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IM19/586

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Dear Ms Espinosa

I refer to correspondence from the former President of the Law Society of NSW, Mr Doug Humphreys OAM, to the Premier dated 11 December 2018 providing the Law Society's *State Election Policy Platform*. The Premier has asked me to respond on her behalf.

The NSW Government is committed to working for the people of NSW to deliver first class services, including a fast, fair and efficient justice system.

I thank the Law Society and its members for taking the time to identify key areas for potential reform in NSW. I was grateful to discuss these matters with you at our meeting on 23 January 2019.

I enclose for your consideration the Government response to each issue raised by the Law Society.

I look forward to discussing these matters with you further.

Yours sincerely

**Mark Speakman**

## NSW Government response

### Law Society of NSW state election policy platform

The NSW Government thanks the Law Society of NSW for the opportunity to respond to these issues raised by the Law Society members.

### Better resources for courts and the justice system, particularly in rural areas

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In October 2018 the NSW Government announced a \$150 million package over four years to reduce pressure on the District Court. The package includes:

- \$63 million for new judges, sheriff's officers, court staff, jury costs and security upgrades to courthouses across NSW;
- \$45 million for additional Crown Prosecutors, lawyers and Witness Assistance Service officers at the Office of the Director of Public Prosecutions (ODPP) and improvements to regional offices;
- \$34.5 million for new senior lawyers at Legal Aid NSW, and more grants for private practitioners representing legally aided clients, and improvements to regional offices; and
- \$5.4 million for court prisoner transfers.

The District Court will have a record 75 permanent judges once the additional seven judges appointed as part of the package are sworn in. It is anticipated that the Chief Judge of the District Court will use the additional resources to assign judges to regional locations and circuits.

Two extra magistrates will also be appointed as part of a \$4.1 million dollar package to deal with a rise in the number of criminal matters in the Local Court after the Royal Commission into Institutional Responses to Child Sexual Abuse.

### Residential drug and alcohol rehabilitation facilities and the expansion of the Drug Court in country New South Wales

The Premier has established a Special Commission of Inquiry into the drug 'ice' to inquire into and report on the adequacy of existing measures to tackle ice in NSW and options to strengthen NSW's response to ice, including law enforcement, education, treatment and rehabilitation responses.

There are currently three Drug Courts servicing the Sydney Metro, Parramatta and the Hunter region. The Government is considering opportunities for the expansion of the Drug Court, including to regional areas.

### Increase in Legal Aid funding for private practitioners

Legal Aid NSW has undertaken a review of fees paid to private practitioners in legally aided matters in consultation with the NSW Bar Association and the Law Society.

Legal Aid NSW is now in the process of finalising a business case following the review.

### Committing adequate funding to the legal assistance sector

The NSW Government has delivered record funding to the community legal centre ('CLC') sector.

In 2017 the Government announced a \$6 million package over two years to rescue NSW CLCs after the Commonwealth Government announced funding cuts. When the Commonwealth Government later reversed those funding cuts in the 2017-18 Budget, the \$6 million funding from the NSW Government remained, proving the NSW CLC sector with a significant funding boost.

In June 2018, the Government announced \$15 million in funding for CLCs over four years to ensure funding certainty and implement the majority of the recommendations of a review by Mr Alan Cameron AO.

The Government has established a \$44 million 'future fund' for CLCs as a separate account in the Public Purpose Fund (PPF), with income from the fund to be distributed by PPF trustees for the benefit of CLCs. The fund has been established with half the surplus of the Solicitors Mutual Indemnity Fund (SMIF), a fund previously used to pay negligence claims against solicitors in the aftermath of the 2001 collapse of insurance giant HIH. The remaining half of the SMIF surplus will be returned to the reserves of Lawcover Pty Ltd, the NSW legal profession's insurer.

From 2019-20, CLCs will receive almost \$12 million per annum in state funding (including from the 'future fund') – an increase of more than 85 per cent from 2015-16. This is in addition to discretionary payments from the PPF, which in 2018-19 totalled \$2.4 million.

The Attorney General will continue to discuss funding concerns with the Aboriginal Legal Service (NSW/ACT) (ALS).

### **A new court facility in the Macarthur region**

The NSW Government is committed to ensuring that justice services in the Macarthur region meet the needs of this growing community.

The Department of Justice is currently developing a long term infrastructure strategy to guide the expansion of justice services in identified priority growth areas across NSW, including the Macarthur region.

### **Maintaining court services in rural NSW**

The heads of jurisdiction are responsible for the sittings of their respective courts and allocate judicial resources on the basis of their knowledge of caseload trends, the number of cases awaiting hearing and the availability of other convenient venues.

The Department of Justice is not aware of any plans by heads of jurisdiction to reduce sitting days. Local and District Court sittings days for 2019 have been gazetted and are available on the Local Court and District Court websites.

Opening hours of court registries in NSW are administered by the Department of Justice and are reviewed on a regular basis to match demand. Court users may also access some court case management services using the NSW online registry, which allows court users to file court documents and monitor existing cases.

The NSW Government has invested \$150 million over four years to secure a record 75 permanent judges for the District Court, and a total of 155 additional District Court sitting weeks have been scheduled in regional locations in the 2019 calendar year. A significant increase in sittings will occur in Newcastle (33 additional sitting weeks), Gosford (19 additional sitting weeks), Wollongong (19 additional sitting weeks), Lismore (21 additional sitting weeks) and Coffs Harbour (14 additional sitting weeks). Other additional weeks have been added to circuit sittings throughout the regions, including Tamworth (7 additional sitting weeks) and Goulburn, Albury and Griffith (5 additional sitting weeks each). A number of District Court judges are anticipated to commence full-time sittings in regional NSW in 2020, including a full-time District Court judge sitting at Bathurst, Orange and Parkes for the first time.

## Promoting investment and business innovation

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The NSW Government is making NSW the easiest state in which to start and run a business.

A significant cause of concern and cost for new and existing businesses across the country is complex regulatory requirements. To create a business-friendly environment for NSW entrepreneurs, the NSW Government will focus on reducing or removing barriers, costs and complexity and making regulatory obligations easier to understand and implement.

The NSW Government will continue its historic levels of infrastructure investment and maintain fiscal discipline to provide certainty to business and improve business conditions.

Over the past three budgets, the NSW Government has cut around \$4.4 billion in taxes to help drive productivity growth and increase prosperity in NSW.

### Reforming payroll tax

In the 2018-19 Budget, the NSW Government announced that the payroll tax threshold would be increased from \$750,000 to \$1 million. The threshold increased to \$850,000 in 2018-19 and will increase to \$1 million by 2020-21. In 2018-19, nearly 40,000 businesses will save up to \$5,450 each and up to \$13,625 per business in 2021-22.

The NSW Government established the first ever state Productivity Commission in 2018. The Commission's first task was to review payroll tax administration in NSW, as the time and resources taken up by calculating and paying payroll tax can be arduous.

The Government released the review's findings in November 2018 and is implementing all 12 recommendations. As part of the reforms, payroll tax administration will be streamlined with the introduction of equal automated payments making payroll tax a set-and-forget affair, rather than a monthly administrative task.

### Fostering digital innovation

The NSW Government is committed to fostering digital innovation. The Department of Finance, Services and Innovation (DFSI) is exploring how digital transformation applies to all aspects of public services, from service delivery to policy, legislation and regulation.

The Government Chief Information and Digital Officer is considering novel digital methods and solutions to transform how legislation, and regulation, is drafted and delivered to the community to ease the burden of regulatory compliance and improve services for the people of NSW.

Through initiatives such as Australia's first Government Policy Lab and the digital.NSW Accelerator, DFSI is exploring how to draft and deliver legislation, and regulation, as code with early high-value projects being prototyped.

DFSI welcomes input from the Law Society of NSW and will publish all work on the digital.nsw website for transparency and collaboration.

### Promotion of Sydney as a professional services hub in the Asia-Pacific

The NSW Government agrees that Sydney should be a professional services hub and provide legal, arbitration and mediation services to national and international markets. The NSW Government looks forward to working with the Law Society and the wider legal profession to realise this opportunity.

### **Ensuring that planning controls are operating efficiently**

The Department of Planning and Environment (DPE) is currently reviewing the procedural framework for appeals involving Local and Regional Planning Panels, in consultation with the Panels and the Land and Environment Court. DPE will consult the Law Society as part of the review.

Best practice procedures and guidelines have been issued to Local Panels, and the operating procedures for Regional Planning Panels are under review. DPE has been working closely with the Land and Environment Court to obtain feedback on any procedural issues concerning Local and Regional Planning Panel appeals, including participation at conciliation conferences. DPE will continue to monitor the conduct of these appeals and consider whether any further guidance or legislative amendments are warranted.

### **Reducing unnecessary regulatory burdens**

Cutting red-tape is a whole of Government priority.

The NSW Government recently introduced the Better Business Reforms, slashing red-tape for small businesses owners and consumers. These reforms will see over half a billion dollars in savings passed on to businesses and consumers over the next ten years.

The NSW Government established the first ever state-based Productivity Commission. The NSW Productivity Commission focuses on four core themes:

- making it easier to do business,
- lowering the cost of living,
- making housing more affordable, and
- making NSW the easiest state to move to.

As previously noted, the Productivity Commission's first task was to undertake a comprehensive review of payroll tax administration. The Productivity Commission's recommendations have been accepted and are delivering more streamlined payroll tax administration for small businesses, saving time and money.

## Upholding the rule of law

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The NSW Government is determined to continue working with the Law Society of NSW, other legal stakeholders and the broader community to uphold the rule of law.

### Promoting and protecting privacy and the use of data

The Government supports the object of the *Government Information (Public Access) Act 2009* (GIPA Act) to advance a system of open and accountable government by providing members of the public with enforceable rights to access government information.

The Government amended the GIPA Act in late 2018 to implement recommendations made by a statutory review, including allowing agencies to accept electronic applications. This brings access to government information into the digital age, making the government information access regime more accessible to members of the public. The statutory review found that the Act continues to achieve its objectives.

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers NSW legislation dealing with privacy and access to government information. In 2017-18 the IPC budget allocation was approximately \$5.6 million, consistent with the funding provided to the IPC since its establishment in 2011. Since 2013, IPC staff numbers have remained consistent. The Privacy Commissioner position has been upgraded from a part-time position to a full-time position.

The harmonisation of national privacy laws is a matter for the Council of Attorneys-General (CAG). The NSW Government will consult with other states and territories regarding potential CAG consideration of this work.

### Protecting the rights of the injured

The new CTP scheme preserves common law rights for those with serious, long-term injuries. The NSW Government acknowledges the important role that lawyers play in the common law system.

The NSW Government has committed to reviewing the new scheme by December 2019 and in particular the impact of the new minor injury threshold. This review will consider the premium outlook and whether there is capacity to increase benefits. A statutory review is also required by 2020. These reviews will also consider the impact of legal costs and insurer profits in the new scheme. The Law Society will be consulted as part of these reviews.

Any change to workers compensation benefits will be assessed against the minimum funding ratio of the nominal insurer and its capacity to meet future liabilities.

The NSW Government is currently awaiting a report from the Law and Justice Committee following its inquiry into the establishment of a consolidated personal injury tribunal. The Government has given in principle support for such a tribunal.

### Promoting practical ways to report and address elder abuse

In December 2018, the NSW Government announced it will establish an independent Ageing and Disability Commissioner from 1 July 2019 to protect older people and people with disability from abuse, neglect and exploitation. The Commissioner will have powers to



investigate allegations of abuse, neglect and exploitation including by searching properties and seizing evidence. The Commissioner will also have an educative function, raising awareness and providing advice about how to prevent, identify and respond to potential issues.

The Department of Justice is currently considering the NSW LRC's recommendation in Report 145 that the existing guardianship framework be replaced with an assisted decision-making framework that supports and represents the will, preferences and rights of a person.

### **Protecting the security of e-conveyancing**

The take-up of eConveyancing in NSW has been a great success and is the preferred method of conducting conveyancing transactions. In December 2018, 70% of all lodgements at the land registry were made electronically. This compares with 10% in February 2017, when the NSW Government first announced the staged mandatory reform to replace paper conveyancing processes with electronic. During that same period, the number of subscribers to the electronic system has risen from 550 to nearly 4500.

The Office of the Registrar General (ORG) works closely with all peak bodies, including the Law Society, to ensure that the regulatory framework is robust and provides the necessary safeguards to protect users of the system. The people of NSW should feel confident that we have the safest and most secure land titling system in the world.

Recent reforms being pursued by the NSW Government will strengthen the already stringent requirements on Electronic Lodgment Network Operators (ELNOs). By March 2019, all ELNOs will be required to provide a guarantee that a vendor will be reimbursed the purchase moneys if it was stolen as a result of fraud. ELNOs will also have to commit to regular independent security testing of their systems to the satisfaction of the Registrar General.

The NSW Government is pursuing a system of interoperability which will allow the users of one ELNO system to transact with users of another ELNO system. ORG is working closely with the Law Society on this, and expects to see interoperability in place in time for when a second (or third) ELNO begins operating in NSW.

### **A Human Rights Act for NSW**

The NSW Government is committed to protecting the human rights of all people in our community. The formulation of a bill of rights necessarily involves contentious choices about which rights should be included, and the relative strengths of those rights in inevitable cases of conflict.

The Government notes that a November 2018 report by the NSW Legislation Review Committee held that any consideration of a NSW bill of rights would need to be subject to a wider community debate.



## Reducing the incarceration rate

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The NSW Government has committed \$330 million (\$237 million over 4 years from 2016-17, and an additional \$93 million over 3 years from 2017/18) towards reducing reoffending, including:

- identifying and targeting priority (or persistent) offenders who are responsible for a disproportionate percentage of crime;
- expanding rehabilitation and transitional support programs for offenders in custody and in the community;
- providing better management of offenders throughout the criminal justice system; and
- sentencing and parole reforms.

### Diversion from the criminal justice system

#### Adults

The NSW Government is currently preparing a second tranche of reforms to finalise its response to the NSW Law Reform Commission's (LRC) reports on people with cognitive and mental health impairment in the criminal justice system as well as the Review of the Mental Health Review Tribunal by the Hon Anthony Whealy QC. These reforms will include an improved diversion framework in the lower courts for defendants who have committed less serious offences (as recommended by LRC Report 135).

Consultation on the reforms with relevant legal, victim and mental health stakeholders is ongoing.

The NSW Government does not currently intend to extend the proposed new diversion framework to higher courts. Defendants in higher courts have committed more serious offences for which diversion may not be appropriate.

#### Children

The NSW Government is committed to continuing to reduce the number of young people in juvenile detention while also keeping our community safe.

Many young people at high risk of contact with the criminal justice system have complex backgrounds and needs, may have experienced significant disadvantage and trauma, and may live with ongoing physical and mental health issues. As such, diverting young people from the criminal justice system requires a coordinated effort across government and non-government organisations, combined with support from people with specialised skills and knowledge of these complex needs.

The NSW Government takes a system-wide approach to diversionary programs for young people, including Youth Justice Conferencing and the Youth on Track early intervention scheme. We also continue to ensure appropriate investment in programs and services that enhance transition to the community and minimise the likelihood of homelessness or reoffending.

The NSW Government is currently considering the recommendations of the Law and Safety Committee's Inquiry into the adequacy of youth diversionary programs in NSW, which handed down its report in late 2018.

### **Increasing the age of criminal responsibility**

All Australian governments agreed to examine raising the age of criminal responsibility at CAG on 23 November 2018. A CAG working group is being established to review the matter. The working group's report is anticipated to be completed by the end of 2019, and the NSW Government will consider that report when it is finalised.

### **Increasing access to education for children**

The Department of Education has responsibility for the education of children.

Section 22D of the *Education Act 1990* provides that the Children's Court can issue a compulsory schooling order upon application from the Secretary of the Department of Education that orders a parent of a child (of compulsory schooling age) to cause the child to receive compulsory schooling. The Children's Court can also order a conference of the relevant parties to deal with unsatisfactory school attendance (section 22C).

Children's Registrars of the Children's Court are currently involved in a 12 month trial being facilitated by the Department of Education to hold conferences to deal with unsatisfactory school attendance. It is hoped the trial will encourage meaningful participation of parents and young people in the conference process through facilitation by a third party, and that the specialised mediation skills of children's registrars will promote a holistic approach to conferences in considering supports necessary to improve a young person's school attendance.

The Department of Education is currently recruiting for five court liaison positions at courts in Campbelltown, Illawarra, Parramatta, Surry Hills and Broadmeadow as part of a 12 month trial. Further expansion of the trial will be considered in consultation with the President of the Children's Court at the conclusion of the trial.

### **Protecting the rights of child defendants**

#### **Address the inappropriate application of domestic violence laws and policy to child defendants**

The *Justice Legislation Amendment Act (No 3) 2018* changed the way in which a relationship between a dependant and a paid carer is treated under the *Crimes (Domestic and Personal Violence) Act 2007* (CDPV Act).

The amendments provide that a relationship with a paid carer is to be treated as a domestic relationship only for the protection of the dependant. This means:

- A personal violence offence committed by a paid carer against a dependant is treated as a domestic violence offence under the Act, but a personal violence offence committed by a dependant against a paid carer is not.
- In addition, an apprehended domestic violence order will no longer be available for the protection of a paid carer from a dependant, only for the protection of a dependant from a paid carer.

As it is currently mandatory for the Police to apply for an apprehended domestic violence order (ADVO) in domestic relationship situations, it will no longer be mandatory for Police to apply for an ADVO in a case where it is alleged that a paid carer is threatened by a dependant (which can often occur in an out-of-home care context).

The Children's Court hears and determines application for AVOs which have been commenced against people under 18 years of age. The Children's Court handling of AVOs is guided by Practice Note 8, which reflects the therapeutic processes and principles embedded in this specialised jurisdiction, and that the dynamics surrounding incidents of domestic and family violence inflicted by children and young people are usually different to those dynamics inherent in adult relationships. The Practice Note promotes rehabilitation of the young person within his or her family and the community whilst acknowledging the objectives of the CDPV Act and the importance of protecting victims of domestic and personal violence.

Currently offences in the CDPV Act are not able to be referred to a Youth Justice Conference (YJC) in accordance with the *Young Offenders Act 1997* (YOA). The 2018 Parliamentary Inquiry into the Adequacy of Youth Diversionary Programs in NSW recommended that the YOA be reviewed to determine whether young people should be referred to YJC for additional offences. The NSW Government is considering this recommendation.

#### Spent convictions in relation to children

The NSW Government has provided in-principle support for sexual offences committed by juveniles being able to be spent in certain circumstances following the Standing Committee on Law and Justice inquiry into spent convictions for juvenile offenders. The NSW Government is continuing to consider the best mechanism to do this, and will consult with the Law Society further on this issue.

#### Children to be dealt with by the Children's Court for traffic matters

Stakeholders have expressed a range of views on the question of which jurisdiction should have the power to deal with 16 or 17 year olds who have committed a traffic offence.

In 2011 the Department of Justice conducted a review of the *Young Offenders Act 1997* and the *Children (Criminal Proceedings) Act 1987* in which it sought the views of stakeholders on this issue. This review demonstrated that stakeholders remain divided on the Law Society's proposal, with no clear consensus on whether the Children's Court would be the most appropriate jurisdiction for hearing these matters.

The NSW Government will continue to consult with stakeholders on this issue to ensure our laws operate effectively for the benefit of young people, community safety and the wider justice system.

## Indigenous Justice

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The NSW Government recognises that Aboriginal offenders continue to be over-represented in the NSW criminal justice system. Indigenous people in NSW make up 3% of the population, but a quarter of the prison population.

As the Australian Law Reform Commission found in Report 133 *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*, the criminal justice system is only one of the many factors in a larger historical, social, and economic context across areas including education, health, housing and employment that contributes to the over-representation. The issue cannot be considered in isolation.

The NSW Government is implementing a whole of government approach that recognises and addresses the key underlying causes of Aboriginal disadvantage across portfolios including Health, Education, Family and Community Services (FACs) and Skills.

### Early intervention services and justice reinvestment strategies

The over-representation of Aboriginal young people in juvenile detention is a major concern to the NSW Government.

The Department of Justice is currently conducting a pilot program aimed at addressing entrenched, multi-generational disadvantage and offending by co-locating staff from government agencies to work intensively with families. This Family Investment Model is being trialled in Dubbo and Kempsey at a cost of over \$4 million for the two year trial period. Staff from the Department of Justice, FACs, NSW Health and the Department of Education work intensively with families to reduce immediate risks and underlying causes of crime. An evaluation of the project will be prepared by the Australian Institute of Criminology.

The NSW Budget 2018-19 also included a \$3.75 million grant to support the Clontarf Foundation to improve education, and employment prospects for Aboriginal students.

As part of Their Futures Matter, a \$90 million cross-government reform delivering whole-of-system changes to better support vulnerable children and families, the NSW Government has committed to providing 900 places per year for intensive family preservation and restoration services aimed at keeping families together by reducing entries into out-of-home care, increasing exits from out-of-home care, and responding to trauma and other underlying causes of child abuse and neglect. Half of these 900 places are for Aboriginal children and their families to respond to the overrepresentation of Aboriginal children and young people in out-of-home care

### Justice targets

Since late 2017, there has been extensive consultation with Aboriginal groups and stakeholders as part of the 10 year 'Closing the Gap' refresh which is being coordinated by the Commonwealth Government. Aboriginal Justice targets are being discussed by all States and Territories in the Council of Australian Governments (COAG) process. Each State has varied criminal justice systems and it is crucial to ensure that the reporting framework is set up in a way to enable its success nationwide. Governments across Australia must work to ensure the voices of Aboriginal people are heard in the development of any justice targets. The NSW Government anticipates that targets will be agreed upon in the coming months.

The NSW Department of Justice has developed an Aboriginal Overrepresentation Plan, which is designed to ensure justice agencies and the criminal justice system as a whole respond to Aboriginal overrepresentation in a holistic way.

The plan has three goals:

- to help Aboriginal people avoid coming into contact with the criminal justice system,
- to reduce the length of time Aboriginal people spend in custody, and
- to reduce the rate of Aboriginal reoffending.

The plan is supported by the NSW Government's \$330 million investment into reducing reoffending, as well as reforms to sentencing, parole and driver license disqualification. To keep track of how these programs and initiative are affecting the Aboriginal prison population, the Department of Justice has developed an Aboriginal Justice dashboard, which monitors trends and provides a clearer understanding of Aboriginal people's involvement in the criminal justice system so that the NSW government can develop targeted interventions.

### Care and protection targets

Since 2015-16, entries into out of home care for Aboriginal children have reduced by 42% in NSW. This is the largest decrease of Aboriginal children entering out of home care in NSW in a decade. A range of reforms have resulted in this reduction, including increasing the use of Family Group Conferencing to empower families to develop family plans to minimise risk to children, and an investment of \$90 million into internationally tried and tested evidence based family preservation programs for 900 families per year over four years. Half of these places are dedicated to supporting Aboriginal children and their families.

Work continues on this important issue and, with the *Children and Young Persons (Care and Protection) Amendment Act 2018* having commenced on 4 February 2019, we will see a significant increase in the use of Family Group Conferencing. The legislation also provides for a reasonable period of up to two years for the Children's Court to consider the feasibility of a child or young person being restored to a parent. This gives parents more time to engage in services to get the help they need to keep their children safe.

### Reducing Indigenous incarceration

The NSW Government is committed to reducing the over-representation of Aboriginal people in the criminal justice system.

While considering a proposal from the Walama Court Working Group, the Government is implementing multi-faceted reforms in the criminal justice system to tackle the issue of over-representation of Aboriginal people, as well as targeting reoffending.

The Government's justice initiatives in 2018 to reduce reoffending among indigenous offenders include:

- Extensive sentencing reforms to allow more Aboriginal offenders to receive supervised sentences and interventions in the community that target the causes of reoffending.
- Driver disqualification reforms which are already reducing the number of Aboriginal people incarcerated for driving while disqualified.

The last NSW Budget allocated \$2.7 million over three years to expand the Youth Koori Court trial to the Surry Hills Children's Court and to conduct a comprehensive evaluation. The Government will review the evaluation of the court before considering further expansion.

Last year the Attorney General also announced a \$220,000 funding boost for Marist Youth Care to assist young Aboriginal offenders appearing before the Youth Koori Court, a pilot for Aboriginal and Torres Strait Islander young people in the Children's Court.

### **Meaningful engagement with Aboriginal peoples in NSW**

The NSW Government is committed to working hand in hand with Aboriginal communities to provide outcomes for our First Nations people. However, any process leading towards treaty or treaties with Aboriginal People must be led by the Commonwealth Government.

The NSW Government understands that the Commonwealth Government is actively considering issues related to self-determination and treaty through a bi-partisan Parliamentary Joint Select Committee to further progress constitutional recognition. The NSW Government notes that the COAG acknowledged the release of the Report of the Joint Select Committee in its 12 December communique, and endorsed the concept of co-design recommended by the Committee.

### **Empowerment of Aboriginal and Torres Strait Islander people in NSW**

In the NSW Budget 2018-19 the Government announced additional funding and programs to empower Aboriginal and Torres Strait Islander communities, including:

- Allocating \$33.1 million over four years to a new Aboriginal Social Housing Strategy. This Strategy will implement programs designed to create positive change and pathway to housing independence together with strengthening the Aboriginal Community Housing sector;
- Committing \$10 million over four years through a new social impact investment for innovative community-led initiatives to improve Aboriginal employment outcomes, wealth creation and well-being; and
- Investing \$2.8 million to establish the nation's first Aboriginal Languages Trust, a critical step in acknowledging the value and importance of language to our First Peoples and to the state.

The NSW Government also implemented the Aboriginal Procurement Policy (APP) in July 2018. The APP aims to grow Aboriginal businesses and employment, and sets targets of three per cent of all NSW Government domestic goods and services contracts going to Aboriginal businesses by 2021. It permits NSW Government agencies to directly negotiate with Aboriginal businesses for contracts up to \$250,000 and requires agencies to consider opportunities for Aboriginal participation on contracts greater than \$10 million. With the existing Aboriginal Participation in Construction (APIC) Policy, the APP will aim to support an estimated 3,000 full time equivalent employment opportunities for Aboriginal people through NSW Government procurement activities by 2021.

The Ombudsman's Special Report to Parliament, *Addressing Aboriginal disadvantage: the need to do things differently*, was considered by the Ministerial Taskforce on Aboriginal Affairs, which led to the development of OCHRE, the NSW Government's Aboriginal affairs plan. Local Decision Making, a key OCHRE initiative, prioritises partnerships with local



Aboriginal leaders (through regional alliances) and includes funding models underpinned by the principle of self-determination.