This is a profoundly colonial and paternalistic view which fails to demonstrate the kind of vision shown by the Gallop Labor Government. KALACC calls on the Government to work with Aboriginal people to implement an Aboriginal policy agenda based around the twin principles of: 1. Strength through culture; and 2. Aboriginal empowerment.

### **Actions Which the State Government Should be Taking**

1. Re- visit and refresh the Gallop Labor Government’s ***Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western Australians***
2. Respond to each of the recommendations contained in the ***Final Report*** brought down by the Western Australian Indigenous Implementation Board
3. Work with Empowered Communities backbone organisations, Aarnja and BBY, together with Aboriginal regional organisations in non – Empowered Communities regions, to develop regional governance structures and to implement regional agreements
4. Respond meaningfully to the WA Parliament’s ***Message Stick Report*** in to Aboriginal youth suicide in regional areas
5. Respond to the ***KALACC Cultural Solutions Position Paper*** of September 2017.

Yours sincerely



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*“To assist and promote the ceremonies, songs and dance of Kimberley Aboriginal people, to encourage and strengthen their social, cultural and legal values and ensure their traditions a place in Australian society.”*

## **Fundamental Re- Setting of the Relationship Between Aboriginal People and Government.**

“Aboriginal people and their culture are critical to the future of our State. Their unique knowledge is the defining element in building a sustainable future for Western Australia.” Indigenous Implementation Board, ***Final Report***, Front Cover.

These are the opening words of the ***Final Report*** from the Indigenous Implementation Board. We do recognise and accept that the Indigenous Implementation Board found that there needed to be greater levels of accountability from within Government. As such the establishment of the proposed Office of Aboriginal Accountability could be viewed as being consistent with views held by the Indigenous Implementation Board. However, the Board set out its recommendations across pages 21 – 25 of its ***Final Report***, and greater Government accountability barely rates a mention anywhere in those recommendations.

What the Board does say in its ***Final Report*** is this:

The evidence is clear – the existing strategies are costly and do not deliver sustained change to the well being and prospects of the majority of Aboriginal people in either the cities or the regions. The exceptions to this finding offer some encouragement but, despite the best intent of many hard working people, are too few to justify the expenditure of the existing federal and state programs. Many of the accepted indicators of the effects of Council of Australian Government programs, i.e. education participation, health, engagement with the justice and corrective systems, are worsening for Western Australia. This suggests that the ongoing philosophy of assimilation that is obvious if unstated in underpinning “overcoming disadvantage” and “closing the gap” programs may be a contributor to growing Aboriginal alienation and dysfunction. [page 1]; and

The Board understands that Aboriginal culture is a vital asset and essential to the future of Western Australia but is aware that this view is not yet fully appreciated by the community at large. Several recommendations are made to promote Aboriginal culture in order to increase knowledge and understanding, aid reconciliation and inclusion and act as a counter to racism. Promotion of Aboriginal culture is also essential to provide a strong sense of personal and community identity for Aboriginal people that will allow them to flourish within the mainstream community. [page 18]

On the basis of the work of the Indigenous Implementation Board, one could only conclude that the establishment of an office of Aboriginal Accountability and Advocacy, whilst broadly consistent with the Board's findings, is very much a second order priority.

There is very considerable overlap between the key findings and recommendations of the Indigenous Implementation Board and the contents of the Gallop Labor Government's ***Statement of Commitment to a New and Just Relationship***. The key elements of both of these documents are these:

- Aboriginal people and their culture are a unique and invaluable part of our State
- Aboriginal culture is a vital asset and essential to the future of Western Australia
- The status quo and current ways of Government doing business completely fail to deliver outcomes to Aboriginal communities
- To achieve improvement Government and Aboriginal people need to work together in partnership and share responsibilities
- DIA continue to analyse investment in Indigenous Affairs and work with Commonwealth and State Governments and Aboriginal people to redirect investment into areas that build the capacity of Aboriginal people across the State
- Regional and local approaches to address issues that impact on Aboriginal communities, families and individuals
- Government commit to regional governance and support processes whereby Aboriginal people develop culturally legitimate representational systems that will allow them to participate in social and economic development for the region. Based on discussions with Aboriginal leaders in the Kimberley and Pilbara this will require the creation of an Aboriginal body that will enable sub-regional groups to develop agreed positions on regional issues and then provide Aboriginal representation on the regional governance body. The Department of Indigenous Affairs should have the responsibility for supporting the development of culturally legitimate representational systems with funding from Royalties for Regions.

In short, both the ***Final Report*** and the ***Statement*** recommend the following actions:

- Support a culturally- based, Aboriginal - strengths policy agenda
- Promote Aboriginal empowerment by supporting Aboriginal led solutions
- The Government should work with Aboriginal people to develop and to implement regionally based planning frameworks and governance systems.

### **A Statement of Principles?**

The June 2018 Discussion Paper ***An office for advocacy and accountability in Aboriginal affairs in Western Australia*** states as follows:

The Government commissioned an independent Service Priority Review to drive reform of government service delivery, accountability and efficiency.

The Review's final report identified structural and systemic weaknesses in the State's public sector, and set out a blueprint for reform to achieve better outcomes.

A major finding of the report was the need for greater accountability and transparency across government, and better alignment of government services to community needs. On Aboriginal affairs in particular, the report noted that the existing systems and structures sometimes allow the public sector to continue doing what it has always done despite poor or worsening outcomes.

The report recommended a number of actions for improvement, which are now part of the Government's broader public sector reform program to be implemented in 2018 and beyond. [page 4]

KALACC accepts that the above is an accurate summary of the findings from the Service Priority Review. However, the foreword to the ***Service Priority Review Final Report*** states as follows:

The Western Australian Government established the Service Priority Review in May 2017 to examine the functions, operations and culture of the public sector, with the aim of driving lasting reform.

In other words, the entire focus of the review was on how to maximize outcomes from the public sector. One of the truly remarkable aspects of the Service Priority Review is that it poses the key question of how to better deliver services to the community, without prioritising the role of the community itself in delivering services. Thus, by extension, the June 2018 Discussion Paper *An office for advocacy and accountability in Aboriginal affairs in Western Australia* fundamentally aligns itself to a process and to an ideology in which the community – in this case the Aboriginal community – has little or no role to play.

KALACC repudiates this view of community development. Progress in Aboriginal Affairs can only be achieved when there is progress at both a bureaucratic level and at the level of political leadership. What the *Discussion Paper* fails to explain is how the establishment of an office for advocacy and accountability in Aboriginal Affairs in Western Australia will actually serve to shift a paradigm away from a focus on Government service delivery. There is a real risk that the establishment of such an office will serve to reduce the dialogue to one based solely around the better delivery of services by Government agencies.

In the Kimberley context, we have witnessed for the duration of the existence of the Regional Services Reform Unit a focus, one may say a singular and a sole focus, on the work of the District Leadership Group. KALACC at no time and in no way has ever perceived the District Leadership Group (DLG) as being the solution to Aboriginal issues in the Kimberley. KALACC understands that Aarnja has turned down opportunities to participate in the meetings of the District Leadership Group precisely because the task of the DLG is to discuss better service delivery by Government agencies. KALACC applauds and commends Aarnja for that stance. If it is not a discussion about Aboriginal empowerment and the better delivery of services by Aboriginal people for Aboriginal people, then it is the wrong discussion.

In September 2007 the Law Reform Commission of Western Australia published its ***Final Report on Aboriginal Customary Laws***. That report contained a statement of principles for Government to adopt in regards to Aboriginal Affairs, with those principles being:

**Guiding Principles for Reform**

PRINCIPLE ONE

Improve government service provision to Aboriginal people

PRINCIPLE TWO

Collaboration, cooperation and consultation

PRINCIPLE THREE

Voluntariness and consent

PRINCIPLE FOUR

Local focus and recognition of diversity

PRINCIPLE FIVE

Community-based and community-owned initiatives

PRINCIPLE SIX

Respect and empowerment of Aboriginal people

PRINCIPLE SEVEN

Balanced gender and family, social or skin group representation

PRINCIPLE EIGHT

Adequate and ongoing resourcing

PRINCIPLE NINE

Ongoing monitoring and evaluation

[https://www.lrc.justice.wa.gov.au/P/project\\_94.aspx](https://www.lrc.justice.wa.gov.au/P/project_94.aspx) p. 33

What we note from the above is that, yes, ‘Improve government service provision to Aboriginal people’ is one of the nine principles. But so too are these:

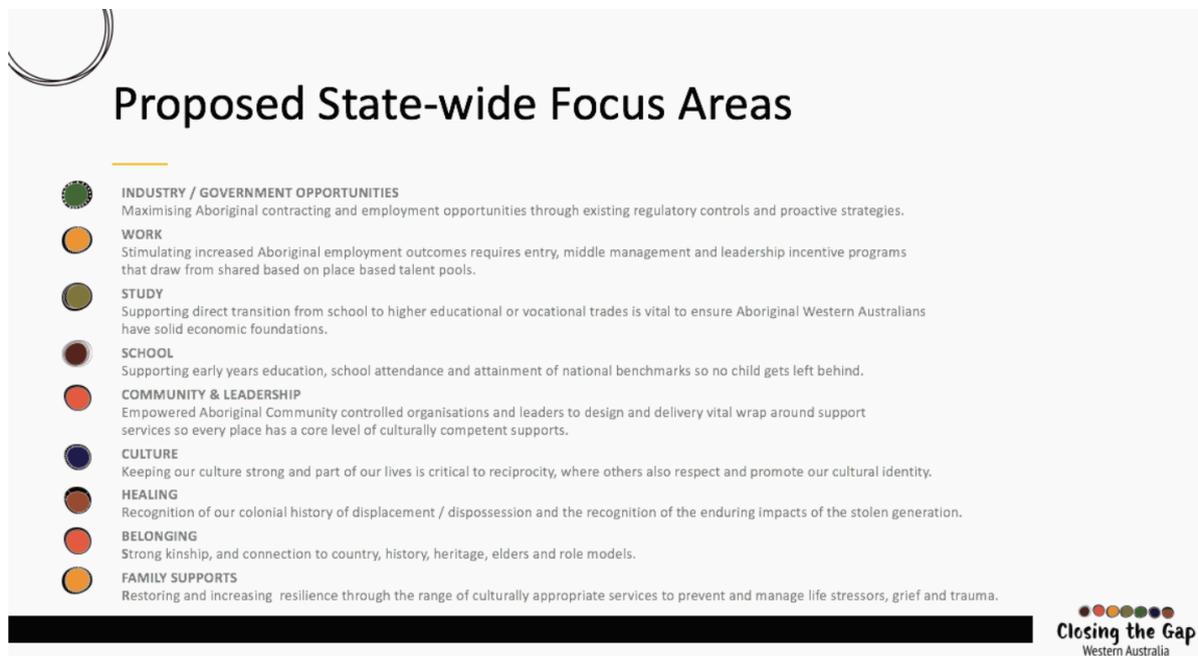
- Collaboration, cooperation and consultation
- Community-based and community-owned initiatives
- Respect and empowerment of Aboriginal people.

And of those principles, ‘consultation’ is the least important and ‘community – based and community – owned initiatives’ and ‘empowerment’ are the most important principles.

It is far from clear to KALACC how the establishment of ***An office for advocacy and accountability in Aboriginal affairs in Western Australia*** is going to serve to shift the focus away from the delivery of Government owned and delivered services towards Aboriginal owned and delivered services.

### Empowered Communities and Close the Gap Refresh

The following diagram is the WA Government’s draft or proposed State- Wide Focus areas for Close the Gap Refresh:



Whilst these focus areas are just that ie focus areas or subjects, as distinct from themes or principles, they are nonetheless a very useful and highly encouraging starting point.

KALACC would be very interested in learning when the Government planned to commence a process of community consultations based around those Close the Gap Refresh Statewide Focus Areas as the basis for meaningful progress in Aboriginal Affairs in Western Australia. Focus areas such as Community and Leadership, Culture, Healing, Belonging and Family Supports are essentially and primarily characteristics which are best delivered by Aboriginal people to Aboriginal people. It is not clear to KALACC how ‘improving the functions and operations of the public sector’ is going to materially advance outcomes in these critically important areas.

KALACC notes that the Commonwealth is moving away from the failed deficits discourses of the Close the Gap Framework employed by State and Commonwealth Governments over the last 10 years. Let us recall the prescient words of the Indigenous Implementation Board:

the ongoing philosophy of assimilation that is obvious if unstated in underpinning “overcoming disadvantage” and “closing the gap” programs may be a contributor to growing Aboriginal alienation and dysfunction. ***Final Report***, page one.

The Commonwealth’s ***Closing the Gap Refresh Discussion Paper*** states as follows:

A strengths-based approach

While continuing to recognise the gaps in key indicators and the need to do better, it is important to highlight the many achievements of Aboriginal and Torres Strait Islander Peoples. We also need to honour and celebrate the richness and diversity of the world’s oldest living culture, and support Aboriginal and Torres Strait Islander Australians to prosper. [page 4]

<https://closingthegaprefresh.pmc.gov.au/sites/default/files/resources/ctg-next-phase-discussion-paper.pdf?v=1.1>

KALACC looks forward to learning of when the State Government will take meaningful action around the implementation of a strengths – based Aboriginal agenda.

## **KALACC Cultural Solutions Position Paper and the WA Parliament Message Stick Report in to Aboriginal Youth Suicide In Regional Areas**

In order to illustrate KALACC's position through a tangible and concrete case study, we refer to the publication by the WA Parliament in November 2016 of the ***Message Stick Report***.

That report states as follows:

- Perhaps the most important, yet least enacted [recommendations from earlier reports], were about the role of Aboriginal culture, both as a primary protective factor building resilience in young people, and also ensuring that programs and services are culturally appropriate. [Chairman's Foreword, page One]
- Culture is the key protective factor which must be present in all strategies, programs and services in which Aboriginal people participate, whether run by governments, nongovernment organisations or private companies. [Executive Summary, ii]
- Finding 8 Page 57 There is increasing evidence that culturally-based programs have the greatest impact in preventing suicide; however, the Western Australian Government has demonstrated reluctance in funding programs of this nature.
- Recommendation 8 Page 57 That the Western Australian Government set aside an appropriate portion of grant expenditure to fund more culture-embedded programs for Aboriginal young people across the state.
- Recommendation 13 Page 79 That the Western Australian Government shifts its focus from government owned and run programs and services for Aboriginal people to Aboriginal owned and run programs. The Committee acknowledges that this will be a gradual process; however, it can begin immediately by designing strategies, services and programs with the aim of empowering Aboriginal communities.

The ***Message Stick Report*** is entirely clear about what needs to happen in order for better outcomes for Aboriginal youth to be achieved. These two things need to happen:

- Nothing works better than culture, so there needs to be investment in culturally based programs

- Only Aboriginal people can deliver culturally based and culturally – appropriate programs, so the Western Australian Government shifts its focus from government owned and run programs and services for Aboriginal people to Aboriginal owned and run programs.

It is far from clear to KALACC how the establishment of an office of Aboriginal Accountability and Advocacy, which is based around the improvement of service delivery by Government agencies, can in fact serve to shift the focus away from service delivery by Government agencies.

The essential ingredient for giving rise to significant change is political will. KALACC refers to the following documents:

- ***KALACC Cultural Solutions Position Paper***, September 2017
- ***KALACC Culturally-Focussed and Strengths-Based Position Paper*** [Juvenile Justice], August 2018
- ***KALACC, KAMSC and Centre for Best Practice in Aboriginal Suicide Prevention, Letter to Premier Mark McGowan About the Message Stick Report***, September 2018.

We call on the McGowan Labor Government to show the political will which is required to respond to the repeated calls from the community to invest in culturally based programs led by and delivered by community. The proposal to establish an office of Aboriginal Accountability and Advocacy does have merit. However it is an issue of secondary importance. We call on the State Government to act on those matters of primary importance to the Aboriginal people of Western Australia.

## **Appendix # One – Statement from the Gallop Labor Government.**

### **STATEMENT OF COMMITMENT TO A NEW AND JUST RELATIONSHIP between the Government of Western Australia and Aboriginal Western Australians**

#### **A COMMITMENT TO A NEW AND JUST RELATIONSHIP**

There is a need for a new and just relationship between the Government of Western Australia and Aboriginal Western Australians.

- Aboriginal people and their culture are a unique and invaluable part of our State;
- Dispossession, settlement and the cumulative acts of colonial and State governments since the commencement of colonisation have left an enduring legacy of economic and social disadvantage that many Aboriginal people experience;
- Aboriginal people have continuing rights and responsibilities as the first people of Western Australia, including traditional ownership and connection to land and waters. These rights should be respected and accommodated within the legal, political and economic system that has developed and evolved in Western Australia since 1829;
- Wealth creation in the general Western Australian community is fundamentally important in the process of addressing problems facing Aboriginal people. Certainty for industry's development proposals and security for Aboriginal people's cultural heritage and values must be equally respected within the overall development of the State;
- Circumstances of Aboriginal people can differ significantly between regions and localities. Regional and local approaches are required to address issues that impact on Aboriginal communities, families and individuals;
- To achieve improvement Government and Aboriginal people need to work together in partnership and share responsibilities.

### **STATEMENT OF COMMITMENT**

This agreement commits the parties to work together to build a new and just relationship between the Aboriginal people of Western Australia and the Government of Western Australia.

## **PARTIES**

The parties to this agreement are the Government of Western Australia and the Western Australian ATSIC State Council, supported by the following Aboriginal Peak Bodies:

Western Australian Aboriginal Native Title Working Group; Western Australian Aboriginal Community Controlled Health Organisation; and Aboriginal Legal Service of Western Australia.

## **OBJECTIVE/PURPOSE**

The purpose of this statement is to agree on a set of principles and a process for the parties to negotiate a Statewide framework that can facilitate negotiated agreements at the local and regional level.

The shared objective is to negotiate a new approach in Aboriginal affairs policy and administration in Western Australia based on regional agreements. The partnership framework aims to enhance negotiated outcomes that protect and respect the inherent rights of Aboriginal people and to significantly improve the health, education, living standards, and wealth of Aboriginal people.

## **PRINCIPLES**

In achieving these objectives the parties are committed to the following principles:

- recognition of the continuing rights and responsibilities of Aboriginal people as the first peoples of Western Australia, including traditional ownership and connection to land and waters;
- legislative protection of Aboriginal rights;
- equity with respect to citizenship entitlements;
- regional and local approaches to address issues that impact on Aboriginal communities, families and individuals;
- a commitment to democratic processes and structures;
- inclusiveness;
- the need to address issues arising from past acts of displacement;
- a commitment to improved governance, capacity building and economic independence.

## **AGREEMENT IN GOOD FAITH**

This is an agreement made in good faith based on the commitment of the parties to effective and sustainable partnership.

## PARTNERSHIP FRAMEWORK

The Parties agree that the most effective means of translating the above principles into meaningful action and outcomes is by way of regional agreements, based on partnerships. The parties agree that between Aboriginal people and the Western Australian Government there will be negotiated partnerships which:

- will be based on shared responsibility and accountability of outcomes;
- should be formalised through agreement;
- should be based on realistic and measurable outcomes supported by agreed benchmarks and targets;
- should set out the roles, responsibilities and liabilities of the parties; and
- should involve an agreed accountability process to monitor negotiations and outcomes from agreements.

The Partnership Framework will establish State-wide policies and administrative arrangements to support negotiations and agreements at the regional and local level.

The Partnership Framework will support Aboriginal people to negotiate regional and local agreements according to the priorities of Aboriginal people in partnership with other stakeholders.

The Partnership Framework should incorporate and be informed by separate agreements in the health, housing, essential services, native title, justice and other issues that impact on Aboriginal people in this State.

The Partnership Framework will address:

- a whole of Government/community approach based on negotiated policy benchmarks and targets;
- regional negotiated agreements incorporating integrated planning involving ATSIC, community organisations and State and local government;
- agreed processes for audit and evaluation of negotiations and outcomes;
- reform of government and Aboriginal organisational infrastructure where required to ensure the implementation of the partnership agreement.

## STRUCTURE FOR CONTINUING DIALOGUE

The basic structure for continuing dialogue will be based on:

- Regular liaison between the Cabinet Standing Committee on Social Policy and the ATSIC State Council supported by the Aboriginal Peak Bodies;

- Regular meetings of the Indigenous Affairs Advisory Committee that will consist of the Minister for Indigenous Affairs, Directors General of other Government Departments, the ATSIC State Council supported by Aboriginal Peak Bodies to provide advice and to monitor progress being made;
- Regional plans using existing statutory processes for planning in Indigenous affairs; and
- Agreements applied at the local level.

