

# Evaluation of Marram-Ngala Ganbu

A Koori Family Hearing Day at the  
Children's Court of Victoria in Broadmeadows  
November 2019

# Acknowledgement

The authors of this report would like to acknowledge and pay respect to the past, present and emerging traditional custodians and elders of this country on which we work.

We also acknowledge the injustices and trauma suffered as a result of European settlement, the stolen generations, and other policies such as the forced removal of children from their families, communities, culture and land. We respect the resilience of the Koori community in face of this trauma, and respect their right and aspiration for self-determination and empowerment.

The authors would also like to acknowledge the contributions of the Koori staff, young people and families who were interviewed in the compilation of this report, as well as the contributions of other stakeholders who generously offered their time, without whom this evaluation would not have been possible.

## **A note on terminology**

In this report, the term Koori people is used to refer to the First Nations people and their descendants who reside and demonstrate an enduring connection to the lands, waters and oceans of the state currently referred to as Victoria in Australia.

Aboriginal people refers to the First Nations Peoples who belong to or who are descendent of the First Nations people on mainland Australia and who reside in the state of Victoria, on the lands of Koori people. Torres Strait Islanders refer to the population of First Nations people whose cultural ties are with the 40 or so islands between the tip of Queensland and Papua New Guinea and who maintain cultural connections to the Torres Strait (Zendeth Kes) but who reside on Aboriginal land or the Torres Strait Islands.

First Nations Peoples is used to refer to the indigenous peoples of any nation, such as New Zealand, Canada and the United States of America.

## **A note on the use of Aboriginal symbols**

In this report, the evaluators have chosen to use Aboriginal symbols to support telling the Marram-Ngala Ganbu story. This is appropriate given the Aboriginal cultural focus of Marram-Ngala Ganbu. Under the guidance of Professor Kerry Arabena and an Aboriginal team member at SVA, the symbols that appear in the report were chosen for their specific relevance to visually illustrate and better communicate contemporary, culturally-inclusive court practice. However, the evaluators acknowledge these symbols are used widely across various Aboriginal cultural groups and recognise the meaning of the symbols may vary.

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*This report was designed by Little Rocket, an Aboriginal-led design company.*

# Contents

<b>1. Executive Summary</b>	3
<b>2. Introduction and Evaluation Methodology</b>	7
<b>3. Background to Marram-Ngala Ganbu</b>	9
Aboriginal children in child protection in Victoria	
The context of families of Aboriginal children in child protection	
Reviews and forums that have led to Marram-Ngala Ganbu	
Situating Marram-Ngala Ganbu in the Victorian Children’s Court	
Understanding the broader legislative and policy context of Marram-Ngala Ganbu	
<b>4. Outline of the Marram-Ngala Ganbu program model</b>	15
Core concepts	
Model components	
Cost of Marram-Ngala Ganbu	
<b>5. Profile of participants in Marram-Ngala Ganbu</b>	27
<b>6. The design and implementation of Marram-Ngala Ganbu</b>	28
Design and launch of Marram-Ngala Ganbu	
Evolution of Marram-Ngala Ganbu over time	
<b>7. The impact of Marram-Ngala Ganbu</b>	33
Outcomes for children and young people	
Outcomes for families	
Outcomes for carers	
Outcomes for Koori Elders	
Outcomes for child protection system, magistrates and lawyers	
Unexpected outcomes	
Outcomes that could lead to avoided costs for Government	
<b>8. Opportunities to improve Marram-Ngala Ganbu and prepare for expansion</b>	49
Opportunities to improve Marram-Ngala Ganbu	
Additional factors to consider when expanding Marram-Ngala Ganbu	
<b>9. Broader lessons for delivering impactful programs for Koori families</b>	57
<b>10. Appendix</b>	58
Glossary & Terminology	
Marram-Ngala Ganbu Theory of Change	
Evaluation questions	
Improving data collection in the Courts	
Evaluation Steering Committee members	
Endnotes	

# Executive Summary

*Most Victorian Aboriginal children are cared for in loving families, where they are cherished, protected and nurtured, where their connection to community and culture is strong, their Koori identity is affirmed and they are thriving, empowered and safe<sup>1</sup>*

Marram-Ngala Ganbu (which means “we are one” in the Woiwurrung language), was established in acknowledgement of this fact, and as an innovative response to the over-representation of Aboriginal children and families in the child protection system in Victoria.

The pilot program, launched in August 2016 at the Broadmeadows Children’s Court in Melbourne, aims to improve outcomes for Koori children and families involved in child protection proceedings. It seeks to provide a more effective, culturally appropriate and just response for Koori families through a culturally appropriate court process, that enables greater participation by family members and culturally-informed decision-making.

Three years into Marram-Ngala Ganbu’s operations, the Children’s Court of Victoria commissioned an independent evaluation to assess the performance of Marram-Ngala Ganbu against its stated aims and to build the evidence base to support future expansion of the program. The evaluation team was led by Professor Kerry Arabena, a proud Meriam woman, together with Social Ventures Australia Consulting, and Dr Wendy Bunston (the ‘evaluators’).

***“Any worries and concerns with the stress leading up to Court I could get in contact with the support workers and it makes a whole lot of difference. I was excited going to [Marram-Ngala Ganbu] because of the fairness”***

Marram-Ngala Ganbu participant (Koori parent)

Since opening, the program has supported close to 400 Koori families through the court process. This evaluation focuses on documenting the program model, understanding the implementation process, and evaluating the short-medium term outcomes for the program. It also makes recommendations to inform improvements and any future expansion of the program.

In summary, the evaluation identified sufficient evidence that Marram-Ngala Ganbu is achieving its intended short to medium-term outcomes, and there are early indicators that it is on track to deliver the desired long-term outcomes. A summary of the key evaluation findings, opportunities to improve Marram-Ngala Ganbu, additional factors to consider when expanding Marram-Ngala Ganbu and lessons from this evaluation about improving outcomes for Koori families, are outlined over the following pages.

***“I was able to be heard and was able to speak. My voice was heard, and my children’s voice was heard. Other courts people are speaking for you and it’s frustrating”***

Marram-Ngala Ganbu participant (Koori parent)

## Key evaluation findings

**Overarching finding:** Marram-Ngala Ganbu is achieving its intended short to medium-term outcomes, and there are early indicators that it is on track to deliver the desired long-term outcomes. The program is providing a more effective, culturally appropriate and just response for Koori families through a more culturally appropriate court process, that enables greater participation by family members and more culturally-informed decision-making.

Stakeholder	Finding
<b>Children and young people</b>	<ol style="list-style-type: none"> <li>1. <i>Short-term outcome:</i> Koori young people have reported positive experiences about their involvement in Marram-Ngala Ganbu</li> <li>2. <i>Long-term outcome:</i> There are early indicators that Marram-Ngala Ganbu is contributing to young people feeling more connected to their family, culture and community</li> </ol>
<b>Families</b>	<ol style="list-style-type: none"> <li>3. <i>Short-medium term outcome:</i> Koori families have reported a range of positive experiences about their involvement at Marram-Ngala Ganbu. This led to greater engagement with court processes and services, and more satisfaction with decisions</li> <li>4. <i>Medium term outcome:</i> Koori families are more likely to follow court orders in Marram-Ngala Ganbu, in part due to the encouragement from the Magistrate and the support of the Koori Services Coordinator, Koori Family Support Officer and the (Child Protection) Practice Leader M-NG</li> <li>5. <i>Long-term outcome:</i> There are early indicators that Koori families have increased cultural connections, more Koori children are being placed in Aboriginal kinship care and that families are more likely to stay together, as a result of Marram-Ngala Ganbu</li> </ol>
<b>Carers</b>	<ol style="list-style-type: none"> <li>6. <i>Short-medium term outcome:</i> Aboriginal and non-Aboriginal carers (including foster parents) have reported positive experiences about their involvement in Marram-Ngala Ganbu</li> </ol>
<b>Elders</b>	<ol style="list-style-type: none"> <li>7. <i>Short-medium term outcome:</i> Anecdotal evidence from third parties (not Elders) that older family members feel respected, heard, can influence court decisions, and carry out their responsibilities to provide family leadership in Marram-Ngala Ganbu</li> </ol>
<b>Child protection system, magistrates &amp; lawyers</b>	<ol style="list-style-type: none"> <li>8. <i>Short-medium term outcome:</i> The Department of Health and Human Services (DHHS) is more accountable to magistrates and the court process in Marram-Ngala Ganbu</li> <li>9. <i>Short to medium term outcomes:</i> There is greater compliance with the Aboriginal Child Placement Principle</li> <li>10. <i>Short-medium term outcome:</i> Magistrates experience a range of positive outcomes as a result of Marram-Ngala Ganbu, such as improved cultural competency, better-informed decision making and satisfaction that they are better meeting the needs of Koori families and children</li> <li>11. <i>Short-medium term outcome:</i> Lawyers reported professional development and increased cultural competency as a result of participating in Marram-Ngala Ganbu</li> </ol>
<b>Unexpected outcomes</b>	<ol style="list-style-type: none"> <li>12. Magistrates in Marram-Ngala Ganbu explicitly incorporate considerations of cultural connection into assessing and balancing the risks to children in making their decisions</li> <li>13. Marram-Ngala Ganbu has led to an increase in therapeutic judicial approaches being adopted in mainstream Children's Court hearings</li> <li>14. Marram-Ngala Ganbu has contributed to improved recording of Aboriginal and Torres Strait Islander status in other courts</li> </ol>

## Opportunities to improve Marram-Ngala Ganbu

1. Improve data collection to better understand client experience and outcomes
2. Provide training for professionals working in Marram-Ngala Ganbu that is specific to the context of Aboriginal child protection and delivered by an Aboriginal facilitator or Aboriginal-owned provider
3. Consideration should be given to how Marram-Ngala Ganbu can influence more consistent provision of the option for legal representation for Koori children and parents from an Aboriginal-controlled legal service
4. Implement process and protocol improvements, including:
  - Develop guidelines for professionals working in Marram-Ngala Ganbu
  - Review the provision of private space for services to do immediate intake on hearing day
  - The communication and promotion of AFLDM to families
  - Consider increasing the frequency of Marram-Ngala Ganbu to reduce waiting times
5. Further investigate opportunities to improve the Marram-Ngala Ganbu program model, including:
  - Consider increasing the case management dimension of Marram-Ngala Ganbu
  - Explore opportunities to provide a role for Elders that does not require their involvement in individual family cases
  - Consider how best to safely include the voice of children and young people in Marram-Ngala Ganbu

## Additional factors to consider when expanding Marram-Ngala Ganbu

1. Future expansion of Marram-Ngala Ganbu to new locations will require consideration of multiple factors, including self-determination (i.e. the preferences of the Koori community), service system readiness, availability of key personnel, and current and projected number of families in child protection system.
2. The key features of Marram-Ngala Ganbu that need to be maintained in any expansion, to ensure ongoing success, and opportunities to adapt the model are the (1) Adapted court setting, and (2) Case management approach.
3. Understanding and adapting the model to the local context will be critical in expanding Marram-Ngala Ganbu to new locations, and it should be developed and delivered in a way that is led by the local Koori community.
4. The physical design of the court has an important influence on the experience of families and children, as demonstrated by Broadmeadows Children's Court.
5. Koori staff are critically important to Marram-Ngala Ganbu's model, so all efforts should be put into recruitment and retention, with regard to the following:
  - Ensure that potential staff have the necessary skills and personality traits
  - Ensure competitive remuneration
  - Provide opportunity for the incoming Koori Services Coordinator and Koori Family Support Officer to be involved in the design and implementation of the service in new sites
  - Ensure staff have the support they need to navigate the emotional burden and cultural load associated with their roles
  - Ensure Koori employees have the opportunity to regularly meet with other Koori workers to network.
  - Provide regular opportunities for Koori employees to provide advice to Court Services Victoria on how to be an employer of choice for Koori people and how best to work with the Koori community.
  - Continuously work to ensure the courts are a culturally safe workplace that is supportive of the cultural identity of Koori staff

## Broader lessons for delivering impactful programs for Koori families

1. Enabling innovation in the justice system: Marram-Ngala Ganbu's implementation is a success story of innovation in the public sector, made possible by the Koori services Coordinator being granted sufficient flexibility to push the accepted norms, and the authorising environment granted by the court's magistrates who provided legitimacy for the model.
2. The importance of Koori-led design and services: Marram-Ngala Ganbu best meets the needs of the Koori community because its design was led by, and for, Koori people.
- 3.. The benefit of having Koori staff working in the courts, creating a culturally safe environment for Koori families
4. The benefits of introducing case management to enable the coordination of an increasingly challenged service system, improving outcomes for Koori families
5. The power of connectedness and belonging: For Koori families the importance of connection to culture and kinship is paramount. The courts have had, and can play, a role in establishing this connection

Credit: Simon Ward, Australian Story, ABC.

# Introduction and evaluation methodology

## The purpose of the evaluation

The Children's Court of Victoria commissioned an independent evaluation to assess the performance of Marram-Ngala Ganbu against its stated aims and to build an evidence-base to support future expansion of the program. Marram-Ngala Ganbu has been running since July 2016 and has not yet been evaluated, so it is a timely opportunity for review, three years into its operation.

The evaluation team ('the evaluators') consists of Professor Kerry Arabena, a proud Meriam woman of the Torres Strait, together with Social Ventures Australia, and Dr Wendy Bunston, an expert in child-led practice. This was an independent evaluation. Representatives from the Children's Court and Court Services Victoria had the opportunity to review and contribute to the report, but the evaluators reserved the right to use their professional judgement to formulate the findings, as recorded in the report.

## Evaluation methodology and scope

The evaluation methodology is underpinned by utilisation focussed, theory-based, quasi-experimental and mixed methods approaches. This means the evaluation is intended for practical utilisation to improve program delivery, informed by a theory of change (see Appendix 3) and seeks to understand the experience of families who have participated in the program. The experiences of families who have participated in mainstream hearing settings are also examined to provide a point of comparison.

The evaluation scope was directed by evaluation questions (see Appendix), which were informed by the project Steering Committee.<sup>2</sup> The evaluation was conducted in a manner consistent with the following principles:

- **Self-determination:** The evaluators recognise that Aboriginal and Torres Strait Islander peoples' right to self-determination must inform all aspects of the evaluation of First Nations programs. This includes how data is used and interpreted. The utmost care was taken to ensure participants were fully informed and comfortable with how data collected was to be used for this report. While the evaluation methodology was not formally co-designed with Koori community members, the evaluation's purpose is reflective of community desire to understand the impact of programs that provide improved cultural safety and prioritise self-determination principles in the delivery of government services.
- **Cultural capability:** The evaluators recognise that best practice evaluation methods prioritise the involvement of the communities who are affected. This evaluation was led by Professor Kerry Arabena, and informed by the views of the Koori Services Coordinator, Koori Family Support Officer, Koori children and their families, Koori community services and the Koori members of the Steering Committee who have been involved with Marram-Ngala Ganbu.
- **High-quality:** The evaluators recognise that high quality, appropriate and rigorous evaluation methods and approaches are critical to generating evidence and data that accurately captures the experiences, aspirations and priorities of Aboriginal and Torres Strait Islander peoples, which informed our methodology. The evaluation appropriately required and received ethics approval from the Justice Human Research Ethics Committee.<sup>3</sup>
- **Transparency:** The evaluators recognise that for Aboriginal and Torres Strait Islander peoples' right to self-determination to be recognised in evaluation practice it is critical that there is transparency from governments and evaluation commissioners on evidence, evaluation outcomes, data and program outcomes to Aboriginal and Torres Strait Islander peoples. This evaluation provides that transparency by sharing all findings, recommendations and the limitations of the evaluation publicly through this report, and through other forums directly with the Koori community of Victoria.
- **Adaptive learning:** The evaluators recognise that for evaluations to have utility they need to be understood as one component in a broader evidence cycle that incorporates monitoring, measuring, evaluation and management. This evaluation seeks to contribute to the broader evidence base.

## Data collection

The project methodology was primarily informed by stakeholder interviews, as well as court data and relevant literature, set out in Table 1 below.

Table 1: Data collection to inform the evaluation of Marram-Ngala Ganbu



### Interviews

- **Marram-Ngala Ganbu program staff:** Multiple interviews with 3 Koori program staff
- **Marram-Ngala Ganbu stakeholders:** Focus group and one on one interviews with 30 people from 10 organisations, including
  - Lawyers (12)
  - Presiding Magistrates and President of the Children's Court of Victoria (3)
  - Department of Health and Human Services (DHHS) staff, including the (Child Protection) Practice Leader M-NG and Child Protection Litigation office(9)
  - Koori case conference convenors (2)
  - Aboriginal services (4) (VACCA Lakidjika and Nugel programs, Elizabeth Morgan House)
- **Marram-Ngala Ganbu families<sup>a</sup>:** Interviews with 27 people from 19 families, including 4 young people aged between 14-17yrs old
- **Koori families who had been through the Melbourne Children's Court:** Interviews with 3 people from 2 families.



### Court Data

- **Statistics:** Reviewed and analysed available statistics relating to all Aboriginal and Torres Strait Islander cases through both the Broadmeadows Children's Court and Melbourne Children's Court from July 2016 through to 25 July 2019
- **Case files:** Reviewed for families interviewed through the evaluation



### Literature

- **Literature review:** Reviewed information concerning programs similar to Marram-Ngala Ganbu, and relevant literature regarding the features of the Marram-Ngala Ganbu model including child-inclusive practice and therapeutic justice.

## Limitations

There are a number of limitations to this evaluation, constrained by the availability of data, noted below:

- **Family interviews:** The evaluation team interviewed a select number of families who had been through Marram-Ngala Ganbu as well as Koori families who had been through the Melbourne Children's Court. The number interviewed was limited by project scope and by ethical considerations – namely the availability of families who were suitable for the team to interview. While this does not represent a statistically significant sample, interviews reached a point where there was good consistency in commentary. The evaluators note that many Marram-Ngala Ganbu families also had experience of mainstream Children's Courts.
- **Court data:** Recording of Aboriginal and/or Torres Strait Islander status was not mandatory before November 2018. Therefore, limited data was available for families that were not appearing in Marram-Ngala Ganbu. Further, the data collected by the courts current systems tends to be more procedural, than outcomes focused. This limited the usability of this data to inform the evaluation. Any relevant data has been included in this report. The report concludes with recommendations on improved data collection for the courts, which would enable future evaluations to address this limitation. The court's have acknowledged that improvements to the courts data collection systems may be required to enable this.
- **Short-term focus of data:** Given the length of time the program has been running and the data limitations of the court's data collection systems, this evaluation has focused primarily on assessing evidence for the short-term outcomes in the theory of change, while noting early indicators that longer-term outcomes are likely to be achieved.

# Background to Marram–Ngala Ganbu

Aboriginal children in child protection in Victoria

*Most Victorian Aboriginal children are cared for in loving families, where they are cherished, protected and nurtured, where their connection to community and culture is strong, their Koori identity is affirmed and they are thriving, empowered and safe<sup>5</sup>*

Marram-Ngala Ganbu was established in acknowledgement of this fact and as an innovative response to the over-representation of Aboriginal children and families in the child protection system in Victoria. In March 2019, although the majority of Aboriginal children in Victoria were living with their families and not in contact with child protection system, 19.1 per cent were involved with child protection. This compares to 1.4 percent of non-Indigenous children.<sup>6</sup>

Further, Aboriginal children are more likely than non-Aboriginal children to be removed from their biological parents, and the situation is worsening. In March 2019, Aboriginal children in Victoria were 16.4 times more likely to be removed from their families than non-Aboriginal children, the second highest over-representation of any state in Australia.<sup>7</sup> Unborn children were also susceptible, with 21 percent of child protection reports for unborn Aboriginal children in Victoria progressing to out-of-home-care placements within 12 months of birth, compared to 13 percent for non-Aboriginal children.<sup>8</sup> Victoria and the Australian Capital Territory exhibit the largest percentage increase of Aboriginal children in out-of-home-care, with the number more than doubling between 2011 and 2018. In Victoria, the percentage increase is almost double that of the percentage increase in the Aboriginal general population.<sup>9</sup>

Of those Aboriginal children removed from their families, a recent review identified that more than 60 per cent were placed with a non-Aboriginal carer and over 40 per cent of children and young people with siblings were placed separately to their siblings.<sup>10</sup> This is despite the Aboriginal Child Placement Principle (ACPP), which requires that Aboriginal children only be removed from their families as a matter of last resort, and where possible, be placed with next of kin to maintain their Aboriginal culture (further detail on the ACPP is detailed on page 14). Aboriginal children are also more likely to stay removed from their parents. Aboriginal children in Victoria are over-represented on permanent care orders at rates significantly higher than the national average.<sup>11</sup>

The individual, family and community effects of child removal cannot be understated. There is significant over representation and cross-over of Aboriginal children and young people in the child protection and youth justice systems. In 2014-16, Aboriginal children were 16 times more likely than other children to be involved in both the child protection system and youth justice system.<sup>12</sup> Further, children who are sentenced at a younger age are more likely to be known to child protection, both for Aboriginal and non-Aboriginal children. In 2016, of the 438 children who were first sentenced aged 10 to 13, 54 percent were the subject of at least one child protection report (238 children), and 33 percent had experienced out-of-home-care (146 children).<sup>13</sup>

## The context of families of Aboriginal children in child protection

*Any understanding of how Aboriginal people view child protection, welfare and juvenile justice issues today must be contextualised by the history of colonial intervention aimed at disrupting Indigenous family life<sup>14</sup>*

The history of colonial intervention and subsequent government policies have significantly disrupted Aboriginal culture, kinship and family life. The consequences have been far-reaching, including inter-generational trauma, and the social and economic disempowerment of Aboriginal people, which has impacted the capacity of Aboriginal families to support their children. *The Always Was, Always Will be Koori Children* (Report of Taskforce 1000, Victoria) articulates the challenges this has presented for families.<sup>15</sup> The report found family violence, in combination with parental alcohol and/or drug abuse, to be the leading causes for Aboriginal children's entry to care. Of the Aboriginal children in care who were reviewed by the Taskforce, 88 per cent were impacted by family violence and 87 per cent had a parent with alcohol or substance abuse issues. It is well established that these issues are consequences of this historical context. The Taskforce found that more needed to be done to equip Aboriginal families to overcome these issues.

Andrew Jackomos, Commissioner for Aboriginal Children and Young People, at the launch of Marram-Ngala Ganbu. July, 2016.

## Reviews and forums that have led to Marram-Ngala Ganbu

The concept of Marram-Ngala Ganbu was first proposed in 2009 as a recommendation of the Aboriginal Justice Forum (#23) and has since been supported in the reviews, reports and forums detailed below in Table 2.<sup>16</sup>

Year	Name of process	Description
2009	Aboriginal Justice Forum (AJF23)	Concern identified about the significant number of Aboriginal children involved in the child protection system and suggested the establishment of a Koori Family Hearing Day in the Children's Court of Victoria Family Division.
2012	Report of the Protecting Victoria's Vulnerable Children Inquiry	Recommended that a pilot Koori family hearing list be developed. <sup>17</sup>
2014	Victorian Law Reform Commission Review of Child Protection Applications	The Commission proposed developing and expanding a range of family decision-making processes designed to assist the Department, children, families, carers and the professionals assisting them to negotiate child-centred outcomes for children and families. <sup>18</sup>
2016	Always Was, Always Will be Koori Children (Report of Taskforce 1000)	A systemic inquiry into services provided to Aboriginal children and young people in out-of-home care, analysing the cases of 1,000 Aboriginal children in care. The Commission found that promising outcomes for Aboriginal children in out-of-home care were observed where there were inclusive approaches to collaboration between child protection, CSOs and ACCOs, particularly where the ACCOs are well resourced and well managed. <sup>19</sup>
2016	Report of the Aboriginal Commissioner for Children and Young People, <i>In the Child's Best Interests</i>	The report identified significant systemic challenges and shortcomings in the implementation of the Aboriginal Child Placement Principle, and wide-ranging recommendations to improve compliance.
2016	The Royal Commission into Family Violence (Victoria)	Identified that Aboriginal and Torres Strait Islander children are around seven to eight times more likely to be the subject of a report to child protection than non-Aboriginal children.
2018	Wungurilwil Gagapduir Aboriginal Children and Families Agreement	This agreement presented Marram-Ngala Ganbu as an example of a program that is strengths-based, culturally responsive and culturally safe.
2018	Koori Youth Council's Ngaga-Dji (hear me), Young Voices Creating Change for Justice	This report called for the state-wide expansion of the Koori list in the family division of the Children's Court of Victoria. <sup>20</sup>
2018	Aboriginal Justice Agreement Phase 4 (AJA4)	AJA4 called for future consideration to be given to increasing the number of Koori convenors and Children's Courts providing the Marram-Ngala Ganbu program. <sup>21</sup>

Table 2: Reviews and forums that have led to Marram-Ngala Ganbu

## Situating Marram-Ngala Ganbu in the Victorian Children’s Court

The Children’s Court of Victoria is a specialist court with a Family Division and a Criminal Division. The Court’s Family Division determines applications relating to the care and protection of children and young people from birth to 17 years of age who are at risk of harm, as well as applications for family violence intervention orders. The Criminal Division deals with children and young people aged between 10 and 17 years at the time of committing an alleged offence.

The Court’s Family Division exercises a unique jurisdiction dealing with at least three different, overlapping interests that are sometimes not easily reconciled. The three interests that arise in most cases are:

- The family’s interest to live as it chooses without external interference
- The state’s interest in protecting its vulnerable members, such as children, and in promoting their human rights
- The child’s interest in being treated as an independent person who has rights of his or her own which sometimes may differ from those of the family and the state, especially when that child’s future wellbeing is being determined.

For Aboriginal children in Victoria, a fourth interest is mandated in child protection legislation, the Aboriginal Child Placement Principle, detailed below. Marram-Ngala Ganbu currently operates at one site of the Children’s Court of Victoria, in the suburb of Broadmeadows, and hears child protection cases from the northern metropolitan region of Melbourne. Figure 1 demonstrates where Marram-Ngala Ganbu sits in the Victorian Children’s Court structure.

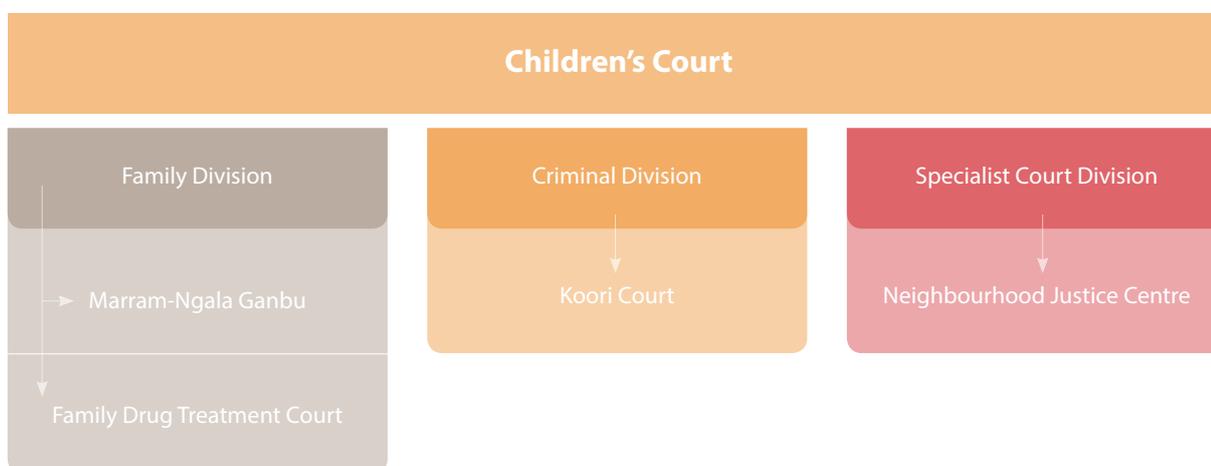


Figure 1: Children’s Court of Victoria structure

## Understanding the broader legislative and policy context of Marram-Ngala Ganbu

In Victoria, there are numerous legislative requirements which have a bearing on outcomes for Aboriginal children and families in child protection, some of which are noted below. Marram-Ngala Ganbu should be considered in this context.

- **Decision-making principles:** *The Child Youth and Families' Act (2005)* ('the Act') establishes principles for ensuring that any intervention with an Aboriginal child is culturally attuned and informed. This includes the 'best interest principles' (section 10) which establish 'the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community'. Additional principles are also outlined in the Act (sections 10-12).
- **The Aboriginal Child Placement Principle (ACPP):** Also mandated in the Act (section 12), the ACPP is to ensure that 'Aboriginal children and young people are maintained within their own biological family, extended family, local Aboriginal community, wider Aboriginal community and their Aboriginal culture.'<sup>22</sup> The ACPP requires child protection practitioners to notify the Aboriginal Child Specialist Advice and Support Services (ACSASS).
- **Aboriginal Children in Aboriginal Care:** The Act (section 18) allows for an Aboriginal Community Controlled Organisation (ACCO) to take full responsibility for an Aboriginal child, once a protection order has been made. The Victorian Aboriginal Child Care Agency (VACCA) is the first organisation to take on this role through its 'Nugel' program. The first authorisations occurred on 24 November 2017, and included children from the Preston Office of DHHS (the catchment for M-NG). The Victorian Government is currently transitioning children into the care of ACCOs.

- **Aboriginal Child Specialist Advice and Support Services (ACSASS):** The service provides advice and consultation to child protection practitioners in relation to all Aboriginal children reported to child protection and all significant decisions including placement and case planning, during child protection involvement. In Victoria, the service is operated by the VACCA in all locations with the exception of Mildura. VACCA's ACSASS service is known as 'Lakidjeka'.

In addition, the Victorian Government has formed new entities to support its commitment to Aboriginal self-determination. The most relevant to Marram-Ngala Ganbu is the Aboriginal Children's Forum (ACF) which was established to implement and monitor the Wungurilwil Gagapduir: Aboriginal Children and Families Agreement. The agreement promotes the safety, health and resilience of vulnerable Aboriginal children and young people, so they thrive and live in culturally rich and strong Aboriginal families and communities. The role of the ACF includes oversight of the transition of Aboriginal children on care orders to ACCOs (noted above).

# Outline of the Marram-Ngala Ganbu program model

Marram-Ngala Ganbu is a hearing day at the Family Division of the Children’s Court of Victoria developed via a Koori-led process, that aims to better accommodate the needs of Koori families. It demonstrates a deep commitment to Aboriginal self-determination through changes to the traditional court set-up and functioning, and innovative approaches to enabling the court to be a more welcoming and culturally safe place for Koori families.

The Marram-Ngala Ganbu program’s model has two key components which are delivered in ways that are Koori-centred, child and family centred, and promote therapeutic justice, as shown below in Figure 2.

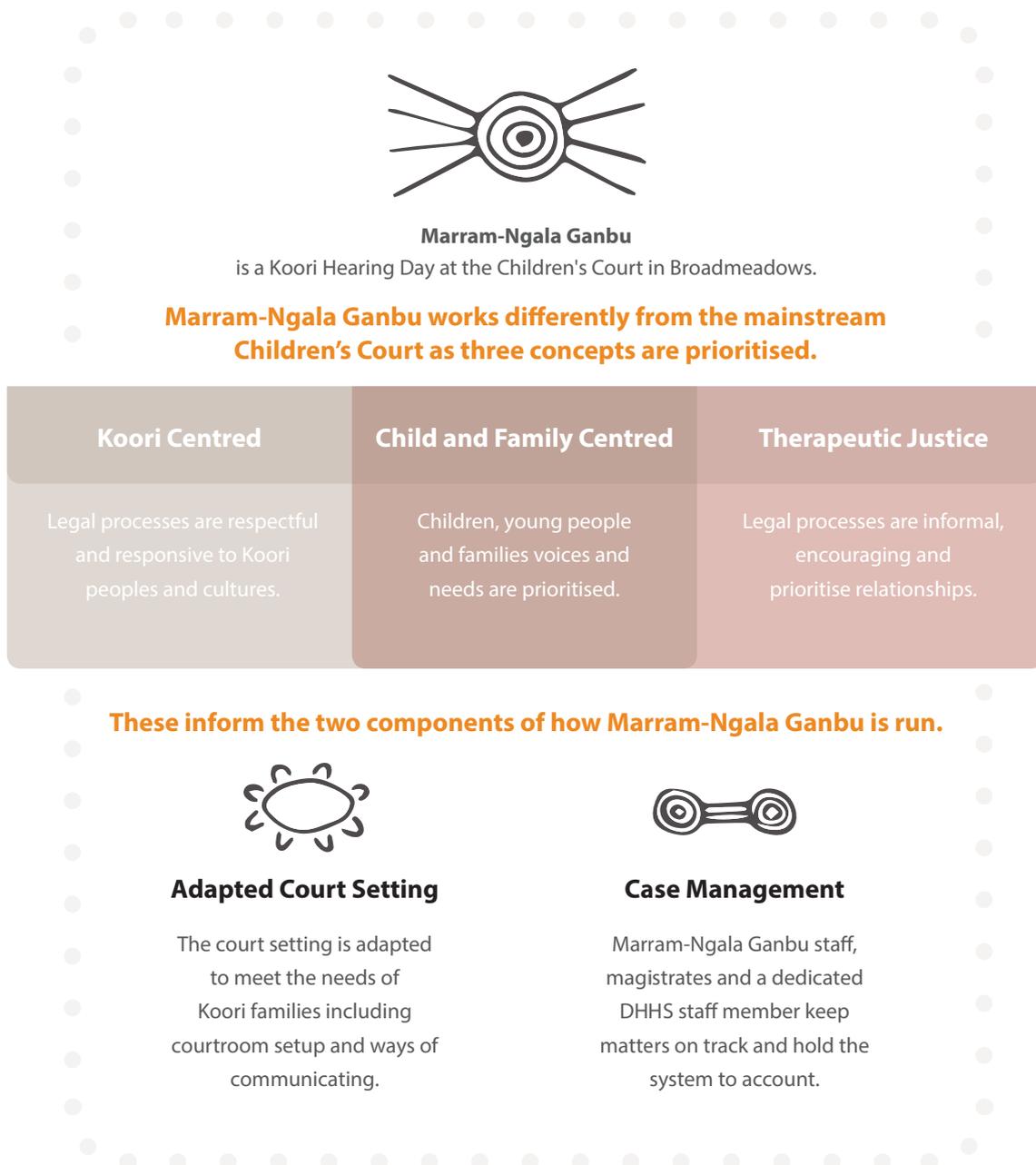


Figure 2: High level depiction of Marram-Ngala Ganbu model

*Marram-Ngala Ganbu*: Represents a meeting place, and symbolises the event of Aboriginal men and women on a journey path (lines) and coming to meet (circles) and prepare to make decisions. *Adapted Court Setting*: Represents people sitting and talking. In the Marram-Ngala Ganbu context it symbolises families, courts and services coming together to make important decisions for families. *Case Management*: Represents a travelling and resting place. In the Marram-Ngala Ganbu context it symbolises the journey of families as they’re supported through the case management approach.



## Outline of the Marram-Ngala Ganbu model (continued)

The approach of Marram-Ngala Ganbu has been described below with reference to the (1) Three core concepts and (2) Two model components. Where relevant, examples of existing approaches to the delivery of therapeutic justice are highlighted to demonstrate how features of Marram-Ngala Ganbu align with best practice. However, it should be noted these have been identified retrospectively and were not deliberately drawn from during the consultation-based model development process.

### Core concepts

#### Koori-centred approaches

Several elements of the Marram-Ngala Ganbu model demonstrate Koori-centred approaches to jurisprudence which are described below.

*Koori Services Coordinator led the design, implementation and day-to-day function of the program.* During the development phase, the Koori Services Coordinator led the design and set-up process. Stakeholder interviews indicate that this 'power shift' translated into the day-to-day operation of the program, with Magistrates seeking their advice on key issues, and any decisions about the program being led by the Koori Services Coordinator and Koori Family Support Officer.

*Staff in the court function with a high level of cultural competence,* with Magistrates, Koori program staff and other stakeholders ensuring that court processes and decisions appropriately acknowledge and respond to the importance of Aboriginal culture in child protection. This includes:

- *The cultural competence of the court* is underpinned by initial and ongoing work undertaken by the Koori Services Coordinator and Koori Family Support Officer. This includes hosting many events and activities that offer an integrated form of increasing cultural competence through two-way learning exchanges, that provided learning opportunities for Marram-Ngala Ganbu stakeholders to understand the importance of Aboriginal culture for children and families, and for the Koori Services Coordinator and Koori Family Support Officer to become familiar with court proceedings and processes. Cultural aspects included understanding the negative associations and trauma attached to child protection and court for Koori families and providing a space for people to be comfortable asking questions.

- *Proactive identification of Aboriginal children and families* by the Koori Services Coordinator and Koori Family Support Officer, ensures that Magistrates and lawyers understand the importance of identifying Aboriginality, and that all Aboriginal children in Broadmeadows Children's Court are correctly identified as soon as possible. The result is that the Aboriginal Child Placement Principle is triggered, and families can be invited to Marram-Ngala Ganbu.
- Magistrates also demonstrate strict *adherence to the Aboriginal Child Placement Principle* in making orders about child placements, including requiring parties to show that they have properly investigated suitable kinship placements.

*Marram-Ngala Ganbu provides a culturally safe environment for Koori families.* The court setting features multiple physical and verbal acknowledgements of culture, all of which were identified as critical to cultural safety by participants interviewed for this evaluation. These include:

- An acknowledgement of country, with the addition of a specific recognition of the ongoing intergenerational effects of the stolen generations, is conducted by the Magistrate before every court hearing.
- Everyone involved in the hearing sit around a round table, including the Magistrate and sometimes children, like the format of a yarning circle.<sup>23</sup> Everybody present is invited to introduce themselves and their connection to the family.
- A possum-skin cloak created by Koori children from the region, features in the centre of the table often with fresh gum leaves, which is touched to ease nerves and tension.
- Aboriginal flags, artwork and maps on the walls of the courtroom which create a warm and familiar environment.

Marram-Ngala Ganbu provides *warm referrals to a range of Aboriginal-controlled support services* in the local region, some of which have been involved since the start of the model through the reference group. Magistrates have a strong understanding of the local Aboriginal-controlled services that are available, and Koori Support Workers have professional relationships with these organisations.

However, while the design and implementation of Marram-Ngala Ganbu is Koori-led, it is important to note that the current model is not an example of full self-determining practice, rather it applies Koori-oriented justice practices (these concepts are further outlined below). This is because the model still operates within the Victorian legal system and is convened by [non-Aboriginal] court staff. There is however, a move towards more self-determining practices across the child protection system in Victoria, with the Victorian Government currently transitioning children on protection orders into the care of ACCOs, as noted above.

### **Applying First Peoples justice practices in child protection**

In Australia, First Peoples practices are incorporated into the justice setting in all states except Tasmania, mainly in relation to sentencing criminal offenders. Common practices include using a round table, displaying Aboriginal and Torres Strait Islander flags and artwork, conducting an acknowledgement of country, using conversational English, and inviting elders and/or respected community members to participate in decision-making processes. The application of Indigenous-oriented practices in a child protection setting is less common, with very few examples in Australia or overseas, and with different levels of self-determination observed.

Family Group Conferences (FGC), developed in New Zealand in 1989 for Maori families in the child protection system, focus on facilitated group-decision making that is conducted externally to the court room, often overseen by Maori judges. The FGC approach has informed a range of conciliation and mediation approaches in many countries, including Aboriginal Family-Led Decision Making and Conciliation Conferencing in Victoria.<sup>24</sup> However, it has been identified as “not a fully Indigenous model” given that it takes place within a statutory context and is administrated by government staff.<sup>25</sup>

An outcomes evaluation of FGC in New Zealand found that families felt respected, understood the process, said what they wanted and felt that their needs were met. Other evaluations of FGC in Australia and overseas demonstrate outcomes including that child welfare concerns are more likely to be addressed, participants have improved engagement with services and have an improved relationship with child protection.<sup>26</sup>

An example currently in operation in New South Wales are Aboriginal Care Circles, which include a facilitated discussion that takes place outside the court room and includes extended family, a Magistrate and Aboriginal community members. Research has identified that this process is also not truly self-determining given the exclusion of Indigenous people from decision-making and the broader child welfare process.<sup>27</sup>

An example of full First Peoples self-determination in child protection is the Indigenous Child Welfare Act 1978 in the United States of America, which transferred judicial decision-making in relation to all Indigenous children in tribal reserve lands to Native American tribes, providing autonomy over child welfare matters based on self-determination and sovereignty. Research has found the act has been effective in reducing adoption and foster care placement rates for Native American children.<sup>28</sup>

### Therapeutic justice approaches

The Marram-Ngala Ganbu model promotes therapeutic judicial practice that is less adversarial and child-centred, by enabling children and families to engage productively with the legal and court process and to have an opportunity to have their say, for the purpose of fostering healing through a positive court experience.

The *informal nature of hearings* invites everyone sitting at the table to speak freely to the Magistrate in a conversational manner, including families, children, extended family members, child protection practitioners, family support services and lawyers. This contrasts with mainstream hearings in which Magistrates speak to families through lawyers and rarely address them directly, and non-joined parties are not able to contribute. The Magistrate also allows people to speak about things that may not be technically or directly relevant to the matter being heard.

Fewer cases are heard on a Marram-Ngala Ganbu court day than in mainstream court, allowing more time for each hearing. A typical Marram-Ngala Ganbu court day will list 10-12 cases with a mainstream Children's Court day listing 30 – 50 cases. This allows more time to ensure families are comfortable, can ask questions and issues blocking progress (e.g. access to services) are able to be addressed.

Hearings are intended to be conducted in a way that is less adversarial and more collaborative. Magistrates report that they promote a less adversarial approach to hearings and have conducted training for professionals working in Marram-Ngala Ganbu which aim to promote a respectful court environment. Several lawyers describe there being a collective understanding that they are cooperating for the best outcome for families. Magistrates also conduct hearings in a way that focuses on finding (described as 'brain-storming' by some stakeholders) mutually agreeable solutions, and place high value on decisions reached in Aboriginal Family-Led Decision Making (AFLDM) meetings and conciliation conferences. AFLDM meetings provide a culturally appropriate forum for families to make safe

decisions for children, including making plans for the wellbeing of the child, and exploring family placement options. AFLDM is a co-facilitated partnership approach between Child Protection and ACCO's (in this case, VACCA).

There is a strong focus on ensuring that families' needs and protective concerns are identified early, and that warm referrals are made to appropriate Aboriginal-controlled services. Services working with families are also invited to participate in hearings and provide input about families' progress and needs.

Magistrates adopt an encouraging and empathetic approach to conducting hearings and communicating with families, particularly parents. Stakeholders describe how the Magistrate will compliment parents on progress they observe and take the time to notice and alleviate nerves and anxiety. There are also examples of the Magistrate's willingness to allow therapeutic conversations to occur at the bar table, for example children and parents to have in-depth conversations about their feelings and experiences as a child in out-of-home-care, and for older extended family members to speak freely to parents where appropriate.

### Applying therapeutic justice practices in child protection

Therapeutic justice focuses on the ‘healing potential’ of the law and states that the legal process can affect the wellbeing of people and be a positive or negative contributor to the goals of the justice process.<sup>29</sup> In practice, therapeutic approaches are more holistic and less punitive, and can include motivating, encouraging and supporting people to take responsibility for the issues and seek assistance to address them to achieve the desired outcome.

In the context of child protection, a key opportunity identified for therapeutic practice includes judicial case management, whereby the judges can mediate conferences, and hear, encourage and collaborate with parents while at the same time ‘protect due process’.<sup>30</sup> Research in the context of drug courts has identified that supportive comments from judges led to a greater likelihood of positive outcomes for participants.<sup>31</sup>

Other opportunities for therapeutic practice in the context of child protection identified in the literature are:

- The wording and communication of orders that acknowledge parents’ strengths, aim to ensure parents understand decisions and provide hope and encouragement, particularly when a negative decision is made.<sup>32</sup>
- Changes that enhance the participation of parents and families including plain English, empathetic verbal and non-verbal communication, more flexible use of time to allow breaks, more accessible information, greater use of conferencing and mediation approaches and training magistrates and lawyers in child protection mediation.<sup>33</sup>
- Changes to enable more equitable access to justice for families include onsite counselling services, childcare facilities and court assessments, court-supplied support, and more child-friendly spaces in the court building.<sup>34</sup>

While there are examples of therapeutic jurisprudence being applied in the Family Court setting (Magellan Project and Columbus Project), only a few examples of this approach being used in a child protection setting were identified in this review. One example is the Family Care Program that operated in the Geraldton Children’s Court from 2003.<sup>35</sup> This program provided “therapeutic jurisprudence-based judicial case management”, which primarily included the coordinated delivery of a range of holistic court-supplied or connected services to “strengthen parents’ capacity to provide a safe and nurturing environment”. The types of services included relationship counselling, parenting programs, financial planning, vocational guidance, anger management, drug and alcohol support and housing support. Evidence of impact from this program is limited due to small numbers of participants at the time of an evaluation being conducted.<sup>36</sup>

The family drug court model is also an example of therapeutic jurisprudence being applied in the context of child protection, providing parents with substance misuse issues a program of court-supplied support to rehabilitate with the goal of being reunited with their children. Depending on the program, support can include therapeutic drug treatment programs, parenting programs, vocational training and regular court appearances to monitor parent’s progress. There is promising evidence of positive impact in the USA, UK and at the Family Drug Treatment Court located in Broadmeadows Children’s Court.<sup>37</sup>

### Child and family-centred approaches

At the core of each of the practices and approaches described above are the families and children that participate in Marram-Ngala Ganbu. There are several important elements of this approach.

The *emotional and practical support* provided to families by Koori Services Coordinator and Koori Family Support Officer ensures that families are supported at each step in the process, and their needs and concerns can be addressed early. The types of support provided include visits to families in their homes when required, support to access services and comply with court orders (for example, helping parents enrol children in new schools to better meet their learning needs). If matters do not require children to be present in court, a child-friendly space is available where Koori Services Coordinator and Koori Family Support Officer can provide supervision for children, enabling parents to focus on their court hearing.

Marram-Ngala Ganbu provides an opportunity for *children and families to speak* to each other, to Magistrates and to DHHS - about the history of their case, their circumstances and what they want to happen in their child protection matter. The Koori Services Coordinator and Koori Family Support Officer actively encourage families to speak up and challenge information in court they believe is incorrect. Children are also able to speak if they have capacity (children as young as 11 have spoken in the court), and very young children are allowed in the court room, with toys available for them to play with under the table during hearings.

Marram-Ngala Ganbu also *recognises the role of extended family* in the lives of the children, with Magistrates, the Koori Services Coordinator and the Koori Family Support Officer actively encouraging families to bring Elders and other people from the community to provide support and input to hearings.

Finally, interviews with stakeholders demonstrate that Marram-Ngala Ganbu operates from a *core belief that parents want the best for their children*, and that families should be afforded the opportunity and support required for family reunification (if possible). In practice, this means Magistrates ensure parents understand what they must do for reunification to happen and that they are given the time and support required to implement changes. Stakeholders also report that Magistrates are less likely to place stringent conditions on court orders, as a way of supporting parents to aspire to succeed through the process.

### Applying child-inclusive practices in child protection

The United Nations 1989 Convention on the Rights of the Child states that children have a right to express their views, including in judicial proceedings, and there are increasing calls for welfare services to bring this to effect.<sup>38</sup>

***“the views of the child being given due weight...be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child...freedom to seek, receive and impart information and ideas of all kinds”***

(Article 12 & 13 UN, 1989).

Child-inclusive practices are a means of doing so and are widely used in family law in the context of parental separation, particularly to manage high conflict dispute resolution. The Australian Institute of Family Studies details the difference between ‘child-focused’ and ‘child-inclusive’ practice.<sup>39</sup> Good child-inclusive practice provides avenues for children to express their views and contribute to dispute resolution in a supportive and developmentally appropriate manner, validates their experience and provides basic information that may assist them to cope at the time and in the future, provides ‘therapeutic feedback loops’ back to parents, and places the needs of the children at the centre.

While this practice is primarily used in the context of parental separation, researchers have identified the potential benefit of applying this approach in the child protection system, including children in out-of-home-care.

Research has highlighted that child protection and children’s court services can unintentionally increase a child’s exposure to frightening experiences for already distressed children,<sup>40</sup> particularly given how important the early years of a child are to their cognitive development. This is particularly true amongst Aboriginal children, many of whom may already possess a sensitivity to traumatic and inter-generational triggers.<sup>41/42</sup> Additionally, research suggests that children are further victimised by not having their voice heard in family law matters, replicating the reality traumatised children often face daily in their home life; no control.<sup>43</sup>

***“To be participants in the process – is even more important than for children without experiences of violence at home... we argue that participation can also be defined as something central for children within a care perspective. It can create possibilities for validation of children’s difficult experiences and following from that, support for children’s recovery after violence and abuse”***<sup>44</sup>

Research has identified that child-inclusive practices can go some way to mitigating these effects. Features of effective practice include ensuring that children are given every opportunity to express their views safely, creatively, without pressure or fear of retribution.<sup>45</sup> This requires incorporating procedures which privilege the child’s experience, at their pace, giving them real choice at every step. There are identified benefits in children expressing their opinions not only through words but through actions, behaviours, silence, engagement or disengagement.<sup>46</sup> Unfortunately, while numerous countries have committed to child-inclusion in decision-making processes within child protection, and studies have demonstrated better outcomes where children are genuinely involved in contributing to the decisions which directly impact them, in practice, child inclusive approaches are uneven.<sup>47</sup> This is because they ultimately remain dependent on the adults who represent them:

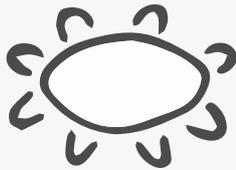
***“Although children may be asked what they think, their role as active participants is only sustained in cases where there are adults to facilitate the process”***<sup>48</sup>

Marram-Ngala Ganbu is in the unique position to further embed child-inclusive practices, and to introduce processes which are not fully dependent on adult representation for children to truly have their voices heard.

## Model components

### Adapted court setting

Core to the Marram-Ngala Ganbu model is the adapted court room setting. The components of this setting have been described above and are summarised in Figure 3 below.



**Culturally affirming environment:** Court room features a possum skin cloak, Aboriginal artwork and an acknowledgment of country and stolen generations.

**Unstructured and flexible:** Maximum of 10 cases per day, allowing more time for each matter.

**Inclusive:** Extended family and children welcome to attend.

**Informative and accessible:** All parties sit around a round table. The Magistrate speaks directly to parties and explains process and information in simple terms, and encourages parents through positive feedback and recognition of progress.

**Adherence:** Strict adherence to Aboriginal Child Placement Principle.

Figure 3: Description of the adapted court setting of Marram-Ngala Ganbu

### Case management

A case management approach led through a partnership of the Koori Services Coordinator, Koori Family Support Officer and DHHS' (Child Protection) Practice Leader M-NG provide oversight on each court case to ensure they continue to progress. This includes ensuring families and DHHS are prepared for cases to be heard on court hearing days, and that court orders are followed-up. The use of case docketing also ensures that Magistrates are familiar with the details of each case (case docketing requires that cases and court orders are managed consistently by one Magistrate as they progress).

Several key roles exist in Marram-Ngala Ganbu. The main tasks that each role undertakes are described Figure 4, and the key responsibilities, qualities and characteristics for each role are described below.

*Koori Family Support Officer and Koori Services Coordinator (employed by Court Services Victoria) (2 FTE)* - Koori Family Support Officers build relationships with Koori families and provide support before, during and after a hearing day, ensuring that their Aboriginality is identified and appropriately supported, and providing emotional and practical support for them to feel comfortable to productively engage with the court process. Koori Family Support Officers also support Magistrates, court staff, lawyers, Koori Conciliation Convenors and service providers to better understand families' circumstances, to ensure court-orders are fulfilled for matters to progress, and to improve their cultural competency. The Koori Services Coordinator has oversight of the Koori Support Officer, is the key liaison with services and judicial staff, and has general oversight of the day to day operations of Marram-Ngala Ganbu. A part of both roles is maintaining strong relationships with the Koori community. These roles are held by Koori people that are respected members of the local Koori community for this reason, and have strong interpersonal capabilities and emotional intelligence, and a deep personal commitment to improving the experience of Koori families in the Victorian child protection system.

*(Child Protection) Practice Leader M-NG (employed and funded by DHHS) (0.5 FTE)* – The (Child Protection) Practice Leader M-NG’s role (hereafter referred to as ‘The Practice Leader’) is to liaise between the court, the Child Protection Litigation Office and Child protection practitioners to ensure that cases are ready to be heard and that court-orders are followed-up by child protection practitioners. The Practice Leader is committed to the intent of Marram-Ngala Ganbu, has oversight over all cases, sits at the table at each hearing as a representative of DHHS, and has a strong understanding of the court and the service systems so can provide informed guidance to DHHS staff. The person in this role is also the Practice Leader for the Family Drug Treatment Court. Their role is funded by DHHS.

*Magistrate* (assigned to the Children’s Court of Victoria) (2 Magistrates) - Magistrates sitting in Marram-Ngala Ganbu have a high level of cultural competence and a strong commitment to improving outcomes for Aboriginal families involved in child protection matters. Magistrates have the same responsibilities and apply the same legislation as in the mainstream Children’s Court but have a greater understanding of the unique issues affecting Aboriginal families, are more culturally competent and are able to engage with families in a caring and empathetic manner including building relationships and a genuine interest in their wellbeing. The Magistrates also hear non-Aboriginal matters at the Broadmeadow’s Children’s Court.



## Case management (continued)



Koori Services Coordinator and Koori Family Support Officer		
<p><b>Before court</b></p> <ul style="list-style-type: none"> <li>• Build relationship with families</li> <li>• Encourage families to come to court</li> <li>• Prepare family for court day</li> <li>• Identify service needs and make warm referrals</li> <li>• Emotional support to ease worries.</li> <li>• Engages with DHHS to ensure readiness for court</li> </ul>	<p><b>Court day</b></p> <ul style="list-style-type: none"> <li>• Meet outside and help through security</li> <li>• Provide warm and welcoming space</li> <li>• Support children and young people</li> <li>• Ensure family understands what is happening, legal terminology, and have emotional support</li> <li>• Advocate for extended family to attend</li> </ul>	<p><b>After court</b></p> <ul style="list-style-type: none"> <li>• Follow-up with families and provide support to comply with orders (such as accessing services, enrolling kids in school, supporting conciliation conference convenors)</li> <li>• Keep family up-to-date with case progress</li> <li>• Provide administrative support to complete paperwork (such as statutory declarations)</li> </ul>
<p><b>Before, during and after court</b></p> <ul style="list-style-type: none"> <li>• Proactively identify Koori children and families</li> <li>• Share list of families with Lakidjeka</li> <li>• Ensure families are linked to their lawyers</li> <li>• Information or context about families</li> <li>• Suggestions for Koori services</li> <li>• Cultural advice and competence for court staff, Magistrates, DHHS staff and lawyers (events and training)</li> </ul>		
(Child Protection) Practice Leader M-NG		
<p><b>Before court</b></p> <ul style="list-style-type: none"> <li>• Ensure that child protection practitioners are prepared (including court reports)</li> <li>• Follow-up outstanding issues</li> <li>• Liaise with Lakidjeka</li> <li>• Discuss cases with AFLDM team</li> </ul>	<p><b>Court day</b></p> <ul style="list-style-type: none"> <li>• Liaise with CPLO</li> <li>• Liaise with child protection practitioners to resolve issues and negotiate about court order conditions</li> <li>• Take note of tasks for each court matter</li> </ul>	<p><b>After court</b></p> <ul style="list-style-type: none"> <li>• Send task list to workers at the end of the day</li> <li>• Send list of cases to be heard next week to workers, managers and Lakidjeka</li> <li>• Maintain spreadsheet for department to track issues and outcomes</li> </ul>
<p><b>Before, during and after court</b></p> <ul style="list-style-type: none"> <li>• Regular consultation with AFLDM team</li> <li>• Complete genograms with child protection practitioners</li> <li>• Consult with child protection workers about issues</li> <li>• Complete audits to assist child protection practitioners with decision-making</li> <li>• Liaise with Koori Services Coordinator about specific issues with families</li> </ul>		
Magistrates		
<p><b>Court day</b></p> <ul style="list-style-type: none"> <li>• Docketing enables Magistrates to handle cases from start to finish</li> </ul>		

Figure 4: Description of key tasks undertaken by personnel involved in delivering Marram-Ngala Ganbu

### Cost of Marram-Ngala Ganbu

Marram-Ngala Ganbu at Broadmeadows is funded by Court Services Victoria.<sup>49</sup> The operating budget for the 2018/19 financial year is in Table 3 below.

Description	2018/19 Expenditure
Employees (1 VPS4 FTE, 1 VPS5 FTE)	\$267,000
Judicial staff (0.2 FTE)	\$100,220
Judicial registry (0.2 x 2.5 FTE)	\$50,500
Training and Development	\$4,828
Travel	\$1,745
Communication, Postage & Couriers	\$1,415
<b>Total</b>	<b>\$425,708</b>

Table 3: Marram-Ngala Ganbu expenditure 2018 /19

These figures were provided to the evaluators by Court Services Victoria. They have not been reviewed or analysed as part of this evaluation, as this was outside the scope of the project. Note also that these costs do not include the (Child Protection) Practice Leader M-NG role, which is funded by DHHS.

# Profile of participants in Marram–Ngala Ganbu

As presented in Table 4 below, 380 cases have been heard in Marram–Ngala Ganbu since the program’s launch on 25 August 2016. This comprises 16.5 per cent of all cases heard at the Broadmeadows Children’s Court over the period to 25 July 2019. As a point of comparison, the table also includes the number of cases heard at the Melbourne Children’s Court, which heard 351 Aboriginal and Torres Strait Islander cases over the period.<sup>50</sup> The gender of those identifying as Aboriginal and/or Torres Strait Islander in both locations was fairly evenly split between females and males (52 per cent female and 28 per cent male at both locations).

Indigenous Status	Melbourne Children’s Court	Broadmeadows Children’s Court
Aboriginal and/or Torres Strait Islander	351	393
Neither Aboriginal nor Torres Strait Islander	1911	1658
Unknown	1706	340
<b>Total</b>	<b>3968</b>	<b>2391</b>

Table 4: Cases heard at Broadmeadow’s Children’s Court and the Melbourne Children’s Court between 1 June 2016 - 25 July 2019, by Indigenous status

Aboriginal and Torres Strait Islander families involved in the child protection system are likely to be experiencing vulnerability on many fronts.<sup>51</sup> This is equally true of families participating in Marram–Ngala Ganbu. While there is very little data available on the profile of families going through Marram–Ngala Ganbu, a sample of participants who attended the Children’s Court at Broadmeadows in the three months to 1 June 2019 is presented in Table 5 and demonstrates the challenges faced by families. It captures both those in Marram–Ngala Ganbu, and non-Koori families at the court as a point of comparison. Of those who participated in Marram–Ngala Ganbu, 71 per cent were noted to have challenges with alcohol and other drugs, 36 per cent were experiencing mental health challenges, 57 per cent have been affected by family violence, and 29 per cent were affected by three or more such issues.<sup>52</sup>

		Total primary applications	Alcohol and other drugs	Mental Health	Family Violence	Intellectual disability or cognitive impairment	Homelessness or housing instability	Interface with criminal justice	2 of these comorbidities	3 of these comorbidities	4 of these comorbidities	5 of these comorbidities
Aboriginal or Torres Strait Islander	Count	14	10	5	8	4	2	5	2	4	4	0
	% of Total	20%	71%	36%	57%	29%	14%	36%	14%	29%	29%	0%
Neither Aboriginal or Torres Strait Islander	Count	56	35	31	32	1	9	10	17	14	5	3
	% of Total	80%	63%	55%	57%	2%	16%	18%	30%	25%	9%	5%
Total	Count	70	45	36	40	5	11	15	19	18	9	3
	% of Total	100%	64%	51%	57%	7%	16%	21%	27%	26%	13%	4%

Table 5: Prevalence of conditions and co-morbidities reported for primary applications at Broadmeadows Children’s Court in the three months from 1 March to 1 June 2019

# The design and implementation of Marram–Ngala Ganbu

## Design and launch of Marram–Ngala Ganbu

Marram–Ngala Ganbu was developed over a six-month period from January to July 2016, with a broad scope to design a “Koori Family Hearing Day” to better meet the needs of Koori families in the child protection system in the north of metropolitan Melbourne.

The program design process was:

- **Koori-led:** Led by the Koori Services Coordinator, with the support of the Regional Coordinating Magistrate.
- **Koori-informed:** Primarily informed by one-on-one conversations conducted at court and during home visits with local Koori families that were appearing in child protection hearings at the newly established Broadmeadows Children’s Court at this time. These conversations were initially focused on identifying ways to encourage Koori families to attend court.

*“I was looking at the culture of the court, and the culture of Aboriginal families... and looking at the conflict. We needed to make sure that the courts had the access to the right information about these families to make the right decisions...”*

- Koori Services Coordinator

- **Supported by a project Reference Group:** A project Reference Group also informed the design. The group, convened in March 2016, included Aboriginal-controlled services, two prominent Aboriginal community leaders, and other key stakeholders, for the purpose of providing feedback and input into early drafts of the model and building support for the launch. Invitees included VACCA (Lakidjeka), DHHS (including AFLDM), Court Services Victoria, Children’s Court of Victoria, Victorian Aboriginal Legal Service, Victoria Legal Aid, Aboriginal Family Violence Prevention and Legal Service (now known as Djirra), Child Protection Litigation Office, Bubup Wilam and private practitioner lawyers. Reference group members were unable to reach consensus in the final stages of program design, so were not used for making final decisions about program features.

The implementation timeline for Marram-Ngala Ganbu is set out below in Table 6, followed by a description of key events.

Date	Milestone
June 2015	Judge Chambers appointed as President of the Children's Court of Victoria <ul style="list-style-type: none"> <li>• General discussion in judiciary about a Koori Family Hearing Day</li> </ul>
October 2015	New Broadmeadows Children's Court opens
January 2016	Ashley Morris employed into Koori Services Coordinator role Consultation begins with Koori families
February 2016	Ashley Morris commences raising awareness about the Koori Family Hearing Day project and his role to Aboriginal service providers in the local area
March 2016	Reference Group is formed
May – June 2016	Koori Services Coordinator and Magistrate Macpherson raise awareness of Marram-Ngala Ganbu via a 'road show' meeting with relevant social services across North East Melbourne
June 2016	DHHS (Child Protection) Practice Leader M-NG role commences, held by Matthew Wilson initially, and by Karyn Lloyd since September 2017 Final Reference Group meeting held
July 2016	Practice direction announcing Marram-Ngala Ganbu issued <ul style="list-style-type: none"> <li>• Includes changes to application forms that require a child's cultural status to be recorded</li> </ul> First sitting of Marram-Ngala Ganbu Additional Koori Conciliation Conference convenors employed (2 FTE)
August 2016	Marram-Ngala Ganbu officially launched
September 2016	Possum Skin Cloak Healing Workshop in partnership with Banmirra Arts, with Koori Elders, senior knowledge holders and families
May 2017	Marie Sehgal employed as Koori Family Support Officer, to work alongside Koori Services Coordinator
September 2018	Victoria Protecting Children Awards <ul style="list-style-type: none"> <li>• Karyn Lloyd won "Excellence in Child Protection Award – North Division"</li> <li>• Ashley Morris (Koori Services Coordinator) and Marie Sehgal (Koori Family Support Officer) award finalists</li> </ul>
Ongoing	Cultural competency events run throughout this time Events/training sessions, trivia days, Reconciliation Week, NAIDOC Week

Table 6: Marram-Ngala Ganbu timeline

In preparation for launch, the Koori Services Coordinator and Magistrate Macpherson undertook significant external engagement (called a 'road show' by interviewees) with key stakeholder organisations, including DHHS and local Aboriginal services, to raise awareness, build relationships and prepare organisations for the new program. The Koori Services Coordinator also used the purchase of Aboriginal artwork and the creation of a possum skin cloak by local Koori children at the time of program launch, to build cultural competency of DHHS staff and other court users.

***"We brought the artists in and they explained the story and then we bought it, so they learned that there is Aboriginal culture still living. We did the possum skin cloak, what happened was the kids who we work with were teaching the staff about their culture – staff from DHHS and lawyers."***

- Koori Services Coordinator

The launch was also supported by the recruitment of a DHHS liaison role funded independently by DHHS (called the [Child Protection] Practice Leader M-NG) for an initial 6 to 8-week period. An internal review process was conducted after the initial period and it was determined that the role should continue (the role remains ongoing).

Initial development of the model included consideration for several options that were not enacted. These included:

- **Preparation of detailed family reports:** The reports would have detailed historic and cultural context for families, to enable magistrates to consider families full context in making a decision (similar to Gladue reports used in criminal contexts to reduce Canadian First Nations people's overrepresentation in the justice system). This did not go ahead because it was thought to be too resource intensive, it was unclear who would be the right person to prepare them, and the potential for the information to fail to accurately reflect the parenting abilities of families.
- **The inclusion of Elders:** Options for including Elders in some way in the program were considered, including whether Elders could provide cultural advice to Magistrates (as they do in the Koori court in a criminal setting). However, no solution was identified that would accommodate the highly sensitive and private nature of child protection proceedings. This issue was found to be mitigated by ensuring that families in Marram-Ngala Ganbu are encouraged to invite Elders or older respected family members to participate in court hearings.
- **Conducting mediations and conciliation conferences on the same day as hearings:** Initial program design considered that this may have enabled speedier outcomes for families, however, was deemed not possible to accommodate due to the significant preparation time required.

Alex Kerr, Wurundjeri Traditional Owner, performing a Welcome to Country and smoking ceremony at the launch of Marram-Ngala Ganbu.



## Evolution of Marram-Ngala Ganbu over time

Since the launch there have been a small number of significant changes to the original Marram-Ngala Ganbu model. These include:

- The number of hearings increased from 6 to 10 per day to meet higher demand. This resulted in less time for Koori Family Support Officer and (Child Protection) Practice Leader M-NG to work on each case (including to provide direct support and to liaise together) yet has reduced waiting times for families in the region to participate in the program.
- A reduction in the availability of Aboriginal service providers on-site on the hearing day. Reasons for this include fewer client numbers, resourcing constraints and the availability of private spaces for conversations.
- Lakidjeka, the Aboriginal Child Specialist Advice and Support Service (ACSASS) program run by VACCA were intended to be present at the bar table in each hearing, but their presence reduced over time due to resourcing constraints. Currently, Koori Family Support Officers provide Lakidjeka with the names of families on the list prior to court day, and directly liaise with Lakidjeka on the court day when required. When Lakidjeka cannot be present, they engage effectively over the phone and via correspondence.

### Enabling innovation in the justice system

The process of designing and implementing Marram-Ngala Ganbu is a successful example of innovation in the courts and justice system, which may provide valuable learnings for innovation in the public sector.

The need for, and challenge of, enabling innovation within the public sector in particular has been widely acknowledged and discussed over recent decades, with the Victorian Government releasing a Public Sector Innovation Strategy in April 2019.<sup>53</sup> This strategy highlights the role of leadership, employee empowerment and collaborative partnership to making change that is valuable to people and communities, all of which are reflected in the Marram-Ngala Ganbu model.

Research about innovation in the public sector has highlighted how design thinking in this environment can be hampered by legal processes, bureaucracy, administrative processes and the political nature of decision-making. Research identifies that each of the following steps is critical for successful innovation in the public service; (1) Develop a deep understanding of people's lives (2) Analyse the present state of affairs (3) Synthesise and interpret the information to create new solutions that account for the range of complexities (4) Create a model for testing and experiment to refine.<sup>54</sup>

The research also emphasises the importance of co-creating programs and solutions with citizens that are affected by the issue, and of supporting leaders that are driving innovative process who have the courage to challenge the status quo in an environment that often features rigid procedural processes, and who have the capacity to execute on their ideas.



# Children's Court of Victoria

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## The impact of Marram–Ngala Ganbu

The impact of Marram–Ngala Ganbu to date has been assessed using a theory-based evaluation method, with reference to a theory of change for the model developed at the outset of the evaluation (see appendix). The primary goal was to investigate whether the intended short and medium outcomes were being achieved for each of the key stakeholder groups: children and young people, families, carers, elders, child protection system, magistrates and lawyers. Early indicators that long-term outcomes are being achieved have also been investigated. Each of the findings is summarised overleaf, and detailed through this section of the report.

## Key evaluation findings

*Overarching finding:* Marram-Ngala Ganbu is achieving its intended short to medium-term outcomes, and there are early indicators that it is on track to deliver the desired long-term outcomes. The program is providing a more effective, culturally appropriate and just response for Koori families through a more culturally appropriate court process, that enables greater participation by family members and more culturally-informed decision-making.

Stakeholder	Finding
<b>Children and young people</b>	<ol style="list-style-type: none"> <li>1. <i>Short-term outcome:</i> Koori young people have reported positive experiences about their involvement in Marram-Ngala Ganbu</li> <li>2. <i>Long-term outcome:</i> There are early indicators that Marram-Ngala Ganbu is contributing to young people feeling more connected to their family, culture and community</li> </ol>
<b>Families</b>	<ol style="list-style-type: none"> <li>3. <i>Short-medium term outcome:</i> Koori families have reported a range of positive experiences about their involvement at Marram-Ngala Ganbu. This led to greater engagement with court processes and services, and more satisfaction with decisions</li> <li>4. <i>Medium term outcome:</i> Koori families are more likely to follow court orders in Marram-Ngala Ganbu, in part due to the encouragement from the Magistrate and the support of the Koori Services Coordinator, Koori Family Support Officer and the (Child Protection) Practice Leader M-NG</li> <li>5. <i>Long-term outcome:</i> There are early indicators that Koori families have increased cultural connections, more Koori children are being placed in Aboriginal kinship care and that families are more likely to stay together, as a result of Marram-Ngala Ganbu</li> </ol>
<b>Carers</b>	<ol style="list-style-type: none"> <li>6. <i>Short-medium term outcome:</i> Aboriginal and non-Aboriginal carers (including foster parents) have reported positive experiences about their involvement in Marram-Ngala Ganbu</li> </ol>
<b>Elders</b>	<ol style="list-style-type: none"> <li>7. <i>Short-medium term outcome:</i> Anecdotal evidence from third parties (not Elders) that older family members feel respected, heard, can influence court decisions, and carry out their responsibilities to provide family leadership in Marram-Ngala Ganbu</li> </ol>
<b>Child protection system, magistrates &amp; lawyers</b>	<ol style="list-style-type: none"> <li>8. <i>Short-medium term outcome:</i> The Department of Health and Human Services (DHHS) is more accountable to magistrates and the court process in Marram-Ngala Ganbu</li> <li>9. <i>Short to medium term outcomes:</i> There is greater compliance with the Aboriginal Child Placement Principle</li> <li>10. <i>Short-medium term outcome:</i> Magistrates experience a range of positive outcomes as a result of Marram-Ngala Ganbu, such as improved cultural competency, better-informed decision making and satisfaction that they are better meeting the needs of Koori families and children</li> <li>11. <i>Short-medium term outcome:</i> Lawyers reported professional development and increased cultural competency as a result of participating in Marram-Ngala Ganbu</li> </ol>
<b>Unexpected outcomes</b>	<ol style="list-style-type: none"> <li>12. Magistrates in Marram-Ngala Ganbu explicitly incorporate considerations of cultural connection into assessing and balancing the risks to children in making their decisions</li> <li>13. Marram-Ngala Ganbu has led to an increase in therapeutic judicial approaches being adopted in mainstream Children's Court hearings</li> <li>14. Marram-Ngala Ganbu has contributed to improved recording of Aboriginal and Torres Strait Islander status in other courts</li> </ol>

Table 7: Key evaluation findings

## Outcomes for children and young people

### 1. Short-term outcome: Koori young people have reported positive experiences about their involvement at Marram-Ngala Ganbu.

Koori young people that took part in this evaluation, all of whom participated in Marram-Ngala Ganbu hearings, indicated strong positive feelings as a result of their involvement with Marram-Ngala Ganbu.

This included reporting: feeling that they and their families were provided with more support (than in mainstream court); they were more relaxed being in court and did not feel 'out of place'; being treated like an equal to other participants; feeling part of the court process; their voice being heard and privileged; and feeling less stressed and worried about the process and outcomes.

***“She just wanted to put the lawyers away and DHS [now DHHS] and the parents and just talk to us kids and she was really nice and really calm and just treating us like equals and like everyone else in the room and I wasn’t even 16 years old yet, I was 14-15 years old and to be treated like that by an actual judge who doesn’t see us as just foster kids, it was really nice to sit there and talk to her about how we feel about foster care and our parents and DHS.... It came to a shock to all of us that she wanted to speak with us like we were privileged.”***

- 16-year-old female participant in Marram-Ngala Ganbu (Koori)

### 2. Long-term outcome: There are early indicators that Marram-Ngala Ganbu is contributing to young people feeling more connected to their family, culture and community.

There is promising anecdotal evidence from the young people that took part in this evaluation that Marram-Ngala Ganbu is contributing to young people feeling more connected to their family, culture and community. This includes an example of a young person discovering their Aboriginality due to the Koori Family Support Officer providing family history information, and another reporting that they felt more part of their community as a result of engaging with Marram-Ngala Ganbu.

There is also anecdotal evidence that by including young people in Marram-Ngala Ganbu hearings they can experience a sense of closure (which research suggests may lead to improved long-term wellbeing impacts later in their life),<sup>57</sup> and that some young people have more engagement with school due to advocacy and support from the Koori Family Support Officer.

***“I felt good being in court, my first time was my last time - it felt good because the Magistrate was saying goodbye to us and I felt like I had some closure...”***

- 15-year-old male participant in Marram-Ngala Ganbu (Koori)

## Outcomes for families

**3. Short-medium term outcome: Koori families have reported a range of positive experiences about their involvement at Marram Ngala Ganbu. This led to greater engagement with court processes and services, and more satisfaction with decisions.**

Koori families that took part in this evaluation reported that they experienced the short and medium-term outcomes identified in the Marram-Ngala Ganbu theory of change. This includes that families felt welcomed and that their presence mattered, felt respected, culturally safe, supported, less stressed and worried, less intimidated, less threatened and able to speak and be heard.

An important positive experience shared by many Koori families was that in Marram-Ngala Ganbu they did not feel judged and that they were treated as an equal to other participants in the process.

***“The most important part is, with Aboriginal people we’re always being put down. Going into Marram-Ngala Ganbu it makes you feel at ease because you aren’t being judged for what you are. You are being just as a parent only, when you are at the table and being able to talk about things you are treated as an equal as well.*”**

- Grandfather (Koori)

**As a result of their inclusion and the support they receive, Koori families are more likely to regularly attend court, and meaningfully participate in the court process.**

In fact, there have been anecdotal reports of Koori families moving to the Marram-Ngala Ganbu catchment area to be able to participate in the model. Several families also reported that their participation was strongly related to the perception that Marram-Ngala Ganbu is ‘fairer’.

***“Any worries and concerns with the stress leading up to Court I could get in contact with the support workers and it makes a whole lot of difference. I was excited going to M-NG because of the fairness of the court.”***

- Mother in Marram-Ngala Ganbu (Koori)

***“You walk through that door and your spirits just lift up basically and your smile comes through your teeth and everyone greets you. It’s amazing and I prefer going there than the city because you get stuffed around.”***

- Mother in Marram-Ngala Ganbu (Koori)

Other key contributors to the positive experience include being able to bring family members and other support people, the ongoing relationship with the Koori Services Coordinator and Koori Family Support Officer, the recognition of Aboriginal culture, being able to speak directly to the Magistrate at a round table, being supported and cared for when they felt overwhelmed during court, and having their perspective actively sought by the Magistrate. Families and stakeholders emphasised the calming effect of the possum skin cloak, which is often touched to ease anxiety in the courtroom, and that support extended beyond the court room, including check-ins and advocacy from the Koori Services Coordinator and Koori Family Support Officer before and after the hearing day.

***“I was treated as family and have a good relationship with [the Koori Services Coordinator]. I felt more comfortable talking to a guy from my own culture than another man.”***

- Father in Marram-Ngala Ganbu (Koori)

***“I like the fact that they have the possum on the table and the baby’s cradle, it’s good for Aboriginals, it’s just great... Recognising our culture and what’s happened, and the skin and everything and the paintings... Acknowledging the stolen generation is really warming, it tells us she understands what’s happened”***

- Mother in Marram-Ngala Ganbu (Koori)

***I feel confident every single time I walk in there. I can say what I feel in Koori Court (Marram-Ngala Ganbu). You have an opportunity to sit around and get a chance to get to the bottom of what is the problem”***

- Father in Marram-Ngala Ganbu (Koori)

Families also reported they had a strong understanding the court processes and decisions, due to the explanations and support provided by the Magistrate, Koori Services Coordinator and Koori Family Support Officer, a finding that was also supported by stakeholder interviews. In one case, this increased understanding led to a Koori father feeling comfortable representing himself in court. Stakeholders suggest that the combination of having a voice at the table and a clearer understanding results in families being more likely to accept the decision and are less likely to contest final orders.

***“They explain the whole process, why they have come to that decision...that’s a big thing, seeing that she can be like that and just be able to let us understand what’s going on.”***

- Mother in Marram-Ngala Ganbu (Koori)

***“The magistrates in M-NG will always explain why the court was established and that aim of M-NG is to get better outcomes for Aboriginal kids. Clients do have a much better understanding of the Child Protection process or the Children’s Court process... There’s a real focus on making sure clients understand what’s going on, including explaining the orders in simple terms.”***

- Lawyer

Families also reported feeling that by more actively participating in the process in Marram-Ngala Ganbu they were able to influence their case. There was also early indicators that families are more likely to engage with appropriate support services due to direct referral and advocacy from the Koori Services Coordinator and/or the recommendation from the Magistrate, including for Aboriginal community controlled legal services and non-legal services such as financial, housing and material aid support.

***“I was going to the [mainstream] Children’s Court and I felt like I wasn’t getting heard. When I was speaking, what you say doesn’t matter [...] At Broadmeadows [Marram-Ngala Ganbu] Court it does, we are all people. I don’t think my case would have turned out the way it is right now if I didn’t go to Broadmeadows, and probably not the way I wanted it.”***

- Father in Marram-Ngala Ganbu (Koori)

#### **4. Medium term outcome: Koori families are more likely to follow court orders in Marram-Ngala Ganbu, in part due to the encouragement from the Magistrate and the support of the Koori Services Coordinator, Koori Family Support Officer and the (Child Protection) Practice Leader M-NG.**

Evidence from families and stakeholders suggests the personal encouragement and sense of hope of reunification provided by the Magistrate increases a family’s likelihood of continuing to comply with court orders. In addition, there is anecdotal evidence that the Koori Services Coordinator and Koori Family Support Officers Koori Support Workers can be more successful than child protection practitioners at supporting families to engage with social services (particularly for families that are disengaged from DHHS), leading to greater engagement with court orders.

***“I kept following the court orders from March to September. I’ve had my kids back for almost a year and I feel everything is going good.”***

- Mother participant in Marram-Ngala Ganbu (Aboriginal)

***“I’ve seen matters where you know at the first court date the client doesn’t look great, doesn’t present well, and then the next court day, the magistrate has been able to comment. “You look fantastic. Well done. In doing that, you’re doing a great job.” And you can see it means a lot to the client and it probably gives them a bit of a boost. Even if they haven’t got their children back [by] that court date they can hear from the judge. The comments give them a little bit of motivation and determination to keep doing the right things.”***

- Lawyer

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**5. Long-term outcome: There are early indicators that Koori families have increased cultural connections, more Koori children are being placed in Aboriginal kinship care and that families are more likely to stay together, as a result of Marram-Ngala Ganbu.**

Program data and interviews with families and stakeholders provide early indicators that Marram-Ngala Ganbu is contributing to the long-term outcomes for Koori children, young people and families. Early indicators are that the program is resulting in more families staying together include several Care by Secretary Orders that have been converted to Family Preservation Orders (unprecedented in other courts according to stakeholders). This is attributed to factors including family participation, the Aboriginal Child Placement Principle and increased pressure on DHHS to review cases and justify decisions. A Koori mother interviewed for this evaluation also attributed the return of her children to Marram-Ngala Ganbu. Lawyers report that greater compliance with the ACCP is leading to fewer children being placed in non-Aboriginal care, and that parents are given more time, increased support and multiple chances to make the changes required for family reunification to occur.

***“On a number of occasions I’ve seen outcomes that are surprisingly positive, for example cases where children are on Care by Secretary Orders and been out of parental care for years, but because Marram-Ngala Ganbu has encouraged families to participate and created a culturally appropriate space and has obliged DHHS to take a fresh look at the case and held them accountable for their decisions, the children go home.”***

- Lawyer

## Marram-Ngala Ganbu: What can we learn from available court data?

The evaluation has highlighted limitations in the court's current data collection capability that make it difficult to identify progress towards achieving some of the intended outcomes for Marram-Ngala Ganbu. However, a few observations can be drawn from available data depicted in Table 8 opposite.

- A greater proportion of matters are struck out or dismissed in Marram-Ngala Ganbu: Data reveals that 13 percent of matters are struck out or dismissed at Marram-Ngala Ganbu, compared to just 5 per cent of comparable matters (for Aboriginal or Torres Strait Islander applicants) at the Melbourne Children's Court. Cases can be struck out or dismissed for reasons including that the claims 'lack substance', was made on 'unreasonable grounds', or that the parties have reached an agreement to resolve the matter themselves. The Magistrates involved in Marram-Ngala Ganbu regard this as a favourable outcome for Aboriginal families who are before the court.
- A greater proportion of Family Preservation Orders are made in Marram-Ngala Ganbu: A Family Preservation Order preserves the child in the care of their parents. There are a greater number and proportion of Family Preservation Orders and extension of Family Preservation Orders in Marram-Ngala Ganbu (20 per cent), compared to the Melbourne Children's Court (18 per cent). The importance of this finding is explained by one of the court's Magistrates.

***"This means more families are staying together... There's more [Family Preservation] Orders being made [at Marram-Ngala Ganbu], as more Aboriginal parents are turning up. That's significant... Those that aren't turning up are having Orders made without the court understanding their context."***

- Marram-Ngala Ganbu Magistrate

An analysis of court data did not reveal any significant difference in the length of court proceedings (from initiation date to finalisation) undertaken at Marram-Ngala Ganbu compared to matters at Melbourne Children's Court.

			Care by Secretary Order <sup>1,2</sup>	Dismissed or Struck Out	Interim Accommodation Order <sup>2</sup>	Family Preservation Order <sup>2</sup>	Family Preservation Converted	Family Reunification Order <sup>2</sup>	Long-term Care Order <sup>2</sup>	Free Text Order	Permanent Care Order	Other <sup>3</sup>	TOTAL
<b>Broadmeadows Children's Court</b>	<b>Aboriginal or Torres Strait Islander</b> (Marram-Ngala Ganbu participants)	Count	91	148	328	2	230	126	16	141	17	39	1138
		% of Total	8%	13%	29%	0%	20%	11%	1%	12%	1%	3%	100%
	<b>Non-Indigenous</b>	Count	201	332	822	27	830	387	9	436	59	145	3248
		% of Total	6%	10%	25%	1%	26%	12%	0%	13%	2%	4%	100%
	<b>Unknown</b>	Count	162	232	135	9	208	78	14	255	88	67	1248
		% of Total	13%	19%	11%	1%	17%	6%	1%	20%	7%	5%	100%
<b>Melbourne Children's Court</b>	<b>Aboriginal or Torres Strait Islander</b>	Count	48	37	268	7	149	125	8	150	0	26	818
		% of Total	6%	5%	33%	1%	18%	15%	1%	18%	0%	3%	100%
	<b>Non-Indigenous</b>	Count	137	166	1118	20	1008	557	12	695	37	141	3891
		% of Total	4%	4%	29%	1%	26%	14%	0%	18%	1%	4%	100%
	<b>Unknown</b>	Count	1075	1140	1314	97	2048	1324	235	1891	370	333	9827
		% of Total	11%	12%	13%	1%	21%	13%	2%	19%	4%	3%	100%

Table 8: Court data for Broadmeadow's Children's Court and Melbourne Children's Court, detailing case finalisation descriptions for Primary & Secondary applications, 1 June 2016 - 25 July 2019

(1): Refers to instances in Victoria or Interstate (2): Refers also to extension of orders (3): 'Other' includes categorisations that were deemed immaterial, at less than 2% of total, including Care by Secretary order conversions, Therapeutic Treatment orders, Temporary Assessment Order, Undertakings (Common Law), and Undertakings regarding s272 or s278. Definitions of all terms are provided in the Glossary.

## Short family stories

Select stories of families' experiences through Marram-Ngala Ganbu are shared below, which demonstrate the impact of the Marram-Ngala Ganbu model. Stories were compiled from interviews conducted through this evaluation. Note the names have been changed to avoid the identification of the families.

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### Family Story 1

#### The role of children participating in court.

Sarah is a 15-year-old girl who lives in residential care and became involved in Marram-Ngala Ganbu when DHHS made an application to extend the Care by Secretary order that related to her care. While it is generally unusual for children in residential care to participate in court, Sarah really wanted to come to court and speak for herself, with support from her lawyer if she needed.

During the hearing, Sarah was invited by the Magistrate to speak, which resulted in an extended discussion over 45 minutes between Sarah and her mother about their relationship, and her feelings of abandonment, which Sarah's lawyer believes to have been very empowering for her client. Sarah continues to attend court and be involved in court hearings relating to her care.

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### Family Story 2

#### The role of personal support and warm referrals.

Paula is a Koori mum who had experienced severe family violence, is currently homeless and had not had her children in her care for two years. Paula appeared in Marram-Ngala Ganbu and the Magistrate suggested that a Family Preservation Order may be appropriate.

Due to her insecure housing circumstance and trauma Paula stated she did not feel mentally prepared to take back care her children at that stage, despite wanting to. To help Paula feel more confident in her decision, during that day Koori Services Coordinator provided intensive support and an immediate referral to Elizabeth Morgan House for emergency housing.

Following a full day of support, Paula was picked up to go to Elizabeth Morgan House with her children and continues to do well.

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### Family Story 3

#### The role of Marram-Ngala Ganbu facilitating reunification.

Sally is a non-Aboriginal mother of three children who identify as Aboriginal ranging in ages from 15-18 years old. The family was involved in the mainstream Children's Court prior to moving to Marram-Ngala Ganbu, and all three the children were on Care By Secretary orders.

Marram-Ngala Ganbu provided a space for Sally and her children to speak directly to the Magistrates and access the support they needed for reunification to be an option inside and outside court, such as explaining court reports, support during DHHS home inspections, help to re-engage the children in more appropriate schools that better met their learning needs.

After over two years of being separated from her children, through Marram-Ngala Ganbu, Sally was able to regain custody of her children. At the time of the evaluation, Sally and her children were still living together.

*"When the Magistrate decided to speak with my children on their own it made me cry because no other judge would do that."*



## Outcomes for carers

**6. Short-medium term outcome: Aboriginal and non-Aboriginal carers (including foster parents) have reported positive experiences about their involvement at Marram-Ngala Ganbu.**

Koori and non-Aboriginal carers that participated in this evaluation reported having a positive experience in Marram-Ngala Ganbu. Specifically, they felt welcome, their perspective was valued, and their commitment to the child or young person was recognised. One carer highlighted their appreciation for the effort made by the Koori Support Worker to share information with them and alert them to scheduled proceedings to ensure that they were involved.

***“The room, the environment, the way the judge spoke, if someone else said something, then she looked at you and you looked like you wanted to say something else, she would ask, or she would just ask anyway to see if you had anything to say.”***

- Kinship carer- Grandparent (Koori)

***“For a non-Indigenous person, I felt comfortable there at Marram-Ngala Ganbu I like the fact the judge was very supportive of [name removed] and myself and the respect in the room was very comfortable and there was a warmth and respect”***

- Foster carer (non-Aboriginal)

## Outcomes for Koori Elders

**7. Short-medium term outcome: Anecdotal evidence from third parties (not Elders) that older family members feel respected, heard, can influence court decisions, and are able to carry out their responsibilities to provide family leadership in Marram-Ngala Ganbu.**

This evaluation did not interview any person who would be considered an Elder within the Koori community. However, anecdotal evidence from stakeholder interviews suggests that respected community members and Elders regularly engage with Marram-Ngala Ganbu in the context of their role as extended family members, and that their experience is positive, culturally appropriate and contributes to better outcomes for families. One example that demonstrates this is of the court allowing two older respected family members to speak directly and at length (e.g. reprimand) parents at the court table for their behaviour, an approach considered by a stakeholder to be more effective than reprimand from a Magistrate.

***“I’ve had a couple of grandmothers who’ve said they’ve never felt so safe in court, culturally appropriate and listened to. Because they usually come to court when someone is going to jail or having their children taken away”***

- Magistrate

There are also anecdotal reports about the value that elders see in Marram-Ngala Ganbu.

***“I can remember one Grandmother in court thanking us for setting up Marram-Ngala Ganbu. She told us during the hearing about what it was like going to court for her own children, she was very emotional and said she wished it was like this back then because things may have ended up different. This isn’t the first time we have had elders or respected people who have come to support their families at Marram-Ngala Ganbu make these sorts of comments”***

- Koori staff

## Outcomes for the child protection system, magistrates and lawyers

### **8. Short to medium term outcome: DHHS is more accountable to magistrates and the court process in Marram-Ngala Ganbu.**

Stakeholders, including DHHS representatives, and families reported that Marram-Ngala Ganbu improves the accountability of DHHS to magistrates and the court process, with evidence that this is significantly strengthened by the employment of the Practice Leader by DHHS, who ensures DHHS is prepared for court hearings and fulfils court orders.

The most common example raised was that in Marram-Ngala Ganbu, DHHS provide more complete information to the court, to some extent because the Practice Leader and child protection practitioners are directly accountable to the Magistrate. Examples provided included information about the family's engagement with DHHS and support services, family circumstances, actions taken by DHHS, and engagement with Lakidjeka. Stakeholders also reported that DHHS is more likely to take action to fulfil court orders, particularly influenced by the personal accountability that comes with speaking directly to the Magistrate.

***"It allows us to share more information, as when you consult with a lawyer, they don't get across all the messages. You get the chance to share what has been going really well and what still needs to be worked on. Nothing more frustrating than a lawyer giving the Magistrate the wrong information."***

- DHHS

***"You can speak to the protective worker directly. I had a difficult case this morning, I listed three things to do and I believe she will do that. In mainstream court I would speak to the barrister, and often they say yes but then it doesn't get done."***

- Magistrate

Comments from stakeholders also suggests that DHHS' involvement in Marram-Ngala Ganbu has resulted in more scrutiny being applied before applications are submitted to the court, as they have a greater understanding of the Magistrate's expectations. Stakeholders also commented that the cultural plans submitted in Marram-Ngala Ganbu where much richer and detailed than in the mainstream setting.

***"They [DHHS] really understand what the court will accept and what will not ...They are trying to work a bit more collaboratively with families because they know that this court is going to hold them to account fully."***

- Lawyer

### **9. Short to medium term outcome: There is greater compliance with the Aboriginal Child Placement Principle.**

There is also evidence of greater compliance with the Aboriginal Child Placement Principle, including more consistent identification of Aboriginality, better Cultural Support Plans and more effort to identify appropriate Aboriginal carers.

***"Now in court reports you see reference to a person's Aboriginality, where they are from, who their mob is, what their totem is, and I always congratulate the worker because it's an important part of these people's lives."***

- Magistrate

Stakeholders note that increased compliance with the ACCP has resulted in an increased workload for DHHS workers who are already experiencing 'unreasonable workloads', and that Marram-Ngala Ganbu has contributed to shining further a light on the current challenges in the system.<sup>56</sup>

***"It's highlighted the big gaps in the service system... how under resourced it is. Decisions are being made in the court room that require action by the department [DHHS], but no one is there to allocate or deliver that support."***

- Koori staff member

**10. Short to medium term outcome: Magistrates experience a range of positive outcomes as a result of Marram-Ngala Ganbu, such as improved cultural competency, better-informed decision making and satisfaction that they are better meeting the needs of Koori families and children.**

Magistrates reported that their cultural understanding has increased significantly as a result of the ongoing cultural competency work undertaken by the Koori employees of Marram-Ngala Ganbu, which was described as a 'non-judgmental teaching manner' that encouraged questions and included sharing personal stories in informal and formal settings.

Magistrates also highlighted that Marram-Ngala Ganbu had led to them be more vigilant in applying the Aboriginal Child Placement Principles, such as having an increased awareness of the need to immediately establish a child's Aboriginality, ensuring that Lakidjeka are engaged and seeking options to avoid children being placed in non-Aboriginal care.

***"It's certainly heightened my awareness, it's omnipresent. My awareness of culture, of the Aboriginal Child Placement Principle, has absolutely been heightened as a result of Marram-Ngala Ganbu. You need to be across all those issues, when you are sitting that close to families, and you feel the intensity of the legacy of the stolen generation"***

- Magistrate

There is also evidence that Marram-Ngala Ganbu has led to better informed decisions by Magistrates, due to a deeper understanding of the families' context that results from direct discussions with children and families, the support workers and DHHS. This greater understanding includes first-person accounts of families' history and current circumstances and aspirations, DHHS' perspective and the perspective of therapeutic professionals about family's capacity and service engagement (e.g. family support services). Anecdotal evidence suggests that the additional information and personal relationship can contribute to Magistrates being 'more willing to accommodate parents and/or give them the opportunity to change.

***"In the past people don't come to court because they are too scared so we don't know what's going on their life, and we only have information from department that they haven't been engaging in services, but they have been going to Aboriginal services that the department don't know about... To get them to come to court so we have the information and their views is vital."***

- Magistrate

**11. Short to medium term outcome: Short to medium term: Lawyers reported professional development and increased cultural competency as a result of participating in Marram-Ngala Ganbu.**

Lawyers that represent clients in Marram-Ngala Ganbu reported that the program has generated professional development in relation to working in a therapeutic setting, and increased cultural competency due to their improved exposure to Aboriginal families and the ongoing work of the Koori Support Coordinator.

***"I'm a convert to it, I was suspicious about it at first, I thought it was political correctness and not rooted in reality and I was so wrong...I'm a complete bossy boots normally and I take control all the time. I have to step back and I have to learn that there's a different way to do this."***

- Lawyer

## Unexpected outcomes

### 12. Magistrates in Marram-Ngala Ganbu explicitly incorporate considerations of cultural connection into assessing and balancing the risks to children in making their decisions.

Magistrates reported that in making decisions in Marram-Ngala Ganbu they explicitly balance the potential damage to a Koori child from being removed from their culture and family with the risk of sending a child home in parental care. It is important to note, in making these decisions, that magistrates are applying the same legislation in Marram-Ngala Ganbu as they do in the mainstream Children's Court. Where children are sent home, magistrates also note that risk is mitigated or better understood as they often have more information than when they make a decision in mainstream courts due to the nature of Marram-Ngala Ganbu. Further, they have the ability to bring matters back to court more frequently to monitor parental progress. .

***"We take equally into account both the risk of being removed from their family as well as being removed from their culture. We balance both those risks, as they are equally significant."***

- Magistrate

Several stakeholders provided anecdotal reports of their perspective that children may have been exposed to risk of harm as a result of decisions in Marram-Ngala Ganbu for children to be in parental care.

***"I know that of the practitioners here, some would say that children are returned to a more unsafe environment than in the mainstream court"***

- DHHS

***"From time to time there will be a case where some legal representatives will ask if the same standard of safety is applied in our regular protection applications as against Marram-Ngala Ganbu... The court has tried to be very reunification focused sometimes without having resources behind it..."***

***"They are balancing considerations that aren't actually present in other cases, they have to weigh the potential harm, the potential cultural harm from removing a child from their cultural connection."***

- Lawyer

Another stakeholder suggested, however, that this perception of greater risk is an example of the cultural bias held by those within the child protection system.

***"The perception that the Court somehow adopts a lower risk profile for Aboriginal families in Marram-Ngala Ganbu, is, I think, further evidence of the presence and impact of deeply ingrained cultural bias in the system. The Court intentionally takes a different approach to the assessment of risk in Marram-Ngala Ganbu, as time is taken to properly inform itself about critically important issues surrounding connection to culture and family, and there is an understanding of the importance of these factors to the health, wellbeing, and long-term outcomes for Aboriginal children."***

- Manager, Children's Court of Victoria

### 13. Marram-Ngala Ganbu has led to an increase in therapeutic approaches being adopted in mainstream Children's Court hearings.

Stakeholders reported that since the launch of Marram-Ngala Ganbu, the two Magistrates who work in Marram-Ngala Ganbu have increasingly adopted therapeutic approaches in their mainstream court hearings. Examples identified include the less adversarial approach to hearings, speaking directly to family members in court hearings, and docketing of Magistrates.

***"I think we have that therapeutic approach growing in the mainstream processes. I think that's just the way our Magistrates work, it just kind of merges into how they do their role generally."***

- DHHS

#### 14. Marram-Ngala Ganbu has contributed to improved recording of Aboriginal and Torres Strait Islander status in other courts.

Anecdotal evidence suggests that Marram-Ngala Ganbu has led to an increase in cultural competence in other courts, particularly in relation to recording the Aboriginal status of children and families. Stakeholders reported that approximately eight court trainees have moved from Broadmeadows to other courts since Marram-Ngala Ganbu launched (as they move every six months in their role), and that the informal training provided has led to increased understanding in other courts about the importance of recording Aboriginal and Torres Strait Islander status.

***“We have trainees actually message us that they’ve been pulling up senior staff at new locations about teaching senior registers and other employees about why it’s important to tick the box.”***

- Court staff

## Outcomes that could lead to avoided costs for Government

A number of outcomes being achieved by Marram-Ngala Ganbu are likely to lead to downstream savings to government - specifically, if children are diverted out of the child protection system or spend less time in the system as a result of Marram-Ngala Ganbu.

The average cost per child of providing out-of-home-care services in Victoria in 2017-18 was \$59,292.<sup>57</sup> As there are lead indicators that families are more likely to stay together as a result of Marram-Ngala Ganbu, in time, government may expect to avoid these future out-of-home-care costs. Further, it is widely established that children who have spent time in the out-of-home care system are more likely to have contact with the criminal justice system, have alcohol and/or drug dependency, use homelessness and housing supports, or be hospitalised. Aboriginal and Torres Strait Islander children are particularly over-represented in these statistics. For instance, a report from the Victorian Government identified that 19 per cent of sentenced and diverted children who experienced out-of-home-care were Aboriginal and Torres Strait Islander Children (making them 11.5 times more likely than the general population).<sup>58</sup> Recent research identified the downstream costs incurred by these systems supporting children and young people who exited out-of-home-care at 18 years (referred to in the data below as ‘care leavers’). Table 9 below sets out the cost per person, per year, to each of these service systems.

Service cost	Estimates of likely avoided costs, per 18-year-old care leaver (2015 dollars)
Contact with the criminal justice system	<ul style="list-style-type: none"> <li>40% care leavers are expected to interact with the justice system</li> <li>For care leavers, the weighted average annual unit cost (based on likelihood of committing crime in any given year and probable severity of crime): <b>\$3,570</b></li> </ul>
Alcohol and/or drug dependency	<ul style="list-style-type: none"> <li>15.8% of 18-year-old care leavers have an alcohol and/or drug dependency</li> <li>Weighted annual unit cost of alcohol and/or drug dependency: <b>\$7,867</b></li> </ul>
Homelessness and housing support	<ul style="list-style-type: none"> <li>39% of 18-year-old care leavers are reliant on housing support</li> <li>Weighted annual unit cost for housing support by state government: <b>\$14,345</b></li> </ul>
Hospitalisation	<ul style="list-style-type: none"> <li>29.2% of care leavers 19 and below had experienced at least one admission in the previous year</li> <li>Annual cost of hospitalisation estimated at <b>\$7,842</b></li> </ul>

Table 9: Estimated downstream costs to the service system of children who left the out-of-home-care system at 18 years.<sup>59</sup>

Further, there is evidence from other jurisdictions of therapeutic justice approaches leading to fiscal savings. In Canada, a Native Counselling Services of Alberta report estimates that for every dollar the Provisional Government spent on one particular therapeutic justice program, it would have had to spend CAN\$3.75 for pre-incarceration costs, prison and probation costs.<sup>60</sup> In New Zealand, analyses of two restorative justice programs suggest these saved the government between approximately NZ\$28,000 - \$170,000 per 100 program participants.<sup>61</sup> While these approaches are in the criminal rather than family court setting, the therapeutic approach is comparable, and reduced contact with the criminal justice system applicable.



Magistrate Kay Macpherson, Regional Coordinating Magistrate at Broadmeadows, and one of two magistrates at Marram-Ngala Ganbu.

# Opportunities to improve Marram–Ngala Ganbu and prepare

## Opportunities to improve Marram-Ngala Ganbu

### 1. Improve data collection to better understand client experience and outcomes.

This evaluation has identified that there are opportunities to improve the type and quality of the data being collected by the Children's Court of Victoria to improve understanding of client engagement with Marram-Ngala Ganbu, and the outcomes being delivered by the model. For example, current data collection systems do not capture if children and parents are present in hearings, if an out-of-home care order is with Aboriginal or non-Aboriginal carers, if a cultural support plan has been prepared or how families engage with courts over time (e.g. successive cases over years to inform longitudinal studies). Furthermore, there is no current data collection which would assist to understand the medium and long-term outcomes for families participating in Marram-Ngala Ganbu.

Table 16 in the Appendix of this report outlines suggested changes to the Children's Court data collection system, aligned with the theory of change for Marram-Ngala Ganbu. The evaluators are aware the court is in the process of designing a new case management system, and it is hoped that these suggestions will inform the design of that system.

### 2. Provide training for professionals working in Marram-Ngala Ganbu that is specific to the context of Aboriginal child protection and delivered by an Aboriginal Facilitator or Aboriginal-owned provider.

Stakeholder interviews identified a need and desire for more regular training for lawyers and others involved in Marram-Ngala Ganbu that is specific to the model, rather than general cultural competency training. Topics that could be addressed (and in some cases have already been the subject of a once-off training session) could include the Aboriginal Child Placement Principle and how to apply it (including referring to case studies), understanding the perspective of those involved in the model, and the intergenerational impacts of the Stolen Generation and the connection with current Aboriginal child protection.

***"It would be good if the court could organise specific training, we haven't had Marram-Ngala Ganbu training for all the people involved but in terms of professional development should be a really good thing."***

-Lawyer

### 3. Consideration should be given to how Marram-Ngala Ganbu can influence more consistent provision of the option for legal representation for Koori children and parents from an Aboriginal community controlled legal service.

Interviews identified that for Koori families and children participating in Marram-Ngala Ganbu there has been inconsistent provision of the option for legal representation from an Aboriginal community controlled legal service. As a result, families may not be represented by a lawyer that understands their cultural context and may not be referred to a range of Aboriginal community controlled organisations that can help them address protective concerns such as financial support, housing and family violence case management. The Children's Court of Victoria is exploring opportunities with Victoria Legal Aid to improve the consistency of families being offered Aboriginal community controlled legal services in the future.

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#### **4. Implement process and protocol improvements.**

Family and stakeholder interviews have identified five potential improvements to process and protocols for Marram-Ngala Ganbu in Broadmeadows and in other locations.

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##### **4.a) Develop guidelines for professionals working in Marram-Ngala Ganbu.**

Stakeholders that work in Marram-Ngala Ganbu, including lawyers, child protection practitioners and social services workers, have identified a lack of clarity about the expectations for how they should conduct themselves when participating in Marram-Ngala Ganbu hearings. The Children's Court of Victoria could consider developing guidelines for conduct of professionals who participate in Marram-Ngala Ganbu, either representing clients or appearing in Marram-Ngala Ganbu in their professional role, particularly given the unique nature of the adapted court setting. Suggestions for inclusion identified by stakeholders include general court etiquette about when to speak, and clarification about the role of lawyers in Marram-Ngala Ganbu.

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##### **4.b) Review the provision of private space for services to do immediate intake on hearing day.**

Stakeholder interviews identified that social services have limited ability to conduct immediate intake and advocacy for Koori families (e.g. in relation to housing and/or income support), due to changes in the availability of private spaces making it not possible to conduct private conversations and telephone calls at Broadmeadows Court (see implementation section).

Anecdotal examples suggest this can impact the outcome of the court hearing and/or limit progress in the case, as engagement with services and housing stability is factored into decision making. Current and future iterations of Marram-Ngala Ganbu could consider making readily available private space for social services, with consideration for the local context and capacity and willingness of relevant services.

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##### **4.c) Review the communication and promotion of AFLDM.**

Stakeholders reported that AFLDM meetings are encouraged by Magistrates in Marram-Ngala Ganbu and as a result are more likely to occur in Marram-Ngala Ganbu cases than in the mainstream Children's Court. However, stakeholder interviews also suggested that it is frequently the case that Koori families are not clear on the purpose or role of AFLDM and can be disappointed when they learn that it is not a legally binding process. Furthermore, there is also the view that decisions reached can 'unravel' in court when lawyers become involved.

Magistrates and the Children's Court should consider reviewing how AFLDM meetings are communicated and promoted to families in Marram-Ngala Ganbu, to ensure the purpose is clear and that families understand the approach and are prepared to participate on this basis.

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##### **4.d) Consider increasing the frequency of Marram-Ngala Ganbu to reduce waiting times.**

Families identified that an improvement for Marram-Ngala Ganbu could be to conduct hearing days more frequently to reduce waiting times for families. With rates of Koori families in the child protection system rising on average 10 per cent per year, increasing the frequency of sitting days may become more urgent as time progresses.

Current demands on Magistrate's time suggest that any increase in listing days would require changes to court scheduling as they would have less time for other matters, for example there would be less availability to conduct contested hearings at Broadmeadows.

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### 5. Further investigate opportunities to improve the Marram-Ngala Ganbu program model.

This evaluation has identified two key recommendations for improving the Marram-Ngala Ganbu program model.

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#### 5.a) Consider increasing the case management dimension of Marram-Ngala Ganbu.

Stakeholder interviews have identified that the Koori Family Support Officer and Koori Services Coordinator are limited in their capacity to provide support to Koori families, due to time as well as the current boundaries of their role as a court officer. However, anecdotal evidence from stakeholders suggests that the availability of more intensive case management for families participating in Marram-Ngala Ganbu could improve the likelihood that families succeed in meeting the requirements of court orders and having their children returned. This may be particularly relevant when families are on a waiting list for support services.

Examples of similar programs from other jurisdictions demonstrate that it is possible for a court to provide structured case management alongside child protection proceedings, with evidence of positive outcomes (see Therapeutic Justice Approaches in Child Protection in Chapter 5).

The Children's Court could explore the potential demand for more intensive case management for Koori families at the current site in Broadmeadows. In expanding the program, consideration could be given to any key differences in the availability and coordination of local services as this may affect the need for court-supplied case management.

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#### 5.b) Explore opportunities to provide a role for Elders that does not require their involvement in individual family cases.

Marram-Ngala Ganbu encourages families to invite Elders and Respected people to participate as extended family members and support people, as initial consultations were unable to determine an appropriate way for Elders to provide cultural advice on individual cases, due to the sensitivity of individual child protection cases (see implementation section).

However, the Children's Court could continue to explore opportunities to more explicitly include Elders that do not require their involvement in making decisions over individual cases, such as:

- Magistrates using Elders to test thinking and decisions
- Families being offered referral to an Elder when they do not have a personal family connection to an Elder and would like this type of cultural support
- Elders providing clinical debriefings to Magistrates and others
- Supporting families to access cultural healing and cultural activities
- Supported reconnection with family members

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#### 5.c) Consider how best to safely include the voice of children and young people in Marram-Ngala Ganbu.

This evaluation has identified that the inclusion of children and young people in court hearings is unique and critical to the effective delivery and impact of Marram-Ngala Ganbu model, yet stakeholders have identified that the inclusion of children needs to be carefully managed to ensure their safety.

***“Talk more to children before they go to court and prepare them.”***

- 14-year-old female participant in Marram-Ngala Ganbu (Koori)

Stakeholders, particularly lawyers, discussed ways that they currently ensure that children are protected when they are participating in the court setting. Practices include

the provision of support to children in and outside of court by Koori Services Coordinators, pre-hearing briefings to children and families, removing children from hearings during sensitive discussions such as about parental sexual abuse, and adjusting arguments when children are present. While well-intentioned, valuable and largely functional, it was noted that these practices are often ad hoc and not based on consultations with children and young people or informed by evidence of appropriate child inclusive practices. Further, one young participant in the evaluation identified the opportunity to better prepare children before their court appearance. This is a key opportunity for model improvement.

***“The kid’s in there for part of it. And then, you know, if we need to delve into the heavy stuff, they just tell them to sit outside so the adults can talk about adult stuff.”***

- Lawyer

The development of practice principles that focus on ensuring children’s voices are safely included in Marram-Ngala Ganbu should be considered. These practice principles should build on the current approach and potentially include:<sup>62</sup>

- Regular training for Magistrates, lawyers and court staff on the effect of childhood trauma and how to support appropriate child friendly and child-led practices in a judicial setting.
- Regular reflective practice sessions for court staff with child trauma specialists.
- A formal Koori-led child, young people and family feedback process.
- Increased engagement to build trust with children and young people before, during and after court processes.

Other suggestions that the Children’s Court could consider include:<sup>63</sup>

- Provide continual choices to children and young people throughout the process about their participation and regularly check-in with about how they feel, their understanding and what they want.
- Consider recruiting mentors that are older Koori children who have been through the court system. Mentors could provide one-on-one support to children and young people and act as consultants to the Magistrates on these issues.
- Provide a way for children to watch the court hearing from a private space, so they can sit with a nominated support person should they not want to stay in the room but would still like to observe proceedings.
- Use accessible language, potentially cartoons or videos that show children what the court building rooms look like before even coming to the building.
- Create a video answering frequently asked questions.
- Set up a child and young person’s advisory group to the court.
- Incorporate Animal Assisted Therapy practices into the court, such as having a dog onsite (a Court mascot) and/or a toy that resembles the mascot to give to children post-court. Animal Assisted Therapy is demonstrated to reduce anxiety in children as well as increase their communication skills.<sup>64</sup>
- Conduct a review of Marram-Ngala Ganbu that interrogates opportunities to make the program less adult-centric and elevate children’s role in decision-making.

## Additional factors to consider when expanding Marram-Ngala Ganbu

### 1. Future expansion of Marram-Ngala Ganbu to new locations should be informed by multiple factors outlined, including:

- **Self-determination:** Expansion of Marram-Ngala Ganbu into new locations must be grounded in the preferences of the local Koori community in each location. Pursuant to the Aboriginal Justice Agreement 4, Court Services Victoria will need to seek the guidance, preferences and endorsement of the Aboriginal Justice Caucus and the local community in selecting site/s for expansion.
- **Service system readiness:** The context of the local service sector could also help prioritise sites for expansion, including the types of services available, the utilisation of services (e.g. how stretched they are), and the extent to which they are well coordinated. This includes the presence of ACCO's in the proposed region, the mix of services that are offered, and whether they have a local ACSASS and/or section 18 program. These factors will affect the extent to which families Marram-Ngala Ganbu can achieve their goals, as well as influence the type of service coordination that could be provided by the Koori Family Support Officer.
- **Availability of key personnel:** The success of Marram-Ngala Ganbu depends on the availability of Magistrates who are genuinely willing to work differently, as well as the successful recruitment of committed Koori Services Coordinators with strong ties to the local Koori community, and a practice leader role at the relevant local DHHS office.
- **Current and projected number of families in child protection system:** Identification of a location for program expansion could also consider the number of Koori families likely to benefit. Analysis of child protection data and population forecasts provides insights into the number of Aboriginal children currently in out-of-home-care in Victoria and highlights areas of likely significant growth over the next decade. This analysis identifies the Loddon region as currently having the highest number of Aboriginal children in out-of-home-care in March 2019 as well as significant projected growth to 2024, followed closely by the Barwon and Goulburn regions (see Table 10).

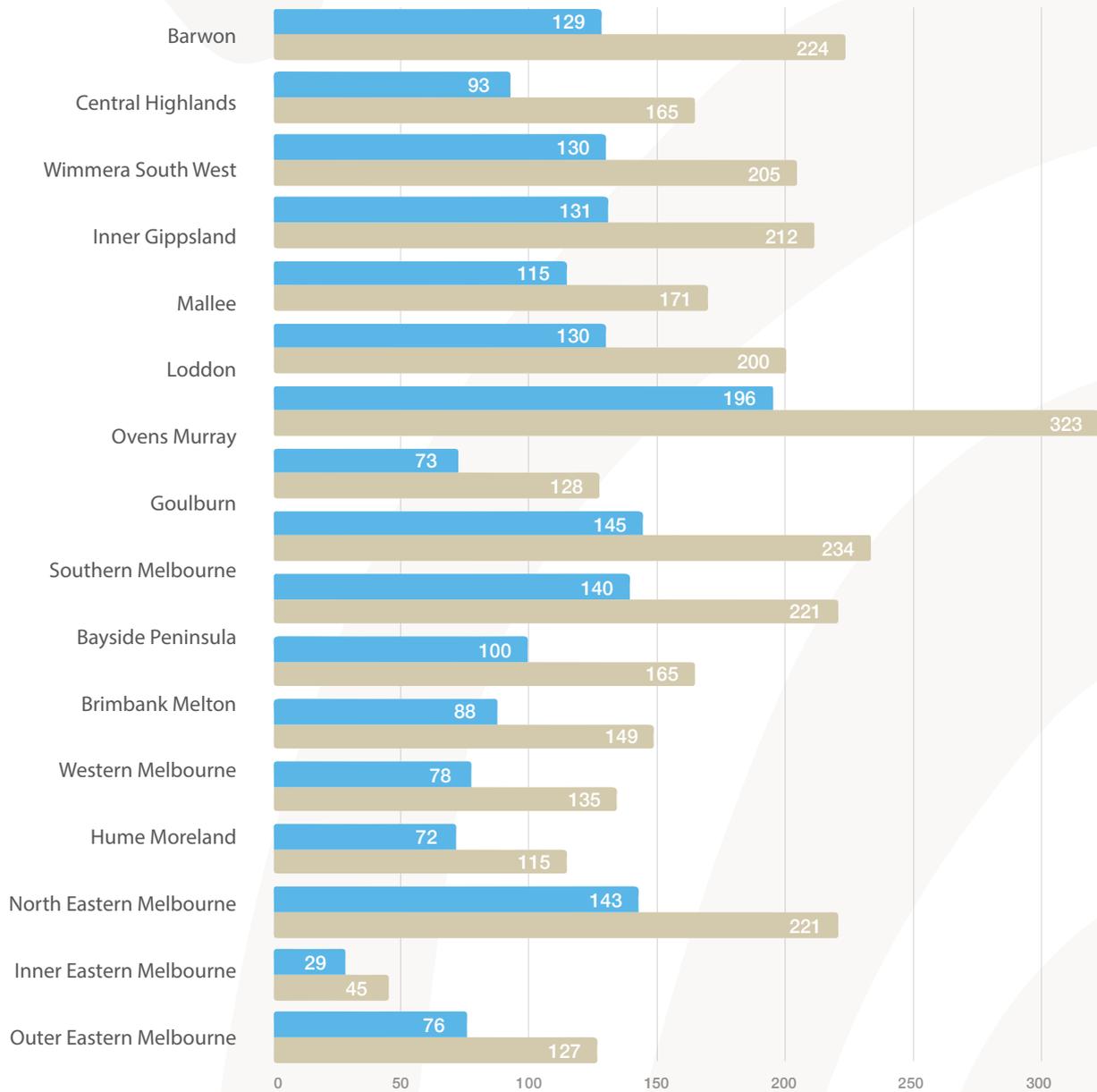


Table 10: Current and projected number of children in out of home care by DHHS area, 2018 - 2024<sup>65</sup>

■ 2019 (actual)  
■ 2024 (projected)

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**2. The key features of Marram-Ngala Ganbu that need to be maintained to ensure ongoing success are the (1) Adapted court setting and (2) Case management approach.**

The two program components that are underpinned by the three core concepts of the Marram-Ngala Ganbu model are critical to achieving the outcomes identified in this evaluation, and we recommend that program expansion maintains them with consideration for how they can be effectively adapted to best suit local context.

Key features to maintain include:

- The adapted court setting (informal court hearings where parents, children and extended family speak directly to the Magistrate at a round table and fewer cases per day to allow more time for each mention)
- Case management by the Koori Family Support Officer, Koori Services Coordinator, Magistrates and DHHS's (Child Protection) Practice Leader M-NG role to provide support to families before, during and after court and ensure court orders are fulfilled so cases progress.

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**3. Understanding and adapting the model to the local context will be critical in expanding Marram-Ngala Ganbu to new locations, and should be developed and delivered in a way that is led by the local Koori community.**

This could include convening a local Reference Group that includes key Aboriginal community controlled organisations and community leaders, employing a local Koori person to lead the development and implementation, and being open to adjusting the model based on community needs. This process could include reviewing Recommendation 4 and Recommendation 5, with consideration for the specific needs of the community and the local context, including the availability of court space that is suitable and appropriate. Key local contextual issues that may influence Marram-Ngala Ganbu include specific drug and alcohol challenges, service sector strengths and limitations and structural issues such as housing shortages.

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**4. The physical design of the court has a material bearing on the experience of families and children, as demonstrated by Broadmeadows Children's Court.**

Families and stakeholders strongly reported the positioning of Marram-Ngala Ganbu within the Broadmeadows Children's Court as a critical element of families feeling welcome and comfortable attending court. Broadmeadows Children's Court was newly renovated in 2015 and incorporated many design features to make the built environment of the court more welcoming for families.

Key elements of the built environment highlighted in interviews include smaller rooms, lower ceilings, more natural light, more spacious waiting areas, child-friendly waiting areas, a "cubby house" for children (with games, relaxation space and staffed by a youth worker) and clean and well-maintained spaces. In addition, several families reported that security staff were also friendly and welcoming.<sup>66</sup>



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**5. Koori staff are critically important to Marram-Ngala Ganbu's model, so all efforts should be put into recruitment and retention, with particular regards to the following.**

This evaluation has identified the critical role that the Koori Family Support Officer and Koori Services Coordinators play in the success of Marram-Ngala Ganbu. It is therefore vital that all efforts are put into the effective recruitment and retention of these staff at Broadmeadows, and when considering expansion to new locations.

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**Regarding recruitment**

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**5.a) Ensure that potential staff have the necessary skills and personality traits.**

These skills and traits are outlined in the 'Marram Ngala Ganbu program model' component of this report. This includes ensuring that potential recruits have a deep understanding of the impact of the child protection system on the Aboriginal community, and cultural knowledge and understanding of local Aboriginal communities and family kinship structures.

***"You can't teach cultural knowledge. You can train someone to understand court processes, department processes and in a few months they will understand. Cultural knowledge in the community you can't teach."***

- Koori Services Coordinator

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**5.b) Ensure competitive remuneration.**

Remuneration is an important factor to not only attract but retain suitable staff. The Koori Support Coordinator and Koori Support roles should be appropriately remunerated in recognition that the roles (1) require highly skilled Aboriginal persons with unique skills and personality traits, (2) that these skills are in high demand in a competitive labour market, and (3) that the role can place considerable emotional strain on employees. It is recommended that salaries at future sites reflect the current pay point at Broadmeadows for the Koori Services Coordinator role (VPS5) and the Koori Family Support Officer (VPS4), and that remuneration be reviewed regularly to ensure it remains competitive.

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**Regarding retention**

**5.c) Provide opportunity for the incoming Koori Services Coordinator and Koori Family Support Officer to be involved in the design and implementation of the service in new sites.** This was noted as critical to the ongoing engagement of the existing Koori Services Coordinator in particular.

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**5.d) Ensure staff have the support they need to navigate the emotional burden associated with their roles.** Working in child protection can carry an emotional burden and induce trauma due to the nature of the work, the relationships built with families and children, and the historical and ongoing impact child protection has on the Aboriginal community. Other factors that increase the emotional burden for Koori workers are their personal obligations to families and communities, and the challenge of working in a non-Aboriginal dominant workplace. The Koori Programs and Initiatives Team at Court Services Victoria identified vicarious trauma training as well as access to the Employee Assistance Services Australia (EASA) as useful existing strategies to support staff working in these areas.

***"Resilience training is provided to staff. This provides strategies to work through the traumatic things they hear in court and in the community, allowing them to deal with vicarious trauma. Koori staff are trained in tailor-made training and we often get good feedback from Koori staff about how relevant the training is."***

- Koori Programs and Initiatives Worker

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**5.e) Ensure Aboriginal employees have the opportunity to regularly meet with other Aboriginal workers to network.** Forums for this engagement include the Koori Staff Network Forum and the Koori Managers Network. Existing staff highlighted concern that these forums may be less accessible in rural areas. Consideration will need to be given to ensuring their accessibility for incoming regional staff.

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**5.f) Provide regular opportunities for Aboriginal employees to provide advice to Court Services Victoria on how to be an employer of choice for Aboriginal people and how best to work with the Aboriginal community.** This could be achieved through forums mentioned above.

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**5.g) Continuously work to ensure the courts are a culturally safe workplace that is supportive of the cultural identity of Koori staff.** There was concern that the level of cultural safety at expansion sites may not be as high as in metropolitan areas. This will need to be carefully monitored and mitigated through expansion, increasing the importance of providing appropriate support for Koori workers, and providing cultural competence training for non-Indigenous staff.

## Other observations

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### The role of ACSASS in Marram-Ngala Ganbu.

Stakeholders consistently commented on the importance of Lakidjeka (VACCA's Aboriginal Child Specialist Advice and Support Service) providing culturally informed advice about Aboriginal child placement at Marram-Ngala Ganbu. They also highlighted the potential benefit of more regular attendance by a Lakidjeka worker on court hearing day, as was intended in the Practice Direction announcing the program in 2016.<sup>67</sup>

The evaluators understand that the key barrier to Lakidjeka's attendance, identified by stakeholders, is limited time and resources, with the small Lakidjeka team indicating that they currently have 600 open cases in their current caseload. Despite these constraints, when Lakidjeka is unable to attend Marram-Ngala Ganbu they have worked closely with the Koori Family Support Officer, Koori Services Coordinator, and the DHHS (Child Protection) Practice Leader on the phone or via correspondence, to outline their viewpoint or answer the Magistrate's questions.

Another issue highlighted by stakeholders is the lack of a formal protocol between the court and Lakidjeka so that Magistrates can request their appearance. The current protocol can only allow the Magistrate to order DHHS to consult with Lakidjeka. A potential solution put forward was funding an additional role for Lakidjeka exclusively for Marram-Ngala Ganbu, like the Practice Leader position situated in DHHS.

While it is beyond the scope of this evaluation to comment or make recommendations regarding the effectiveness of Lakidjeka or the ACSASS initiative, it is evident that their more regular involvement in Marram-Ngala Ganbu would be considered by many stakeholders to be an improvement.

# Broader lessons for delivering impactful programs for Koori families

The evaluation has highlighted a number of lessons that could be applied more broadly across the court system and public sector, to improve outcomes for Koori families.

## 1. Enabling innovation in the the justice system:

Marram-Ngala Ganbu's implementation is a success story of innovation in the courts and the justice system, that could be applied across the public sector. The Koori Services Coordinator was granted sufficient flexibility to push the accepted norms of what was possible, and this evaluation has proven that worthwhile. This was made possible by the authorising environment granted by the Court's Magistrates who were strong advocates for the approach and provided the legitimacy to enable the model to develop, evolve, and be embedded.

## 2. The importance of Koori-led design and services:

Marram-Ngala Ganbu best meets the needs of the Koori community because its design was led by, and for, Koori people. This evaluation has demonstrated how a culturally-centred approach has led to substantial improvements in the experience of Koori families, which in turn leads to more families staying together. Further, while not a focus of this report, interviews highlighted that families being referred to Aboriginal community controlled services felt those services better met their needs and were leading to better outcomes in the court room.

***"I have a case where the mother was getting holistic supports which wouldn't have happened if they weren't linked in [with Koori services]. With this family they had a higher level of trust with Koori service workers than with department workers, for them to move forward with the case that was very important to have them work with those services."***

- Lawyer

## 3. The benefit of having Koori staff working in the courts, creating a culturally safe environment for Koori families.

There was notable consistency in the views of all stakeholders attesting to the importance of having Koori staff working in the courts, removing unconscious bias, and enabling a more culturally safe environment. This was critical to the success of Marram-Ngala Ganbu and stakeholders note is having flow-on effects in their organisations and their work.

## 4. The benefits of introducing case management to enable the coordination of a challenged service system, improving outcomes for Koori families:

It is widely recognised that the child protection system in Victoria is strained - with increasing numbers of Koori children in care and a constrained funding environment. The functions of Marram-Ngala Ganbu have highlighted how a case management approach can be an effective means of coordinating and providing accountability, thereby ensuring families do not get left behind by the multitude of services targeted at them but not working in unison for them. This approach could be explored in other settings, to best leverage existing resources.

## 5. The power of connectedness and belonging:

For Koori families the importance of connection to culture and kinship is paramount. It was reported through this evaluation that some Koori families have discovered their Koori identity and family connections through the court system. This highlights that the courts have had, and can play, a role in establishing this connection.

# Appendix

## Glossary

ACCO:	Aboriginal Community Controlled Organisation
ACPP:	Aboriginal Child Placement Principle
ACSASS:	Aboriginal Child Specialist Advice and Support Service
AFLDM:	Aboriginal Family Led Decision Making
AJA4:	Aboriginal Justice Agreement 4
CCV:	Children's Court Victoria
CSV:	Court Services Victoria
CPLO:	Child Protection Legal Office
CSOs:	Community Service Organisations
DHHS:	Department of Health and Human Services

## Terminology

**Care by Secretary Order:** A Care by Secretary Order confers parental responsibility for a child to the Secretary of DHHS, to the exclusion of all other persons. It is in force for a period of two years, unless the child turns 18 or marries (whichever occurs first).

**Family Preservation Order:** A Family Preservation Order gives the Secretary of DHHS responsibility for the supervision of the child (without affecting a person's parental responsibility). This order preserves the child in the care of their parents, if it is safe to do so. Conditions that promote family preservation can be attached to these orders. . A Family Preservation Order made for a period of more than 12 months will be reviewed at least every 12 months.

**Family Reunification Order:** A Family Reunification Order gives the Secretary of DHHS parental responsibility and responsibility for the sole care of the child, for a maximum period of 12 months. A Family Reunification Order will be made when a child has been placed in out-home-care and the intent is to reunify the child with their parents. The order can be made for a total period up to 12 months. The order can be extended for a further 12-month period where there is evidence that progress is being made and reunification will occur in that time.

**Free Text Order:** Enables the Magistrate to order tailored conditions.

**Interim Accommodation Order:** An Interim Accommodation Order is an order for the temporary placement of a child, pending the final determination of an application. Most applications for Interim Accommodation Orders are made by protective interveners by taking a child into emergency care.

**Permanent Care Order:** A Permanent Care Order is a Court order that confers parental responsibility for the permanent care of a child on an appropriate person or persons. The order substantially has the same effect as an adoption order.

Note: Terminology definitions have been sourced from the Judicial College of Victoria's eManual, <<http://www.judicialcollege.vic.edu.au/eManuals/CHCBB/59795.htm>>

## Marram-Ngala Ganbu Theory of Change

The Theory of Change below and overleaf was developed with input from the Project Steering Committee, and refined through the course of the evaluation. This informed the focus of the evaluation's enquiry, as well as recommendations around improved data collection moving forward. Note that as the program has only been operational for a few years (and due to data limitations) this evaluation has focused more on understanding the extent to which Marram-Ngala Ganbu is achieving short-medium term outcomes.

## Issue

The mainstream Children's Court Family Division processes are not providing an effective, culturally appropriate and just response for Koori families.

## Strategic Response

Marram-Ngala Ganbu was established as a pilot program aiming to improve outcomes for Koori children and families involved in child protection proceedings.

It seeks to provide a more effective, culturally appropriate and just response for Koori families through a more culturally appropriate court process, that enables greater participation by family members and more culturally-informed decision-making. It does so by adapting the court setting, and using case management.

## Marram-Ngala Ganbu's activities

Deliver a more effective process for engaging Aboriginal children and families in CP proceedings...

### Throughout the program

A Koori Family Support Officer:

- Gets to know family members, and understand their family situation
  - Builds a trusted relationship with families
  - Makes them feel comfortable, safe, respected
- He/she works with family members to:
- Explain the court process – the proceedings, their rights, helps them understand what will happen and how they can participate
  - Assists them in obtaining legal representation, organise conciliation conferences, book a hearing date and plan for the hearing e.g. getting to court, video links/
  - Provides case management (pre and post hearing) and connects them with culturally appropriate support services as required
  - Improve the relationship between the family and DHHS

He/she also works with DHHS to educate their staff, clarify issues for families and provide a more timely response

### At court:

- Children are encouraged to come, participate and speak for themselves
- Family members can bring in elders and other people to support them
- The environment is set up to be welcoming and supportive – e.g. a possum-skin rug on the table, artwork, everyone including the Magistrate sits around the table, and the tone is more informal

The Magistrate:

- Gets to know the families, is invested in achieving the best outcomes for family members
- Is involved in case management'
- Ensures Cultural Support Plans are in place
- Ensure Aboriginal Child Placement Principle is complied with and that The Lakidjeka Aboriginal Child Specialist Advice and Support Service is consulted
- Promotes Aboriginal Family Led Decision Making as the preferred method of decision making

### The approach

- Is unstructured – flexible, works around what is in the best interest of families
- Brings Aboriginal families, including elders together – as the majority – to influence decisions on their own behalf, supporting self-determination for Aboriginal people

### Marram-Ngala Ganbu staff also promote and develop the program:

- They promote the program to networks, and to the community
- Support staff development and training

## Participants

- Families with Koori children case managed by DHHS Preston, who choose to participate in M-NG
- Other agencies including DHHS, private legal practitioners, VACCA, VALS, VAHS and AFBPLS.

## Program inputs

- Pilot funding, Staffing, Venue
- Goodwill with other agencies like DHHS & VALS
- Strategic policy alignment state-wide and federally
- Koori Court already in operation

## Target outcomes of the program

## Short to medium term outcomes

Leading to increased engagement and participation in the process...

Leading to better-informed decisions and more engagement...

## Long term outcomes

(Aspirationally) Leading to better outcomes for families

## Impact

Child protection proceedings are culturally appropriate, and are effective in preserving, promoting and developing cultural safety and connection for Aboriginal children.

## Families and children

- Feel safe
- Feel supported
- Feel heard
- Feel they have a voice
- Feel respected
- Feel valued
- Feel they can influence the decisions about themselves and their family

## Families and children

- Are more active in learning about the proceedings and how to participate
- Are more comfortable with the court proceedings and prepared for it
- Engage in the process and come to court
- Participate in court and speak up
- Provide input into the decision making
- Get encouragement e.g. from elders & other people there to support them
- Are better connected to appropriate support services

## Children

- Come to court and participate - tell others what's in their best interest
- Impact the case directly

## Elders

- Provide their views and influence the families and court decisions

## The Magistrate

- Sees that the families are engaging and complying with orders
- Has more complete information to make decisions
- Is more informed about how to apply legislation e.g. Child Placement Principles
- Makes decisions that better prioritises cultural needs and connection and are in the best interests of children & families

## Families

- Feel they can actively make a difference to the decisions
- Are more likely to follow orders and engage in support services e.g. attend a program, drug test
- Come back to court for the next hearing

## Families and children

- More families stay together
- More commitment to strengthen the family
- An increase in kinship connections
- Increased connection to culture and Aboriginal Community Controlled Organisations
- Decrease in young people going into justice system
- Decrease in family members impacted by family violence

- Improved self determination for Aboriginal people
- Reduction in Aboriginal children in OOHC

## For Aboriginal families in the community

- Awareness of availability of the program

## For the child protection system

- Awareness of the program
- Recognition of the need for and value of the program
- Improved recording of Aboriginal status in the courts

## Capacity building of workforce:

- Improved access to supports for referrals, direct referral to occur at court

## Improved practice:

- E.g. Staff more accountable in preparation for hearings, decision-making prioritises cultural needs, better data collection

## Program expansion

- More timely and appropriate supports available for Aboriginal families

## Evaluation questions

The Evaluation questions informed the areas of inquiry for the evaluation. The evaluation questions were determined by the Children’s Court of Victoria, and iterated together with the evaluators and the Project Steering Committee.

### Evaluation Component

### Key questions to be answered through the evaluation

#### Documentation of the Marram-Ngala Ganbu model

1. What is the Marram-Ngala Ganbu (M-NG) model and how does it work?
  - What are the differences between M-NG and mainstream family division hearings?
  - What are the duties of M-NG staff, the role of the Aboriginal convenors, and other stakeholders in delivering M-NG?
  - What are the target outcomes of M-NG over the short, medium and longer term? *[See Theory of Change]*

#### Process evaluation: Assessing the program’s implementation to date

2. How has the program been implemented? Including:
  - How was the program designed?
  - How has the program evolved over the pilot period and why?

#### Outcomes evaluation: Assessing what has happened as a result of the program and why

3. What have been the outcomes of the program?
  - To what extent has it achieved its target short to medium-term outcomes? *[See Theory of Change]*
  - Have there been any unexpected outcomes?
  - Do Aboriginal families feel that M-NG is meeting their needs for a culturally appropriate court experience?
  - What are the key differences in outcomes between M-NG and mainstream family division hearings?

#### Recommendations for improvement and expansion:

5. What are the opportunities to improve M-NG and prepare for expansion? and expansion Including:
  - What is the likely demand for the program?
  - What are the potential options for expansion and which is most appropriate?
  - What are the key features of M-NG that need to be maintained, and what needs be adapted based on local context?
  - How might the program attract and retain Aboriginal staff?
  - How can M-NG better collect data to monitor its outcomes going forward?
  - What can we learn from similar initiatives nationally and internationally that can inform improvements and expansion?
6. What have we learnt from this evaluation about how to improve outcomes for Aboriginal families?

## Improving data collection in the Courts

This section identifies opportunities to improve data collection in the Children's Court, to inform better outcomes measurement and evaluation of Marram-Ngala Ganbu, as well as for outcomes being achieved for all children and families in the Children's court. It sets out what data is currently being collected, then identifies potential new avenues of data collection.

### What's collected at the moment?

Information about the courts current data collection tools are captured in the Table 15 below.

Existing data collection tools	Data type and owner	Purpose of data collection, and type of data captured	Collection method	Data relevant to evaluating M-NG's outcomes	Comments
<b>Family Division: Court register</b>	Hard copy paper files, managed by the Children's Court of Victoria	Captures the orders of the Court and other matters as directed by the Children, Youth and Families Act 2005 Act.	<ul style="list-style-type: none"> <li>Entered by Principle Registrar at the court, and authenticated by the Judicial officer</li> </ul>	<ul style="list-style-type: none"> <li>Records cultural support plans</li> <li>Records correspondence (including submissions from children tabled in the court)</li> <li>Records court orders, including type of adjournment, and commentary as to the reason for adjournment</li> </ul>	<ul style="list-style-type: none"> <li>Hard copies are cumbersome, and cannot be easily aggregated for data analysis purposes</li> <li>Data is procedurally focused, and does not align well with outcomes being sought for families (either through Marram Ngala Ganbu, or otherwise)</li> </ul>
<b>BRIDGE Case Management System</b>	Digital system, managed by Court Services Victoria for the Children's Court of Victoria	Information pertaining to the status of cases as they move through the courts. Captures 'extracts' of the court register, pursuant to s5 of the Children, Youth and Families Act 2005	<ul style="list-style-type: none"> <li>Entered by court clerks at time of case appearing in the court.</li> </ul>	<ul style="list-style-type: none"> <li>The total number of cases through the court</li> <li>The Aboriginal and /or Torres Strait Islander status of participants</li> <li>Finalisation type for applications</li> <li>Duration of cases and elapsed days</li> </ul>	<ul style="list-style-type: none"> <li>Data is procedurally focused, and does not align well with outcomes being sought for families (either through Marram Ngala Ganbu, or otherwise)</li> <li>Soon to be replaced by a new Case Management System.</li> </ul>

<p><b>Koori Family Support Officer and Support Coordinator case notes</b></p>	<p>Hard copy paper files, for Marram-Ngala Ganbu staff</p>	<p>Information pertaining to who was present on the day (family members) and other key points to be followed up by Marram-Ngala Ganbu staff</p>	<ul style="list-style-type: none"> <li>Entered by Koori Family Support Officer and Koori Support Coordinator</li> </ul>	<ul style="list-style-type: none"> <li>Family members present on the day</li> </ul>	<ul style="list-style-type: none"> <li>Collected in acknowledgement of the limitations of the existing systems</li> <li>Hard copies are cumbersome, and cannot be easily aggregated for data analysis purposes</li> <li>Not an official court record, and not easily linked to other existing court data</li> </ul>
<p><b>Criminal Division: Court Link</b></p>	<p>Digital system, managed by Court Services Victoria for the Criminal Division of the courts</p>	<p>Criminal justice database. Data is not collected by the Family division of the children's court for this database, however it can be accessed by them</p>	<ul style="list-style-type: none"> <li>Entered by court clerks in the Criminal Court at time of appearing in court.</li> </ul>	<ul style="list-style-type: none"> <li>The Aboriginal and /or Torres Strait Islander status of participants</li> </ul>	<ul style="list-style-type: none"> <li>Can be accessed by Koori Family Support Officer and Support Coordinator with the consent of the families, if the information is deemed relevant to the matter at hand.</li> </ul>
<p><b>Court User Satisfaction Survey</b></p>	<p>Structured survey delivered annually to Children's Court users</p>	<p>User experience captured by way of structured survey, gathered annually</p>	<ul style="list-style-type: none"> <li>Court users invited to participate when waiting for court. Collection via iPad</li> </ul>	<ul style="list-style-type: none"> <li>The Aboriginal and /or Torres Strait Islander status of participants</li> </ul>	<ul style="list-style-type: none"> <li>The survey is quite general</li> <li>3% of those surveyed in the last year identified as Aboriginal and/or Torres Strait Islander</li> </ul>

Table 15: Current data collection and tools used by Marram-Ngala Ganbu

### What could be collected to best track outcomes being achieved for Marram-Ngala Ganbu?

The table below captures potential additional data points to inform the ongoing monitoring and evaluation of Marram-Ngala Ganbu. For meaningful comparative data to be available, the data would need to be collected both for Marram-Ngala Ganbu participants, and mainstream court participants. It would be beneficial for the courts to understand whether these outcomes are being achieved through both court settings, for both Koori and non-Aboriginal court participants.

Implementing these suggestions would require adaptations to existing collection methods, as well as implementing new collection methods in the form of surveys. Data collection needs to be pragmatic, however, and the benefits of collecting additional data weighed against the cost and inconvenience of doing so. The court will need to weigh up these considerations in deciding upon which methods to pursue. This table presents all options for consideration.

Marram-Ngala Ganbu outcomes		Indicators	Collection method	Implications
<p><i>What's the broad change we hope to see as a result of Marram-Ngala Ganbu?</i></p> <p>Families participating in Marram-Ngala Ganbu feel supported and valued <i>(short term)</i></p>	<p><b>Families and children:</b></p> <ul style="list-style-type: none"> <li>• Feel safe</li> <li>• Feel supported</li> <li>• Feel heard</li> <li>• Feel they have a voice</li> <li>• Feel respected</li> <li>• Feel valued</li> <li>• Feel they can influence the decisions about themselves and their family</li> </ul>	<p><i>What might this change look like specifically? (as outlined in the theory of change)</i></p> <p>Qualitative survey of families participating in the Family Division of the Children's Court. Asking, 'To what extent did you feel each of the following to be true when you were in the court room today?' [Score 1-5: list outcomes to the left]</p>	<p><b>Additional data collection: client survey (digital).</b></p> <p>Survey provided to family members who are party to court proceedings, as they leave the court room (e.g. on an iPad).</p>	<p><i>What changes to the system would need to be made?</i></p> <p><b>Introduction of a new data collection process</b></p>
		<p>Qualitative survey of children participating in the Family Division of the Children's Court. Asking: 'How did you feel being in the court today?' [Visual options: present Smiley face, Frowning face buttons, to be pressed. Scale of 1-5]</p> <p>Ask follow-up question to child, 'Why?' Free text response to be entered by court staff</p>	<p><b>Additional data collection: client survey/scorecard (digital).</b></p> <p>Scorecard presented to children who are party to court proceedings (e.g. on an iPad)</p>	<p><b>Introduction of a new data collection process</b></p>

<p>Families participating in Marram-Ngala Ganbu have increased engagement and participation in the court process</p> <p><b>(short to medium term)</b></p>	<p><b>Families and children</b></p> <ul style="list-style-type: none"> <li>• Are more active in learning about the proceedings and how to participate</li> <li>• Are more comfortable with the court proceedings and prepared for it</li> <li>• Engage in the process and come to court</li> <li>• Participate in court and speak up</li> <li>• Provide input into the decision making</li> <li>• Get encouragement e.g. from elders and other people there to support them</li> <li>• Are better connected to appropriate support services</li> </ul> <p><b>Children</b></p> <ul style="list-style-type: none"> <li>• Come to court and participate - tell others what's in their best interest</li> <li>• Impact the case directly</li> </ul> <p><b>Families</b></p> <ul style="list-style-type: none"> <li>• Feel they can actively make a difference to the decisions</li> <li>• Are more likely to follow orders and engage in support services e.g. attend a program, drug test</li> <li>• Come back to court for the next hearing</li> </ul> <p><b>Elders</b></p> <ul style="list-style-type: none"> <li>• Provide their views and influence</li> </ul>	<p>Quantitative data points:</p> <ul style="list-style-type: none"> <li>• Record attendance of any and all family members attending at court, including type of family relation</li> <li>• Record which family members spoke during hearing (including children)</li> <li>• Record which other organisations were present at the hearing (name and organisation)</li> <li>• Record length of hearing (minutes)</li> <li>• Record whether a placement was a kinship care placement</li> <li>• Record whether a cultural support plan is present for the child</li> <li>• Record which support services were referred to (and whether they are ACCOs)</li> <li>• Record the legal representation of family and the type of representation (ACCO, Private practitioner, VLA)</li> <li>• Record whether a court order was complied with</li> </ul>	<p><b>Existing Bridge system, or new Client Management System and/or Court Records</b></p>	<p><b>Requires changes to existing systems (or to systems under development)</b></p>
		<p>Qualitative survey of <i>families</i> participating in the Family Division of the Children's Court. Asking, 'To what extent did you feel, [scale 1-5]</p> <ul style="list-style-type: none"> <li>• Prepared for the court proceedings?</li> <li>• Better connected to appropriate support services?</li> </ul>	<p><b>Additional data collection: client survey (digital).</b></p> <p>Survey provided to family members who are party to court proceedings, as they leave the court room (e.g. on an iPad). Same survey as proposed above</p>	<p><b>Introduction of a new data collection process</b></p>

Table 16: Potential additional data points to inform the ongoing monitoring and evaluation of Marram-Ngala Ganbu

### What could be collected to best track outcomes being achieved for Marram-Ngala Ganbu? (continued)

Marram-Ngala Ganbu outcomes		Indicators	Collection method	Implications
<p>Families participating in Marram-Ngala Ganbu achieve better court outcomes and have an improved connection <i>(medium to longer term)</i></p>	<p><b>Families and children</b></p> <ul style="list-style-type: none"> <li>• More families stay together</li> <li>• More commitment to strengthen the family</li> <li>• An increase in kinship connections</li> <li>• Increased connection to culture and Aboriginal Community Controlled Organisations</li> <li>• Decrease in young people going into justice system</li> <li>• Decrease in family members impacted by family violence</li> </ul>	<p>Changes to existing quantitative data linking:</p> <ul style="list-style-type: none"> <li>• Provide the functionality to link matters by family, to enable longitudinal data analysis of families and individuals coming through the Children's Court over time.</li> </ul> <p><i>Note there are limitations in the ability to track long-term outcomes for families once they leave the Children's Court, short of the court maintaining contact with families. These outcomes might instead be tracked at the population level, by region (in regions where Marram-Ngala Ganbu has been implemented).</i></p>	<p><b>Existing Bridge system, or new Client Management System and/or Court Records</b></p>	<p><b>Requires changes to existing systems (or to systems under development)</b></p>
<p>Magistrates make better informed decisions. <i>(medium to longer term)</i></p>	<p><b>The Magistrate:</b></p> <ul style="list-style-type: none"> <li>• Sees that the families are engaging and complying with orders</li> <li>• Has more complete information to make decisions</li> <li>• Is more informed about how to apply legislation e.g. Child Placement Principles</li> <li>• Makes decisions that better prioritises cultural needs and connection and are in the best interests of children &amp; families</li> </ul>	<ul style="list-style-type: none"> <li>• Qualitative survey of magistrates participating in Marram-Ngala Ganbu. Asking, 'To what extent did you feel... [scale 1-5]</li> <li>• You had more complete information to make a decision, than you would have outside Marram-Ngala Ganbu?</li> <li>• Your decisions better prioritised the cultural needs of the child and family?</li> <li>• That families are more likely to engage and comply with court orders?</li> <li>• That Aboriginal community-controlled organisations are providing better support for families than they would receive from mainstream services?</li> </ul>	<p><b>Additional data collection: judicial staff survey (digital).</b></p> <p>Survey provided to presiding Magistrate annually or bi-annually</p>	<p><b>Introduction of a new data collection process</b></p>

<p>The child protection system works more effectively to achieve better outcomes for Koori families <i>(short to long term)</i></p>	<p><b>Within the child protection system</b></p> <ul style="list-style-type: none"> <li>Improved recording of Aboriginal status in the courts</li> </ul> <p><b>Capacity building of workforce:</b></p> <ul style="list-style-type: none"> <li>E.g. Better understanding of how to support Aboriginal families, how to apply the Child Placement Principles</li> </ul> <p><b>Improved processes:</b></p> <ul style="list-style-type: none"> <li>Improved access to supports for referrals, direct referral to occur at court</li> </ul> <p><b>Improved practice:</b></p> <ul style="list-style-type: none"> <li>E.g. Staff more accountable in preparation for hearings, decision-making prioritises cultural needs, better data collection</li> </ul>	<p><b>Quantitative data points:</b></p> <ul style="list-style-type: none"> <li>When recording Aboriginal and/or Torres Strait Islander status, add a new data point: <i>'Is this the first time you have identified as Aboriginal and/or Torres Strait Islander?'</i></li> </ul> <p>Qualitative survey of stakeholders participating or supporting Marram-Ngala Ganbu. Asking, <i>'To what extent did you feel... [scale 1-5]</i></p> <ul style="list-style-type: none"> <li>You have a better understanding of how to support Aboriginal families as a result of Marram-Ngala Ganbu?</li> <li>More accountable in preparing for hearings?</li> <li>Your work was better informed by the cultural needs of the child and family?</li> <li>That decision making in the court room prioritised cultural needs of the child and family?</li> <li>That decision making in the court room prioritised the safety of the child?</li> <li>That Marram-Ngala Ganbu</li> </ul>	<p><b>Existing Bridge system, or new Client Management System and/or Court Records</b></p> <p><b>Additional data collection: Marram-Ngala Ganbu stakeholders survey (digital).</b></p> <p>Survey provided to relevant stakeholders annually or bi-annually (including DHHS child protection practitioners, lawyers, and services)</p>	<p><b>Requires changes to existing systems (or to systems under development)</b></p> <p><b>Introduction of a new data collection process</b></p>
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Table 16 (continued): Potential additional data points to inform the ongoing monitoring and evaluation of Marram-Ngala Ganbu

## Evaluation Steering Committee members

The Marram-Ngala Ganbu Evaluation Steering Committee members are listed below. Membership was based on individuals' specialist knowledge, interest and their ability to best represent stakeholders' views. Appropriate proxies were utilised as necessary.

Organisation	Representative	Title	Role
Broadmeadows Children's Court	Kay Macpherson	Regional Coordinating Magistrate	Chair
Broadmeadows Children's Court	Annabel Hawkins	Magistrate	Member
Children's Court of Victoria	Peter Lamb	General Manager	Member
Children's Court of Victoria	Aislinn Martin	Evaluation Project Manager	Member
Children's Court of Victoria	Ashley Morris	Koori Services Coordinator	Member
Children's Court of Victoria	Louise James	Manager Alternative Dispute Resolution	Member
Court Services Victoria	Melissa Harrison	Manager Koori Programs & Initiatives	Member
Victorian Aboriginal Child Care Agency	Anna Gibson	Legal Counsel, Nugel	Member
Victorian Aboriginal Child Care Agency	Suzanne Cleary	Executive Manager, Lakidjeka (ACSASS)	Member
Victorian Aboriginal Legal Service	Nerita Waight	CEO	Member
Djirra	Kehndra Hooker	Senior Lawyer	Member
Djirra	Lauren Galvin	Managing Lawyer	Member
Commission for Children and Young People	Jidah Clark	Senior Adviser, Aboriginal children and young people	Member
Department of Health and Human Services: Child Protection Preston	Karyn Lloyd	Practice Leader, Family Drug Treatment Court & Marram-Ngala Ganbu Child Protection	Member
Department of Health and Human Services	Penelope Steuart	Area Director Hume Moreland	Member
Victoria Legal Aid	Joanna Lau	Child Protection	Member
Local Legal Practitioners	James Gorman	Partner, Gorman and Hannan	Member
Koori Justice Unit	Antoinette Gentile	Director	Member
Koori Youth Council	Indi Clarke	Executive Officer	Member
Child Protection Litigation Office	Emma Littleton	Principal Solicitor / North Region Team	Manager
Koori Justice Caucus	Nikayla Bamblett	Executive Officer	Member

### **Professional disclosure statement**

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## Endnotes

- <sup>1</sup> *Always Was, Always Will be Koori Children*, Report of Taskforce 1000 (October 2016).
- <sup>2</sup> The Steering Committee was chaired by Magistrate Kay Macpherson (Regional Coordinating Magistrate) and included a wide range of stakeholders from thirteen organisations involved in operating Marram-Ngala Ganbu or with visibility of its operations. These include staff from the Children's Court of Victoria, Court Services Victoria, the Victorian Aboriginal Child Care Agency, the Koori Justice Unit in the Department of Justice and Community Safety, the Department of Health and Human Services, and Victorian Legal Aid. A full list is included in the Appendix.
- <sup>3</sup> The JHREC reference number for this project is CF/19/15700 and ethics was formally approved on 12 August 2019.
- <sup>4</sup> Families interviewed through the evaluation who had appeared in court through Marram-Ngala Ganbu.
- <sup>5</sup> *Always Was, Always Will be Koori Children*, Report of Taskforce 1000 (October 2016).
- <sup>6</sup> SNAICC (2019), *The Family Matters Report 2019*
- <sup>7</sup> SNAICC (2019), *The Family Matters Report 2019*
- <sup>8</sup> SNAICC (2019), *The Family Matters Report 2019*
- <sup>9</sup> SNAICC (2019), *The Family Matters Report 2019*
- <sup>10</sup> Morris, A, & Macpherson, K, 2017, 'Marram-Ngala Ganbu: We are one', in The Australasian Institute of Judicial Administration Incorporated. Proceedings of the NAJ 2017 Conference: Non-adversarial Justice – Indigenous Justice, Melbourne, viewed 18 September 2019, <<http://www.naj2017.com/category/non-adversarial-justice-indigenous-justice>>.
- <sup>11</sup> SNAICC (2019), *The Family Matters Report 2019*
- <sup>12</sup> Australia. Victoria State Government, Sentencing Advisory Council. (2019). 'Crossover Kids': Vulnerable Children in the Youth Justice System Report 1: Children Who Are Known to Child Protection among Sentenced and Diverted Children in the Victorian Children's Court. Available at: [https://www.sentencingcouncil.vic.gov.au/sites/default/files/publication-documents/Crossover\\_Kids\\_Report\\_1\\_3.pdf](https://www.sentencingcouncil.vic.gov.au/sites/default/files/publication-documents/Crossover_Kids_Report_1_3.pdf)
- <sup>13</sup> Australia. Victoria State Government, Sentencing Advisory Council. (2019), Op. Sit.
- <sup>14</sup> Cunneen, C., & Libesman, T. (2000). Postcolonial trauma: The contemporary removal of Indigenous children and young people from their families in Australia. *Australian Journal of Social Issues*, 35(2), 99-115.
- <sup>15</sup> *Always Was, Always Will be Koori Children*, Report of Taskforce 1000 (October 2016).
- <sup>16</sup> The Aboriginal Justice Agreement Phase 3, viewed 16 October, <https://www.aboriginaljustice.vic.gov.au/the-aboriginal-justice-agreement-phase-3>.
- <sup>17</sup> Victorian Government (2012), *Protecting Victoria's Vulnerable Children Enquiry*
- <sup>18</sup> Australia Government. Australian Institute of Family Studies. (2019). Enhancing the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle. Available at: <https://aifs.gov.au/cfca/publications/enhancing-implementation-aboriginal-and-torres-strait-islander-child/export>. (Accessed: 18 September 2019).
- <sup>19</sup> Commission for Children and Young People, 'Always was, always will be Koori children': Systemic inquiry into services provided to Aboriginal children and young people in out-of-home care in Victoria (Melbourne: Commission for Children and Young People, 2016).
- <sup>20</sup> Victorian State Government, Ngaga-Dji – Koori Youth Council, viewed 18 September 2019, <[https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Spent\\_Convictions/submissions/S31A\\_-\\_Attachment.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Spent_Convictions/submissions/S31A_-_Attachment.pdf)>
- <sup>21</sup> Victorian State Government, Victorian Aboriginal Justice Agreement, viewed 18 September 2019, <<https://www.aboriginaljustice.vic.gov.au/>>
- <sup>22</sup> Department of Health and Human Services (2002) Guide: Aboriginal Child Placement Principle. The ACP provides a placement guide for Aboriginal children who are not able to remain in the care of their parents, ranking placements in order of (1) Aboriginal family (2) Aboriginal community (3) Non-Aboriginal carer as a last resort and with a plan in place to maintain the children's connections to their family, community and cultural identity (called the Cultural Support Plan)
- <sup>23</sup> The use of a yarning circle (or dialogue circle) is an important process within Aboriginal culture and Torres Strait Islander culture. It has been used by First Nations peoples from around the world for centuries to learn from a collective group, build respectful relationships, and to preserve and pass on cultural knowledge.
- <sup>24</sup> Harris, N. (2008). Family group conferencing in Australia 15 years on. *Child Abuse Prevention Issues*, 27, 1-19.
- <sup>25</sup> Beecroft, A. (2017) Family Group Conferences: Still New Zealand's gift to the world. Accessed here
- <sup>26</sup> Australian Institute of Criminology (2012) Evaluation of the Family Group Conference pilot program
- <sup>27</sup> Ciftci, S. (2018). Making Space for Indigenous Justice in the Child Welfare and Protection Context. In *Indigenous Justice* (pp. 111-125). Palgrave Macmillan, London.
- <sup>28</sup> MacEachron, A. E., Gustavsson, N. S., Cross, S., & Lewis, A. (1996). The effectiveness of the Indian Child Welfare Act of 1978. *Social Service Review*, 70(3), 451-463.
- <sup>29</sup> Wexler, David B. and Winick, Bruce J. (2008), *Therapeutic Jurisprudence. Therapeutic Jurisprudence, in Principles of Addiction Medicine, 4th Edition.*
- <sup>30</sup> Kierstead, S. (2011). Therapeutic jurisprudence and child protection. *Barry L. Rev.*, 17, 31.
- <sup>31</sup> King, M. S. (2008). Restorative justice, therapeutic jurisprudence and the rise of emotionally intelligent justice. *Melb. UL Rev.*, 32, 1096.
- <sup>32</sup> Kierstead, S. (2011). Therapeutic jurisprudence and child protection. *Barry L. Rev.*, 17, 31.
- <sup>33</sup> Thompson, A. (2011) *Therapeutic Jurisprudence and the Children's Court: creating a more relationship approach to protection and care proceedings*, Doctor of Philosophy thesis, University of Western Australia
- <sup>34</sup> Thompson, A. (2011), Op. Sit.
- <sup>35</sup> Program no longer operating and date of cessation unable to be identified
- <sup>36</sup> King, M. S., & Tatasciore, C. L. (2006). Promoting Healing in the Family: Taking a Therapeutic Jurisprudence Based Approach in Care and Protection Applications. *eLaw Journal (Special Series)*, 1(2006), 78-100.
- <sup>37</sup> De Bortoli L, Luebbers S, Riacchi M and Mastromanno B (2018). the family drug treatment court. an evaluation report. Report prepared by the Centre for Forensic Behavioural Science for Court Services Victoria.
- <sup>38</sup> Morris, A, Hegarty, K., & Humphreys, C. (2012). Ethical and safe: Research with children about domestic violence. *Research Ethics*, 8(2), 125-139.
- Robinson, C., & Taylor, C. (2013). Student voice as a contested practice: Power and participation in two student voice projects. *Improving Schools*, 16(1), 32-46. doi:10.1177/1365480212469713
- Sargeant, J. (2018). Towards voice-inclusive practice: Finding the sustainability of participation in realising the child's rights in education. *Children & Society*, 32(4), 314-324. doi:10.1111/chso.12247
- <sup>39</sup> Australian Institute of Family Studies (2007) *Child inclusion as a principle and as evidence-based practice: Applications to family law services and related sectors*
- <sup>40</sup> Buckley, H., Carr, N., & Whelan, S. (2011). 'Like walking on eggshells': Service user views and expectations of the child protection system. *Child & Family Social Work*, 16(1), 101-110. doi:10.1111/j.1365-2206.2010.00718.
- Jordan, B., & Sketchley, R. (2009). *A stitch in time saves nine*. Melbourne, Australia: V. Press. (30). Retrieved from <http://www.aifs.gov.au/nch/pubs/issues/issues30/issues30.html>

<sup>41</sup> Bombay, A., Matheson, K., & Anisman, H. (2009). Intergenerational trauma: Convergence of multiple processes among First Nations peoples in Canada. *International Journal of Indigenous Health*, 5(3), 6-47. doi:<https://doi.org/10.3138/ijih.v5i3.28987>

Cunneen, C., & Libesman, T. (2000). Op. Sit.

<sup>42</sup> Papageorgiou, K. A., & Ronald, A. (2013). "He who sees things grow from the beginning will have the finest view of them" A systematic review of genetic studies on psychological traits in infancy. *Neuroscience & Biobehavioral Reviews*, 37(8), 1500-1517.

Porges, S. W. (2015). Making the world safe for our children: Down-regulating defence and up-regulating social engagement to 'optimise' the human experience. *Children Australia*, 40(Special Issue 02), 114-123. doi:[doi:10.1017/cha.2015.12](https://doi.org/10.1017/cha.2015.12)

Schechter, D. S., & Willheim, E. (2009). The effects of violent experiences on infants and young children. In C. H. Z. Jr (Ed.), *Handbook of Infant Mental Health* (pp. 197-213). New York: The Guilford Press.

Van der Kolk, B. (2014). *The Body Keeps the Score: Brain, mind, and body in the healing of trauma*. England: Penguin.

<sup>43</sup> Eriksson, M., & Näsman, E. (2008). Participation in family law proceedings for children whose father is violent to their mother. *Childhood*, 15(2), 259-275. doi:[10.1177/0907568207088426](https://doi.org/10.1177/0907568207088426)

<sup>44</sup> Eriksson, M., & Näsman, E. (2008). Op. Sit., page 727

<sup>45</sup> Ahmed, K., Windsor, L., & Scott, S. (2015). In their own words: abused children's perceptions of care provided by their birth parents and foster carers. *Adoption & Fostering*, 39(1), 21-37. doi:[10.1177/0308575914565068](https://doi.org/10.1177/0308575914565068)

<sup>46</sup> Baker, H. (2005). Involving children and young people in research on domestic violence and housing. *Journal of Social Welfare and Family Law*, 27(3-4), 281-297. doi:[10.1080/09649060500386786](https://doi.org/10.1080/09649060500386786)

Bunston, W. (2017). *Helping Babies and Children (0-6) to Heal after Family Violence: A practical guide to infant- and child-led practice UK*: Jessica Kingsley Publishers.

<sup>47</sup> van Bijleveld, G. G., Dedding, C. W. M., & Bunders-Aelen, J. F. G. (2015). Children's and young people's participation within child welfare and child protection services: a state-of-the-art review. *Child & Family Social Work*, 20(2), 129-138. doi:[10.1111/cfs.12082](https://doi.org/10.1111/cfs.12082)

Vis, S. A., Holtan, A., & Thomas, N. (2012). Obstacles for child participation in care and protection cases—why Norwegian social workers find it difficult. *Child Abuse Review*, 21(1), 7-23.

<sup>48</sup> van Bijleveld, G. G., Bunders-Aelen, J. F. G., & Dedding, C. W. M. (2019). Exploring the essence of enabling child participation within child protection services. *Child & Family Social Work*, 0(0), 1-8. doi:[10.1111/cfs.12684](https://doi.org/10.1111/cfs.12684), Page 2

<sup>49</sup> VPS4 role refers to the Koori Family Support Officer, and the VPS5 role refers to the Koori Services Coordinator. From 2019/20, the VPS5 role is funded under the Aboriginal Justice Agreement 4.

<sup>50</sup> Note that data is presented as cases, not families, and a case may include multiple parties (for instance, a child, their two parents and foster parents). A case is recorder as Aboriginal and/or Torres Strait Islander where at least one parent identified as such. Due to limitations in the court's data collection processes, the Aboriginal and/or Torres Strait Islander status of participants in Melbourne Children's Court is likely to be significantly under-represented (and may be captured as 'unknown'. It became mandatory to report on Aboriginal and/or Torres Strait Islander status at the court in November 2018.

<sup>51</sup> Report of Taskforce 1000 (October 2016), Always Was, Always Will be Koori Children,

<sup>52</sup> The table presents on all primary applications made at the Broadmeadow's Children's Court from 1 March to 1 June 2019. Aboriginal or Torres Strait Islander status is reported for those families where at least one parents was identified.

<sup>53</sup> Victorian Government (2019) Public Sector Innovation Strategy, viewed 10 October 2019 <<https://www.vic.gov.au/sites/default/files/2019-04/Public-Sector-Innovation-Strategy.PDF>>

<sup>54</sup> Bason, Christian (2010), Leading public sector innovation: Co-creating for a better society

<sup>55</sup> See "Applying child inclusive practices in child protection" in Chapter 4

<sup>56</sup> Victorian Auditor-General's Office (2018), Maintaining the Mental Health of Child Protection Practitioners. Available at <https://www.audit.vic.gov.au/sites/default/files/2018-05/20180510-Child-Protection.pdf>

<sup>57</sup> SVA analysis based on data from the Productivity Commission's Report on Government Services 2019 (2017-18 data), the Australian Institute of Health and Welfare's Child Protection Australia (2017-18), and DHHS Funding Guidelines 2018

<sup>58</sup> Australia. Victoria State Government, Sentencing Advisory Council. (2019). 'Crossover Kids': Vulnerable Children in the Youth Justice System Report 1: Children Who Are Known to Child Protection among Sentenced and Diverted Children in the Victorian Children's Court. Available at: [https://www.sentencingcouncil.vic.gov.au/sites/default/files/publication-documents/Crossover\\_Kids\\_Report\\_1\\_3.pdf](https://www.sentencingcouncil.vic.gov.au/sites/default/files/publication-documents/Crossover_Kids_Report_1_3.pdf).

<sup>59</sup> Deloitte Access Economics, Raising our children: Guiding young Victorians in care into adulthood, commissioned by Anglicare Victoria, 1 April 2016

<sup>60</sup> Native Counselling Service of Alberta (2001) A Cost-Benefit Analysis of Hollow Water's Community Holistic Circle Healing Process, Solicitor General, Alberta, as referenced in Samantha Jeffries (2005), How Justice 'Gets Done': Politics, Managerialism, Consumerism, and Therapeutic Jurisprudence.

<sup>61</sup> Maxwell, G, Monis, A, Anderson, T (2000) 'Can Restorative Justice Reduce Reconviction and Costs?', *Criminology Aotearoa New Zealand*, vol 13, as referenced in Samantha Jeffries (2005), How Justice 'Gets Done': Politics, Managerialism, Consumerism, and Therapeutic Jurisprudence.

<sup>62</sup> Recommendations from Dr Wendy Bunston based on evidence of child-inclusive best practices.

<sup>63</sup> As above.

<sup>64</sup> Barker, S. B., Knisely, J. S., Schubert, C. M., Green, J. D., & Ameringer, S. (2015). The effect of an animal-assisted intervention on anxiety and pain in hospitalized children. *Anthrozoös*, 28(1), 101-112. doi:[10.2752/089279315X14129350722091](https://doi.org/10.2752/089279315X14129350722091)

Machová, K., Kejdanová, P., Bajtlerová, I., Procházková, R., Svobodová, I., & Mežian, K. (2018). Canine-assisted speech therapy for children with communication impairments: A randomized controlled trial. *Anthrozoös*, 31(5), 587-598.

<sup>65</sup> This data has been drawn from a project conducted by Social Ventures Australia for the Victorian Aboriginal Child Care Agency (VACCA), that intended to project demand for social services in Victoria. The methodology involved developing two models (1) Projection of the Aboriginal population across Department of Health and Human Services (DHHS) regions using data from the 2016 Census (2) Using Model 1 in combination with current data and growth rates of Aboriginal children in out of home care to forecast future demand.

<sup>66</sup> Keating, C. & Fried, M. (2016) Cubby House evaluation, prepared for the Alannah and Madeline Foundation

<sup>67</sup> Children's Court Victoria (2016), Practice Direction: Koori Hearing Day, Family. Accessed 10 October 2018, <<https://www.childrenscourt.vic.gov.au/sites/default/files/Practice%20Direction%20of%202016.pdf>>

