



**THE BRINGING THEM HOME WA Inc**

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*Working together towards the recognition and healing of the pain  
caused by the removal of Aboriginal & Torres Strait Islander  
children from their families.*

Hon. Peter Foster MLC  
Chair  
Standing Committee on Environment and Public Affairs  
Legislative Council Committee Office  
Parliament House  
4 Harvest Terrace  
West Perth WA 6005

Dear Mr Foster,

**Re: Petition No. 072 – Stolen Generations Compensation**

I refer to your letter dated 18 November 2022 and have pleasure in enclosing my written submission in relation to Petition No.072 relating to Stolen Generation Compensation. There is significant interest in the Aboriginal and Torres Strait Islander community and in the Reconciliation community in relation to the issue of Stolen Generations Compensation in Western Australia and I am aware of a number of people and organisations who would welcome the opportunity to provide a submission and/or present to the Standing Committee on Environment and Public Affairs.

I look forward to hearing from you in relation to the outcome of the Committee's deliberations on this matter.

Yours sincerely,

**Alan Carter**  
**Non-Aboriginal Convenor**

6<sup>th</sup> December 2022

Your Ref: Petition No.072



## SUBMISSION TO LEGISLATIVE COUNCIL RE PETITION NO. 072

Our Petition (No. 072) to the Legislative Council read as follows:

*We the undersigned are concerned that the Parliament of Western Australia has not taken action in accordance with Recommendations 3 and 4 (Components of reparations) of the Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (1997). We therefore ask the Legislative Council to undertake an Inquiry into Compensation Schemes in other States and Territories in Australia for those who suffered because of forcible removal policies and make recommendations to the Government of Western Australia in relation to the establishment of a Compensation or Reparation Scheme in that regard in Western Australia.*

It is 25 years since the Bringing Them Home Report was released and many of the 54 Recommendations have not been implemented! Two of the most important recommendations (Recommendations 3 & 4) relate to Compensation or Reparation for Stolen Generations Survivors.

In August 1995, the then Attorney General, Hon. Michael Lavarch asked the Human Rights Commission to undertake an Inquiry into "... the separation of Aboriginal and Torres Strait Islander children from their families by compulsion, duress or undue influence, and the effects of those laws, practices and policies". This Inquiry, which was undertaken by prominent Aboriginal Lawyer, Professor Mick Dodson, and retired High Court Judge, Sir Ronald Wilson, led to the production of the Bringing Them Home Report, which was tabled in the Federal Parliament on 26<sup>th</sup> May 1997.

The Bringing Them Home Report found it difficult to accurately determine the number of children removed around Australia due to the loss of many records or the lack of data and information in those records that have survived. However, they concluded that nationally "...between one in three and one in ten Indigenous children were forcibly removed from their families and communities in the period from approximately 1910 until 1970".

Recent research undertaken by the Australian Institute of Health and Welfare in collaboration with the Healing Foundation has, however, determined that here in Western Australia approximately 57% of the Adult Aboriginal Population are either Stolen Generations Survivors or their descendants. The impact of these past policies of removing Aboriginal children from their families has had a significant impact in WA with evidence of significant levels of intergenerational trauma.

The Inquiry's third term of reference related to "...the principles relevant to determining the justification for compensation for persons or communities affected by such separations".

Given the significant legal experience of the two Commissioners, their examination of the issues relating to reparation or compensation was extensive and they sought a range of legal and other opinion. In the Bringing Them Home Report, they concluded that "...official policy and legislation for Indigenous families and children was contrary to accepted legal principle imported into Australia as British common law and, from late 1946, constituted a crime against humanity. It offended accepted standards of the time and was the subject of dissent and resistance. The implementation of the

legislation was marked by breaches of fundamental obligations on the part of officials and others to the detriment of vulnerable and dependent children whose parents were powerless to know their whereabouts and protect them from exploitation and abuse.”

This led to two Recommendations in the Report relating to this issue:

**Components of reparations**

*3. That, for the purposes of responding to the effects of forcible removals, 'compensation' be widely defined to mean 'reparation'; that reparation be made in recognition of the history of gross violations of human rights; and that the van Boven principles guide the reparation measures.*

*Reparation should consist of,*

- I. acknowledgment and apology,*
- II. guarantees against repetition,*
- III. measures of restitution,*
- IV. measures of rehabilitation, and*
- V. monetary compensation.*

**Claimants**

*4. That reparation be made to all who suffered because of forcible removal policies including,*

- I. individuals who were forcibly removed as children,*
- II. family members who suffered as a result of their removal,*
- III. communities which, as a result of the forcible removal of children, suffered cultural and community disintegration, and*
- IV. descendants of those forcibly removed who, as a result, have been deprived of community ties, culture and language, and links with and entitlements to their traditional land*

Since those recommendations were made 25 years ago, all State Governments except Queensland and Western Australia have established compensation schemes for Stolen Generations Survivors. The most recent State to announce a Compensation Scheme was the Victorian Government which opened the Stolen Generations Reparations Package on 31<sup>st</sup> March 2022.

Bringing Them Home WA, which advocates on behalf of Stolen Generations Survivors and their families in Western Australia, in partnership with the Kimberley Stolen Generations Aboriginal Corporation, established the Online Petition to the Legislative Council feels strongly that Stolen Generations Survivors have been wrongly deprived of any compensation for the “gross violation of human rights” that was perpetrated against them and their families. This hurt is felt even stronger in Western Australia when they know that their Stolen Generations Brother and Sisters in most other States have had the benefit of a compensation scheme.

Sadly, there are many in the community, and most probably also in the Parliament, who are not aware of the hurt and trauma suffered by Stolen Generations Survivors in this State and therefore we feel that it would be beneficial for the Standing Committee on Environment and Public Affairs to undertake a formal Inquiry into the matters raised in our Petition on behalf of the people of Western Australia.

We believe that the Committee should examine the issues raised in the Bringing Them Home Report relating to “Components of reparation” and “Claimants” in the context of the history of Aboriginal child removal in Western Australia. We also believe that the Committee should examine Stolen Generations Compensation or Reparation Schemes that have been established in other States and Territories, particularly the recently established Compensation Scheme which was established in Victoria.