

**Micah Projects Inc. submission to Senate Community Affairs Reference Committee  
Inquiry into the Implementation of the Recommendations of the *Lost Innocents*  
and *Forgotten Australians* Reports**

Thank you for your letter inviting the Esther Centre - an activity of Micah Projects Inc to make a submission to the Senate Community Affairs Committee regarding the recommendations of the *Lost Innocents* and *Forgotten Australians* Reports. We understand that approval has been given by the Committee Secretary of Community Affairs for this submission to be lodged by the end of March 2009.

The Esther Centre would like to congratulate the Community Affairs Committee for its decision to reconsider the findings and recommendations of the two reports particularly *Forgotten Australians*. We strongly support continued and political engagement with *Forgotten Australians*. The Esther Centre asks the Australian Government to reconsider the findings and recommendations of the Senate Committee report to establish dialogue at a national level through the *Alliance for Forgotten Australians* (AFA) which is backed by funded peer support and advocacy groups in each state and territory. The Esther Centre is in contact with many Queenslanders who have suffered experiences of neglect and physical, sexual or emotional abuse in care. In the period July 2007 - June 2008 there were 6173 individuals who made contact with the Esther Centre. The Esther Centre welcomes the opportunity to see further government action on their behalf. The Report was tabled in the House of Representatives in 2004 and there remains a great deal that can change given that only one of 39 recommendations was agreed to by the previous government. The original recommendations for the Senate Inquiry into *Forgotten Australians* were given bipartisan support, we strongly urge the current government to build on this support and implement the review as quickly as possible.

**Comments regarding the 39 recommendations of the *Forgotten Australians*:  
A report on Australians who experienced institutional or out-of-home care  
as children.**

**Recommendation 1**

***That the Commonwealth Government issue a formal statement acknowledging, on behalf of the nation, the hurt and distress suffered by many children in institutional care, particularly the children who were victims of abuse and assault; and apologising for the harm caused to these children.***

There have been two national inquiries *Lost Innocents: Righting the Record* and two Senate community affairs committee reports on children raised in institutional and other forms of out-of-home care, the 2004 *Forgotten*

*Australians report and the 2005 Protecting Vulnerable Children: A National Challenge report.*

All of these reports unanimously recommend that a national apology is required to acknowledge the hurt and distress suffered by many of these children and for the harm and loss of opportunity endured well into their adult lives. The previous government expressed “great sympathy for those who have suffered hurt and distress in institutional care” but fell short of an apology.

The Australian Government oversaw State and Territory Governments and administered funds on behalf of these children. It is the view of the Esther Centre the Australian Government must bear some responsibility for the experience of these children given the nature of Commonwealth/State relations.

## **Recommendation 2**

***State Government and Heads of Churches issue formal statements of apology.***

Following the *Commission of Inquiry into Abuse of Children in Queensland Institutions* (the Forde Inquiry) the Queensland Government and Heads of Churches issued a joint statement of apology to those harmed in institutional care. The apology includes a commitment to ongoing dialogue with victims of abuse and providing appropriately coordinated support services.

## **Recommendations 3-5.**

### ***Addressing legal barriers***

The Esther Centre strongly supports these recommendations. Together with the *Alliance for Forgotten Australians* the Esther Centre supports conditions on tax concessions, where organisations funded by Australian taxpayers are fully accountable for their actions.

Accountability of governments, religious institutions, not for profit and profit organisations working with children and vulnerable adults is essential and should include reporting to a body such as the Human Rights and Equal Opportunity Commission and a Bill of Rights with an amended constitution. The Esther Centre also recommends to the Australian Government that Forgotten Australians should have access to a National Criminal Code with particular attention to the Statute of Limitations legislation, Fiduciary Care and Sexual Abuse legislation and whistleblower protection for non government and religious institutions. Debate about proposed whistleblower changes to law has been renewed in the last weeks with the publication of its new report. For many it is a backward step in the legislation as it already exists. Changes to existing laws and the introduction of the above is the only way to ensure any system of justice for Forgotten Australians.

## **Recommendation 6**

### ***National reparation fund***

The Esther Centre supports this recommendation and requests a national approach to redress given there are several states that still have no redress scheme in place. People who have experienced abuse in institutional care often do not remain within the state where they experienced abuse. The Queensland Government's Redress Scheme, like other States and Territories is for people who experienced abuse in Queensland. A national redress scheme would remedy some of these inequities. While first preference for many individuals is for ex-gratia payments and this is how States have responded (where there has been a state response) the Australian Government must ensure a process of redress where priority access to services is given to Forgotten Australians. This could be possible through a system such as a **redress card**, an idea that was developed by members of the Historical Abuse Network in union with the Queensland Department of Communities. The card did not proceed after the State Government approved ex-gratia payments to former residents of institutional abuse.

In 2007 the Queensland Government, through the Department of Communities, approved up to \$100 million in funding to the Esther Centre for a redress scheme. The redress scheme is a response from the Queensland Government's *Forde Inquiry* report and provides ex gratia payments to people who experienced abuse or neglect in institutions.

The Redress Scheme has a two-tiered system of payments with the first enabling a broader percentage of Forgotten Australians to access money without having to go through detailed descriptions of their abuse. Level 1 payments of \$7 000 are for any applicant who meets a basic criteria. Level 2 payments up to \$33 000 for anyone has gone through level 1 and who has suffered more serious harm. These are assessed on a case by case basis in a non-adversarial environment and based on the information provided by the applicant as to the harm suffered. These two levels result in a combined maximum payment of \$40 000. It needs to be noted that this involves each person signing a waiver releasing and indemnifying the State Government from any future claims that fall within the range of the redress scheme. Applications closed on February 27<sup>th</sup> 2009.

The funding allocation of \$100 million includes the ex-gratia payments, access to legal and financial advice for eligible applicants and practical assistance to lodge an application. The payments recognise the harm suffered by people and aims to help them move forward with their lives.

## Recommendations 7-10.

### *Internal Church redress processes*

The Esther Centre strongly supports this recommendation.

There has been no action nationally on the part of Heads of Churches to address this recommendation. There remains no benchmark, no accountability, and no transparency on the part of church bodies when it comes to the issue of handling abuse allegations.

In its original submission the Esther Centre made the following recommendations

- An external complaints review mechanism such as the Australian Human Rights and Equal Opportunity Commission which oversaw the *Bringing them home: The 'Stolen Children' report (1997)* or a *Religious Ombudsman*, either of which must have the power to:
- investigate and mediate complaints received by complainants dissatisfied with Church processes with the relevant Church authority;
- review the operations of Church sponsored complaints mechanisms to enhance transparency and accountability;
- report annually to the Parliament on the operation of the Churches' complaints schemes, including data on the number and nature of complaints and to
- publicise the existence of Church-sponsored complaints mechanisms widely throughout the community.

While the Australian Government is considering a body such as a National Commission for Children the Esther Centre remains committed to any organisation that carries the above influence to allow for the responsibility of ensuring people who are adult survivors of abuse are included in its mandate.

Drawing from other jurisdictions the Esther Centre would like to illustrate what we consider a best practice model in dealing with churches and sexual abuse. The following is taken from an unaffiliated group of survivors of church abuse within the Boston Archdiocese in the U.S.A.

In an answer to the question "*what do we want the churches to do?*"

The following was presented as a response:

### **ACCOUNTABILITY and RESPONSIBILITY:**

#### ***Reform Action:***

*The church will acknowledge and admit their culpability in knowingly moving paedophile priests throughout the church resulting in additional abuse.*

### **How this will be observed:**

- The Church will publicly and in writing state that they were responsible for the abuse of countless children and adults and that the abuse was not the fault of the victims, and that the shame belongs only to those who did the abuse and those who covered it up.
- The Church will likewise acknowledge responsibility for the countless secondary victims of abuse.
- The Church will release any and all orders, both past and present that have required survivors to be silent and will not require silence in future cases.
- Members of the hierarchy, priests, Church employees and volunteers will attend yearly training offered by outside professionals on the State Mandatory Reporting Laws.
- Members of the hierarchy, priests, Church employees and volunteers will attend yearly training offered by outside professionals on power dynamics and the ways that power can be used to do good or to do harm.
- Members of the hierarchy, priests, Church employees and volunteers will attend yearly child abuse trainings offered by outside professionals.
- The Church will establish and implement a policy that insures that the mandatory reporting requirements are being followed.
- The Church will offer trainings to parishes, Catholic schools and other Church-run organizations on ways to protect and empower both children and adults.
- The Church will consistently speak out against the abuse of children and adults.
- The Church will provide resources in their weekly bulletins for those people and their families who have been and/or who are being abused.
- The Church will take perpetrators and anyone who has knowingly failed to report suspected abuse of children or adults off their payroll.

### **SAFETY:**

**REFORM ACTION 1:** The Church will create an environment of safety for children, adults and all who enter.

### **How this will be observed**

- Candidates for seminary, as well as potential Church employees and volunteers will be put through extensive screenings, modeled after other agencies that are also mandated reporters.
- Current bishops, priests, Church employees and volunteers will submit to criminal history check.

- No person with a history of abusive behavior will be allowed to work for the Church.
- No cardinal, bishop, priest, Church employee or volunteer will be alone with a child.
- All people who are receiving pastoral counseling will first receive a document that outlines their rights and responsibilities and what they should and should not expect from the person providing the pastoral counseling. Included in this document will be the fact that the person that is providing the counseling is a Mandated Reporter of abuse.
- When children or adolescents are receiving pastoral counseling they and their parents or guardians will be given a similar document.
- All cardinals, bishops, priests, Church employees and volunteers will engage in an internal process to address power dynamics specifically related to their own positions. The goal of this process will be for participants to understand power dynamics, how power was and is abused, and ways to use it in positive and healing ways.
- The Church will require all convicted sex offenders to register as such and will support notification of the public as a way to increase the safety of all children, regardless of their religion.
- The Church will create its own “Registry” of credible allegations of abuse by a clergy, Church employee or volunteer, as determined by an Independent Review Board. When a case has been settled, names of the accused will be listed in the “Registry,” and the Church will yearly inform the laity how to access the information.

**REFORM ACTION 2:** The Church will create its own supervised homes or institutions whereby abusive clergy can live out their lifetime.

### How this will be observed

- The Church will only allow convicted or self-disclosed abusive clergy to be part of their Church if they, upon completion of their sentence or self-disclosure, agree to go to one of these homes or institutions.
- The Church will monitor all residents of such a home/institution.
- The Church will not allow any resident to go anywhere outside the home/institution without the accompaniment of a non-offending companion who is knowledgeable in the behaviors of sexual crimes.
- The Church will not allow any resident to be around any children.
- The Church will not allow any resident to offer pastoral support to any adult.
- The Church, with the help of survivors and professional who work with people who sexually abused children and adults, will develop policies that will decrease the risk of abuse.

## **INDEPENDENT OUTREACH & ADVOCACY**

*These recommendations are meant to meet the needs of those survivors who would find it too painful and/or triggering to seek support from an office established by the Church.*

**REFORM ACTION 1:** An Independent Outreach and Advocacy Program will be implemented.

### **How this will be observed**

- The Church will become a “third party payer.”
- No survivor will have to go to the Church for financial assistance.
- The Church will reimburse survivor’s money already spent on therapy and other survivor-related expenses, including medications prescribed to support their healing process.
- The Church will pay for therapy for all victims (including those who had cases and have already settled) for as long as they need it.
- The Church will pay for therapy for secondary victims, including, but not limited to, parents, siblings and significant others.
- The Church will not use survivor’s records against them.
- The Church will pay for medical costs for medical conditions associated with the abuse.
- The Church will pay for in-patient treatment for survivors when necessary.

**REFORM ACTION 2:** The Church will give a lump sum of money to fund a healing center.

### **How this will be observed**

- The Church will set up an endowment to be used to fund a healing center for survivors of clergy abuse.
- The Church’s only role will be funding this healing center.
- Church hierarchy will acknowledge and defer to an outside Board of Directors named by survivors and made up of survivors and people from the professional trauma community.
- Church hierarchy will recognize and respect the power of the Board to hire and fire.

## **LEGISLATIVE & LEGAL:**

**REFORM ACTION 1:** Call for repeal of Statute of Limitations.

### **How this will be observed**

- The Church hierarchy will support the repeal of the Statute of Limitations.
- The Church hierarchy will, through their media outlets, Church bulletins and the pulpit, clearly state that they support the repeal of the Statute of Limitations.

**REFORM ACTION 2:** Civil and criminal cases will be treated with ethics and morality.

### **How this will be observed**

- The Church will release all personnel files of accused priests, Church employees and volunteers.
- The Church hierarchy and their lawyers will immediately stop “hard ball” tactics such as blaming the abuse on parents, victims and/or other people, places or things (i.e., Gays, the 60’s, the media).
- They will not bring in outside “experts”, to discredit survivors.
- They will not bring in survivor behaviors to manipulate the responsibility for the abuse.

**REFORM ACTION 3:** Settle cases, providing that people want to settle the cases, without intimidation.

### **How this will be observed**

- Church hierarchy and their lawyers will not demand survivor’s silence in any settlement.
- Church hierarchy and their lawyers will not pressure, demean or “guilt trip” a survivor to settle (i.e., survivors will not be told that if they do not settle no one will get anything. Survivors are individuals and what each may want in a settlement may vary. Each should be allowed their own process to the extent their case allows it.)

Text adapted from “Voice of the Faithful: Keep the Faith Change the Church”. Archdiocese of Boston.



## **Recommendation 11**

### ***Royal Commission***

Although Queensland has held its own Government Inquiry - the Forde Inquiry- the Esther Centre supports this recommendation as one of the only mechanisms by which the Australian Government can commit to change across whole of government and re-engage churches in their responsibility to provide services to people who have suffered any abuse at their hands while in their care.

## **Recommendation 12-18**

### ***Location, preservation, recording and access to records.***

*Missing Pieces* is an information document that is the result of the State Governments consultation with non-government organizations which had formerly operated as children's homes. As described by the Queensland Government the directory includes detailed information on the type and location of records held by existing Departments of Child Safety and Communities and religious authorities. The consultation around *Missing Pieces* was conducted by the Government in 2001.

The Queensland Government responded to this through the Forde Inquiry where action was taken to identify, locate and preserve former resident's files and any departmental records relevant to the administration of church run children's homes and departmental facilities. A large number of original records relating to youth detention institutions have been identified, catalogued and scanned electronically to provide easier access and to preserve these valuable documents.

In keeping with the Queensland Governments submission the Esther Centre agrees former residents can access records under the *Freedom of Information Act 1992*. Under this legislation any member of the public has the right to apply for access to documents held by any government department and to amend documents which relate to their own personal affairs. There are no fees or charges to access or copy documents which relate to personal affairs. Charges apply for access to non personal affairs documents. The State Government offers Forgotten Australians access to personal information through the freedom of information (FOI) process. While processing these applications the department offers to link individuals to other agencies as required.

In August 2008 in response to recommendations of the FOI Independent Review Panel a commitment was made to implement a new legislative framework for access to information known as the *Right to Information Act*. This provides greater accessibility to information and transparency to the public

## **Recommendation 19-20**

### ***Advocacy, support groups and support services.***

In June 2006 the Australian Government funded a national conference of advocacy groups, service providers and support groups for *Forgotten Australians*. The *Alliance of Forgotten Australians* (AFA) was a result of this conference. It is made up of a national group of organisations and individuals from across Australia that promotes the interests of approximately 500 000 who have experienced harm. The AFA is funded by the Australian Government and is into its second and final year of funding. It works with the knowledge and cooperation of its members to advance issues at Federal, State and Territory levels.

The Queensland Department of Communities provides an estimated \$900 000 in funding on a triennial basis to support service delivery through **Lotus Place**.

Lotus Place is comprised of

- The Historical Abuse Network
- Aftercare Resource Centre (ARC)
- Forde Foundation
- Esther Centre (auspiced by Micah Projects Inc)

*Lotus Place* is a drop in service for former residents. The State Government provided funding of an estimated \$600 000 to help with the establishment of the centre. In keeping with Queensland Governments submission we would like to comment on Lotus Place services having been extended to include a centralized information and referral service. Since the Redress Scheme commenced in 2007 Lotus Place became a focal point for former residents lodging applications. The State Government made additional one-off grants in 2007/08 and 2008/09 to support this service.

#### *The Historical Abuse Network:*

HAN is a peer support and advocacy network for people who have experienced abuse in institutions, detention centers and foster care. The membership is currently 2,142. HAN is represented on the Alliance of Forgotten Australians.

#### *Aftercare Resource Centre*

ARC is a program of Relationships Australia (R.A). It provides an Australia wide service to former residents from Queensland. ARC offers face to face counseling at Lotus Place and brokered counseling through R.A. branch offices Australia wide and approved private practitioners. ARC offers limited financial assistance for education expenses or vocational training opportunities, medical and psychological reports, record searches, family unification and victim impact statements.

### *Forde Foundation*

The Forde Foundation was established in 2000 as a charitable trust to assist former residents of Queensland. The trust is administered by the Public Trustee of Queensland. The State Government has contributed 4.5 million to the trust. Churches were required to contribute to the foundation by the Inquiry but have never done so. The Forde Foundation Board of Advice recommends how small grants can be distributed. Through the Foundation's grants program former residents can get help with family reunification, health and dental care, education and training and other services that might create opportunities.

*The Esther Centre* provides advocacy and support services for all people who experience abuse in human services or faith communities. The Esther Centre emerged from the Esther Trust (1997) and was funded in 1999. It has been progressively extended since that time to respond to the needs of former residents.

The Esther Centre advocates and supports people processing complaints of abuse through internal church processes, professional bodies or organisation and criminal justice procedures. The Centre resources/facilitates the HAN and the networks representative on the *Alliance for Forgotten Australians*. As already mentioned the Esther Centre oversaw the completion of the Redress Scheme.

With the decision to reconsider the progress of the recommendations of the Senate Committee Report into Forgotten Australians it is timely to reflect on the implementation of the Redress process. The Esther Centre has consulted with former residents in HAN on the future of services now that redress has closed. For the purposes of this submission some points remain salient.

- The identification of an increased population group with the applications for Redress now reaching 10 000 Queenslanders
- The experience of the one stop shop created through the co-location at Lotus Place
- The limitations of the current service system as perceived by former residents is a recurrent theme around areas such as balancing redress and the normal programs funded, peer education and training requires dedicated resources. Former residents have identified confusion with regard to the roles and responsibilities between the Forde Foundation and Aftercare Resource Centre.
- The national agenda for Forgotten Australians requires a need to move on from the recommendations of the Forde Inquiry to a framework with the underlying principles that embrace *access and rights* to entitlements through a statewide 1800 number and an Information and Referral Worker
- *Participation* through the facilitation of peer programs
- *Healing and reconciliation* through facilitated referral to counseling and opportunities for healing, assistance with FOI and reconnection with family.

- *Right of place*: Social inclusion and acknowledgment: a community development worker across the State.
- *Professional Development and Education* involving people who were in care.

Unmet needs as perceived by the Historical Abuse Network is for churches and the state provide funds for specific projects such as

1. oral history, writing skills arts and drama
2. organisation of events across the State such as reunions, remembrance day and Christmas parties.
3. dedicated trainer for creating professional development and resources which involves people who were in care.
4. appropriately funded peer support program.

### **Recommendation 21**

***All State Governments, Churches and agencies provide a comprehensive range of support services and assistance to care leavers and their families.***

As described in the above recommendations the Queensland State Government has provided funding for support services through Lotus Place and the Redress scheme. The Churches in Queensland have been requested to provide funding to the Forde Foundation. Churches and religious orders have identified employees or identified contact people within their organisation for FOI requests. Most Churches fund counseling when individuals are processing internal complaints. The Sisters of Mercy in Rockhampton have a part time worker who is responsible for any issues relating to Neerkol orphanage.

### **Recommendation 22**

***That all State Government funded services for care leavers be available to all care leavers in the respective State, irrespective of where the care leaver was institutionalised; and that funding for this arrangement be arranged through the Community and Disability Services Ministerial Council.***

The Esther Centre agrees this recommendation has merit however it is difficult to advance due to the different levels of support or service in each state or territory. The Esther Centre calls on the Australian Government to commit to a response, it is only with such a commitment that a policy framework can be decided and funding and services provided. A model exists for the current government with its Social Inclusion Agenda which identifies intergenerational disadvantage, affordable housing and homelessness in the Australian community. Forgotten Australians and their families should be incorporated within the social inclusion agenda. Without this endorsement from the Australian Government, States and Territories have no option but to operate in a policy environment that has no national cohesion.

## **Recommendations 25-28**

### ***Health care, housing and aged care programs***

#### **Recommendation 25.**

##### ***Health***

There have been few if any notable examples of either the Australian or State Governments providing any planning, funding, or services in the urgent area of health care. This takes in prevention, mental health, addiction and parenting needs.

The Esther Centre strongly endorses this recommendation and further recognises the safety and well being of the children of Forgotten Australians is impacted by the capacity of parents and the available resources, opportunities and services in the community. The Esther Centre recommends the inclusion of the vast amount of research that has been conducted through the lens of trauma, grief and loss, loss of identity on mental health outcomes for young Forgotten Australians who suicide and the life long impacts on adults who live with the consequences of state intervention and loss of connection with their biological parents.

#### **Recommendation 26 and 27**

There has been no action on these recommendations. The Esther Centre supports both recommendations.

#### **Recommendation 28**

***That the Supported Accommodation Assistance Program recognise the particular needs of care leavers.***

There has been no action on this recommendation. The Esther Centre endorses this recommendation.

#### **Recommendations 29-30**

##### ***Education***

The Historical Abuse Network (HAN) through the Esther Centre made recommendations to the Queensland Government as early as 2002 for “priority access” and under a *Redress card* for the Department of Employment and Training to fund a community based program to engage project workers

- for the accreditation of prior learning to enable individuals to access 1) life experiences 2) voluntary work 3) paid work.
- as advisors/support for job seekers; assistance with CV preparation
- Case management services to assist people negotiate pathways through education and training.

This did not occur as the Redress Scheme was established but remains an option for all governments to consider.

The Department of Employment and Training could provide opportunities for lifelong learning that is appropriate for ex residents and includes literacy, numeracy and personal development and social skills. While some of the courses on literacy and numeracy are available at libraries and through other services, governments have not acted on this recommendation.

The Esther Centre calls on the Australian and State Governments to work together to give priority access to Forgotten Australians and to investigate alternative pathways to higher education courses for ex residents and their children.

### **Recommendations 31-33**

#### ***Data collection, whole of governments approach to program and service delivery.***

This recommendation has been ignored and is vital if the Australian Government were to statistically determine the kind of support that is necessary for Forgotten Australians. No action has been taken by government on this.

### **Recommendation 34**

#### ***Recognition through memorials and exhibitions***

Queensland has responded to this recommendation as a response to both the Forgotten Australians report and the Forde Inquiry (recommendation 32).

The State Government, in consultation with former residents has funded a number of initiatives and reconciliation events in response to requests from former residents.

A joint memorial to commemorate British Child Migrants and former residents of St Joseph's Home Neerkol in Rockhampton was funded by the Australian Government under recommendation 32 of the *Lost Innocents* report in 2003.

A memorial was funded in 2004 through the State Government and the Brisbane City Council to commemorate former residents of orphanages and institutions.

The Remembrance statue is in the Roma Street precinct.

In September 2004, during Queensland's Child Protection week Annual Remembrance Day commenced acknowledging former residents.

Under recommendation 34 a youth detention memorial project commenced in 2005, this is an ongoing work acknowledging the experiences of former residents in placed in detention. The project is funded by both the State and Australian Governments.

In 2008 joint funding from the Australian and State Governments and supported by the University of Queensland made possible a memorial plaque at Karrala House in Ipswich.