

NSW GOVERNMENT RESPONSE TO THE LEGISLATIVE COUNCIL STANDING COMMITTEE ON LAW AND JUSTICE INQUIRY INTO THE FAMILY RESPONSE TO THE MURDERS IN BOWRAVILLE

The NSW Government acknowledges the pain and suffering experienced by the families of Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux, and extends its sympathies to their communities. The NSW Government empathises with the experience the family has endured.

The NSW Government acknowledges the work of the Standing Committee on Law and Justice in undertaking this inquiry, and has carefully considered in detail the recommendations made by the Committee.

The recommendations of the inquiry provide an opportunity to ensure that the victims' families and their communities are able to access government support and other services, including health, healing and wellbeing services. The NSW Government will continue to assist Aboriginal families and communities on their healing journey. The NSW Government will continue to communicate with the families and explain the Government's response to the Legislative Council Standing Committee's recommendations. Going forward, the Government will continue to work closely with affected communities to implement the recommendations and to keep them updated as to the various actions the Government will be taking in connection with the recommendations.

Provided below are the NSW Government's responses to the recommendations made by the Standing Committee on Law and Justice.

Recommendation 1

That the NSW Police Force review all of its policies, procedures and training programs that relate to Aboriginal people, and update them where necessary to ensure they are consistent with best cultural practice. This should be done in consultation with Aboriginal people and those with relevant experience, such as Detective Inspector Jubelin, Dr Diana Eades and Dr Tracy Westerman.

Supported.

A review of existing policies and practices that relate to Aboriginal people is already underway. This review will identify any updates or improvements required to meet best cultural practices. The review of NSW Police Force Aboriginal Cultural Awareness training programs and materials will include bolstering of communication techniques training.

Relevant stakeholders and experts will be consulted during this process. For example, Detective Inspector Jubelin will provide input to policy and training revisions and any new materials developed. Further consultation will be carried out through the Police Aboriginal Strategic Advisory Council or other established committees and networks as appropriate.

Recommendation 2

That the NSW Police Force develop a case study detailing the various lessons learned from the Bowraville investigation and incorporate it into the mandatory course content for Aboriginal cultural awareness training. The case study should include relevant excerpts from the transcripts of public evidence from this inquiry.

Supported.

The NSW Police Force is currently reviewing its Aboriginal cultural awareness training program. The Homicide Squad will develop a case study detailing the lessons learned from the Bowraville investigation and reinvestigation. This may then go on to be incorporated into the mandatory course content for Aboriginal Cultural Awareness Training and the detective course curriculum.

Recommendation	NSW Government Response
<p>Recommendation 3</p> <p>That the NSW Government fund two additional Aboriginal Witness Assistance Service Officer positions to service the Sydney West and Sydney Metropolitan regions of NSW.</p>	<p>Noted.</p> <p>The NSW Government will appoint one additional Aboriginal Witness Assistance Service Officer and consider the appointment of another subject to the operational requirements of the Office of the Director of Public Prosecutions.</p>
<p>Recommendation 4</p> <p>That the Department of Justice consider and report on the merit of requiring lawyers who practise primarily in criminal law, as well as judicial officers and court officers, to undergo Aboriginal cultural awareness training.</p>	<p>Supported.</p> <p>The Department of Justice will review whether relevant lawyers, judicial officers and court officers should be required to undergo Aboriginal cultural awareness training. This will be undertaken in consultation with the Judicial Commission, which is responsible for judicial education.</p>
<p>Recommendation 5</p> <p>That the NSW Government liaise with the Legal Profession Admission Board of New South Wales, the New South Wales Bar Association and all accredited universities offering legal training in New South Wales to request that Aboriginal cultural awareness training be included as a compulsory element in their legal training and accreditation.</p>	<p>Supported.</p> <p>The Department of Justice will liaise with relevant stakeholders regarding the possibility of Aboriginal cultural awareness training being included as a compulsory element of legal training and education.</p>

Recommendation	NSW Government Response
<p>Recommendation 6</p> <p>That the NSW Government provide funding to the Parliament of New South Wales to develop a training module for members of Parliament and parliamentary staff on Aboriginal cultural awareness. The module should include resources on matters such as how to interact appropriately with Aboriginal constituents, how to notify and convey information and how to take evidence at committee inquiries.</p>	<p>Supported.</p> <p>The NSW Government supports members of Parliament and parliamentary staff undertaking Aboriginal cultural awareness training that is fit for purpose, draws on local knowledge, history and circumstances and is part of an ongoing process towards cultural competency. A range of options are currently being explored, such as linking with or building on existing Aboriginal cultural awareness and competency training programs within NSW Government agencies.</p>
<p>Recommendation 7</p> <p>That the Judicial Commission of New South Wales review the content of jury directions regarding cultural and linguistic factors. This should be done in consultation with Aboriginal and other communities and experts in the fields of culture and linguistics relevant to those individual communities.</p>	<p>Supported.</p> <p>The NSW Government supports the Judicial Commission giving consideration to whether there should be a jury direction regarding cultural and linguistic factors.</p> <p>The NSW Law Reform Commission recommended the Judicial Commission give consideration to the content of any direction that may be required in the NSW context.</p>

Recommendation	NSW Government Response
<p>Recommendation 8</p> <p>That the NSW Government review section 102 of the Crimes (Appeal and Review) Act 2001 to clarify the definition of ‘adduced’, and in doing so consider:</p> <ul style="list-style-type: none"> • the legal or other ramifications of defining adduced as ‘admitted’ particularly on the finality of prosecutions • the matters considered by the English courts under the equivalent UK legislation • the merit of replacing section 102 of the Crimes (Appeal and Review) Act 2001 with provisions in section 461 of the Criminal Appeals Act 2004 (WA), and • the merit of expressly broadening the scope of the provision to enable a retrial where a change in the law renders evidence admissible at a later date. <p>The report of this review should be tabled in the NSW Legislative Council as soon as practicable.</p>	<p>Supported.</p> <p>The Government will appoint an independent third party, with relevant legal experience, to undertake a legal review, including consultation, of section 102 of the <i>Crimes (Appeal and Review) Act 2001</i>. The review report will be released publicly. The review will be completed by 1 November 2015.</p> <p>The NSW Government will contact the families of the victims to explain what the legislative review will encompass.</p>

Recommendation	NSW Government Response
<p>Recommendation 9</p> <p>That the NSW Government ensure that, should any new application for a retrial of the Bowraville murders be submitted to the NSW Director of Public Prosecutions or Attorney General, the merits of the application be considered by an independent assessor, such as a retired senior judge or senior prosecutor from another jurisdiction.</p>	<p>Supported.</p>
<p>Recommendation 10</p> <p>That the NSW Government ensure that funding for the mental health worker position for the Bowraville community is made permanently available.</p>	<p>Noted.</p> <p>The mental health worker positions in the Bowraville community are funded by the Commonwealth Government. Issues around the funding or recruitment of these positions require consultation with the Commonwealth Government. The NSW Government has advised the Commonwealth Government of this recommendation.</p>
<p>Recommendation 11</p> <p>That the NSW Government ensure that the second mental health worker position for the Bowraville community be filled as a matter of priority, and that the families of Colleen Walker-Craig; Evelyn Greenup and Clinton Speedy-Duroux be involved in the selection process.</p>	<p>Noted.</p> <p>The mental health worker positions in the Bowraville community are funded by the Commonwealth Government. Issues around the funding or recruitment of these positions require consultation with the Commonwealth Government. The NSW Government have advised the Commonwealth Government of this recommendation.</p>

Recommendation	NSW Government Response
<p>Recommendation 12</p> <p>That the Minister for Health, Minister for Mental Health and Minister for Family and Community Services establish a working group to examine the adequacy of Aboriginal medical and mental health services in Bowraville and Tenterfield, in consultation with the communities, and report back with a plan to address any deficits. The working group should give particular consideration to the reinstatement of a permanent Aboriginal health clinic on the Bowraville Mission.</p>	<p>Supported.</p> <p>The NSW Government supports the establishment of a working group to examine the adequacy of Aboriginal medical and mental health services in Bowraville and Tenterfield. This will include consultation with communities, and the outputs will include a plan to address any deficits identified.</p> <p>A range of local service providers will be consulted with in this process, as there are a range of organisations within the region which provide services to the local Aboriginal community. The working group will also consider issues including community engagement and consultation, as well as an analysis of individual and community medical and mental health needs, and the accessibility and cultural appropriateness of services.</p>
<p>Recommendation 13</p> <p>That the NSW Government fund the Red Dust Healing Program to make it available to family members of Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux. The program should be provided in both the Bowraville and Tenterfield regions.</p>	<p>Supported.</p> <p>The NSW Government supports contributing to funding for the family members of Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux to complete a healing program. Consultation with the families has indicated a preference to explore a range of service providers, in addition to Red Dust Healing, so that the healing program meets their needs.</p> <p>The selection of an appropriate program will include on-going consultation with the families.</p>

Recommendation	NSW Government Response
<p>Recommendation 14</p> <p>That the NSW Government fund the Nambucca Youth Services Centre to provide outreach services, particularly Aboriginal youth services, in Bowraville.</p>	<p>Supported.</p> <p>The NSW Government is currently working with the Nambucca Youth Services Centre to identify current service needs, particularly in the Bowraville area. Work is also being undertaken to identify funding options to help the Centre provide outreach services for Aboriginal young people in Bowraville.</p>
<p>Recommendation 15</p> <p>That the NSW Government provide funding to:</p> <ul style="list-style-type: none"> • beautify and maintain the memorial dedicated to Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux in Bowraville; • beautify and maintain the Clinton Speedy Memorial Park in Tenterfield, and • erect a memorial to Colleen Walker-Craig in Sawtell. <p>The beautification or establishment of these memorials should be undertaken in consultation with the families of the three children.</p>	<p>Supported.</p> <p>The NSW Government will contribute funding to upgrade and construct memorials and plaques in Bowraville, Sawtell and Tenterfield dedicated to the memory of Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux.</p> <p>The NSW Government has undertaken close consultation with the families of the three children, and will fund the following works:</p> <ul style="list-style-type: none"> • Three existing plaques currently located at the Bowraville Memorial Park will be removed and replaced with a new structure which will provide a sheltered memorial and place for reflection. • A plaque dedicated to Colleen Walker-Craig will be installed at Micks Retreat Picnic Area on the banks of the Bonville River at Sawtell. • A plaque dedicated to Clinton Speedy-Duroux will be installed at Milbrook Memorial Park, Poleworth Street, Tenterfield, which will complement the yarning circle that is also located at the site. • A plaque dedicated to Evelyn Greenup will be installed on North Congarinni Road, Bowraville.