CHILD WELLBEING AND PROTECTION AS A REGULATORY SYSTEM IN THE NEOLIBERAL AGE: FORMS OF ABORIGINAL AGENCY AND RESISTANCE ENGAGED TO CONFRONT THE CHALLENGES FOR ABORIGINAL PEOPLE AND COMMUNITY-BASED ABORIGINAL ORGANISATIONS

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I   Introduction

Nearly 20 years ago, *Bringing Them Home* acknowledged that, while varying in their aspirations, capacities and awareness of options, community-based Aboriginal organisations are best placed to provide for the wellbeing of Aboriginal families, children and young people.[1] Today, the 'promising practices' of many community-based Aboriginal organisations continue to evidence their important, nonpareil role, which extends beyond functional service delivery[2]—including intercultural mediation between Aboriginal peoples and the state, reconciling the two domains—while achieving the aspirations of Aboriginal people and communities who aspire for a 'deep transformation' of the child wellbeing and protection system.[3] Nonetheless, recognition of the capacity of community-based Aboriginal organisations still remains under-realised and services relating to the wellbeing and protection of the Aboriginal child and young person remain fragmented.

In the neoliberal age, community-based Aboriginal organisations concerned with Aboriginal child, young person, and family wellbeing in Newcastle sit and compete within a complex structure of child wellbeing, early intervention, and protection services offered in highly regulated social service delivery markets at the state and federal level in Australia. The child wellbeing and protection system in New South Wales ('NSW'), for example, is a new regulatory system that aims to govern the practices of community-based Aboriginal organisations in relation to how they deliver services to vulnerable and at risk Aboriginal children, young people and families. This paper focuses on how these new regulatory arrangements constrain the capacity of community-based Aboriginal organisations, requiring them to meet new accreditation standards, attend leadership and governance workshops, while their performance is regulated and monitored through a new contractualism.

Neoliberal governance in Australia has taken many twists and turns, but this paper is essentially concerned with the reforming of welfare state processes and the reframing of social policy in the neoliberal age.[4] An enduring feature of social policy discourses in Australia in the neoliberal age is the prominence given to the interpreted 'failure' of social welfarism. The neoliberal age has entailed a distinctive model of governance in which market-like relations have transformed the social, welfare, and public sectors and inculcated enterprising values in the populace.[5] The marketisation of government services has entailed the third sector taking over the functions of the public sector with a view to promoting competition and enterprise in social service delivery. It is an economic model based on 'value for money' in which potential social service providers competitively tender for the contracting out of 'social' and 'welfare' services. Performance targets measure the provision of services based on performance indicators. The contract encourages competition. However, now the public servant, the unemployed, and the service provider are managed by contracts; their performance is open to continuous assessment in accordance with performance indicators.

In the context of the former child welfare system in Australia, governments achieve this end through not only rebadging the system the child wellbeing and protection system, but also by imposing various regulatory mechanisms of the market onto the former child welfare system to confer effect to its political objectives.[6] Inefficiencies and inadequacies become the driver of change to child welfare systems, and social

services more generally, across Australia. Accountability, actuarial and mainstreaming rationalities form the basis of regulatory system-centred reforms aimed at creating a new child wellbeing and protection system in Australia. For example, 'contracting out' early intervention and child wellbeing services for vulnerable children, young people and their families, as well as out-of-home care services, to the non-government sector allows governments to standardise practices across the sector. This in turn has 'entailed new processes of governmentality and reconfigurations of power in which the space of government extends far beyond the formal aspects of the state';[7] for example, incorporating the 'third' sector under the regulatory arm of government.

While this regulatory system and its associated technologies of governance may have reduced the space for the autonomy and discretion of non-government organisations by encoding certain practices through contracts,[8] how these are encountered within empirical social contexts can lead to different outcomes than those intended; Aboriginal people as recipients of the programs resisting or refusing to engage in the programs as offered or Aboriginal organisations modifying programs,[9] or even more so Aboriginal organisations maintaining their agency and autonomy. An analysis of these forms of agency and resistance is useful for understanding how Aboriginal people work to modify the technologies of neoliberal governance to ensure that Aboriginal practices are not subverted and continue to feature in Aboriginal child wellbeing and protection programs in the neoliberal age. The relevant literature to date evidences how non-government organisations and the recipients of their services become 'active subjects of the neoliberal project, not simply subjugated by hegemonic forces'.[10] This literature also demonstrates that 'some employ a complex mixture of acquiescence, strategic subversion and resistance to achieve, in part, their goals and desires'.[11] The research at hand supports this. Nonetheless, it also recognises that the above literature limits itself to understanding agency and resistance in the context of reactive expressions of agency and,[12] apart from Woolford and Curran, predominantly limits agency and resistance to the present neoliberal moment.[13]

Moving from the processes back to the agents, this paper turns its attention to the NSW child wellbeing and protection system in the neoliberal age, evidencing how this age creates new challenges for community-based Aboriginal organisations; tasked with navigating the requirements

of yet another invasive system that attempts to colonise the Aboriginal domain,[14] Aboriginal organisations must simultaneously achieve the aspirations of Aboriginal people and communities. Their effort to do so evidences a critical or vigilant reflexivity of Aboriginal agency and resistance, which 'works to decolonise the practice and turn it toward Indigenous ends'.[15] Aboriginal resistance is acted out in forms of Aboriginal agency, expressed both reactively—to the neoliberal project as a prevailing white liberalism and settler colonial rationality—and proactively as Aboriginal projects, and creatively through Aboriginal organisations and programs bringing about social change.[16]

To understand Aboriginal agency and resistance in the neoliberal age further requires situating the practices of neoliberal intrusion alongside a history of white intrusion —from the state to faith-based organisations to social workers—in the lives of Aboriginal people, particularly in relation to the wellbeing and protection of Aboriginal children and young people. Overrepresentation of Aboriginal children and young people within the child protection system itself arises from this historical intrusion. Moreover, white intrusion in the lives of Aboriginal people is one of the many reasons that Aboriginal people set up Aboriginal organisations from the 1970s. Through their own organisations, Aboriginal people found ways of sidestepping the white welfare system and creating small-scale versions of their ideals,[17] including in relation to the wellbeing of Aboriginal children, young people and families. In the era of state recognition, Aboriginal organisations became important expressions of Aboriginal agency, empowerment, autonomy, and self-determination. While in some ways their objectives have been complementary to the business of the state, their intent is to do business their way and in accordance with the real needs of Aboriginal people at a local level, rather than in accordance with how their needs were or are perceived by the state, professional experts and faith-based organisations.

In considering the way that Aboriginal people and organisations conform, but also resist, revise and modify the technologies of neoliberal governance from the inside (as service providers) and the outside (as service recipients),[18] this paper highlights how Aboriginal agency and resistance in everyday practices continue to rework the child wellbeing and protection system to the benefits of Aboriginal people on the ground. That is, despite operating in a highly regulatory regime, Aboriginal organisations are finding novel and

positive ways of delivering services that bring about social change in relation to caring for Aboriginal children and young people and providing out-of-home care for those removed under the child wellbeing and protection system.

While recognising neoliberal governance as 'a very sophisticated structure, in which individuals can be integrated under one [neoliberal] condition', in which 'salvation' takes on new meanings in the context of say 'wellbeing (that is sufficient wealth, standards of living)',[19] this paper is not intended to analyse neoliberal governance. It instead explores how Aboriginal people engage in a struggle that asserts their right to be different, which is part of a pre-existing struggle, but also a new struggle to reject the types of subjectivities that neoliberal governance imposes on them.[20] So, moving away from the more deterministic views of resistance, and neoliberalism for that matter, I find Michel Foucault's thoughts on resistance in the context of power relations a useful anchor for my analysis of resistance in the neoliberal age.

In his earlier work, Foucault's approach to power and resistance provides an analysis of the empirical struggle in terms of how resistance occurs in relation to particular technologies of power,[21] turning to an analysis of resistance to specific strategies of social practices.[22] In his 1982 essay *The Subject and Power*, Foucault's revised conception of power stressed the importance of the active subject as an inherent component of power relations and resistance, which was particularly predicated on the ability of the subject to act.[23] Here Foucault reformulates power as *positive,* rather than simply repressive, in as much as it seeks not simply to repress, but to change behaviours in accordance with a set of normative values and behaviours. Power traverses and is productive in that it is constitutive of subjects. However, as Ruti notes, 'Foucault presents a subject who is not merely passively moulded by power, but able to dynamically participate in the fashioning of its own subjectivity'.[24] Also, in defining what he meant in his reference to power as 'productive', Foucault notes that power 'needs to be considered as a productive network which runs through the whole social body'.[25]

Importantly too, Foucault not only argues that agency exists, he goes as far as countering determinism in identifying the novel forms of agency that open up in response to relations of power, as active forms of resistance and 'as an antagonism of strategies'.[26] That is, 'faced with a relationship of power,

a whole field of responses, reactions, results, and possible inventions open up'.[27] Foucault considers resistance as agency, as positive, as political, as empowerment and as freedom.[28] For example, in interpreting Foucault's conceptualisation of power in the *Subject and Power*, Hartman writes that:

> if power functions through the structuration of a field of possible actions, resistance to power should not only be understood in terms of agonistic force relations, but in terms of a creative traversing of the field of possible action. Resistance—positive resistance—is no longer merely reversal, but consists in a subject's becoming-autonomous within a structured set of institutions and practices through immanent critique.[29]

Aboriginal resistance is, for example, expressed as immanent critique, proactively, and articulated as agency and freedom through 'creative resistance'.[30] Agency and resistance is about expressing Aboriginality epistemologically and privileging Aboriginal knowledges, as much as it is about expressing Aboriginal ways of doing business.

II   The Research Design

This paper arises from a four-year in-depth qualitative case study of the Newcastle Aboriginal community's 'success' in addressing disadvantage and promoting wellbeing across the Council of Australian Governments *National Indigenous Reform Agreement (Closing the Gap)* 'building blocks' funded by an Australian Research Council Discovery Early Career Researcher Award. The study was designed to develop a collaborative approach between the Newcastle Aboriginal community, government program managers and administrators, and the researcher, and promote research that meets community-based, policy, and scholarly concerns.[31] Conducting an in-depth qualitative place-based study over four years represents a significant advance in research relating to Indigenous communities in the area of community-wide service delivery, allowing for the collection of essential data to advance empirical, theoretical and policy knowledge about Indigenous engagement and Indigenous service delivery.

Importantly too, the research has been designed in a manner that is consistent with Aboriginal protocols, which included engaging local Aboriginal people in the development of the research and research instruments, seeking feedback on the findings of the study prior to

publication, and providing a detailed report of the study to those Aboriginal people and Aboriginal organisations involved in the study. Its methodology and methods combine complementary constructivist and Indigenous methodologies and methods to ensure the research is culturally appropriate and inclusive.

The study participants include 14 Aboriginal organisations, seven government departments and eight mainstream non-government organisations in the greater Newcastle region. Access to research participants in Aboriginal organisations, mainstream not-for-profit organisations, and government departments was formally sought through senior position holders, and, in the case of most Aboriginal and mainstream non-government organisations, permission was given by the boards of organisations. In-depth interviews, for example, were conducted with Aboriginal and non-Aboriginal people who live or work in the greater Newcastle region in local, state and federal government organisations, Aboriginal organisations and mainstream non-government organisations delivering services to Aboriginal people in the area. The interviews were conducted in the workplace and time was often spent being shown around the organisations, which included meeting people and having them explain the various programs and services. This provided invaluable insight into the difference between, for example, how non-government and Aboriginal organisations operate, who works in these organisations, and the culture of the workplace. At the time of this paper, the study had involved 70 formal in-depth individual or group interviews (including fourteen in-depth interviews with chief executive officers and general managers or directors from Aboriginal organisations in the region), several informal in-depth discussions, including a discussion circle with Aboriginal Elders, observations, two community discussion forums, oral histories and historical documents. The paper at hand draws on in-depth interviews with Aboriginal people and non-Aboriginal people working in mainstream not-for-profit organisations and Aboriginal organisations delivering child wellbeing, early intervention and child protection services to Aboriginal children, young people and families in the Newcastle region.[32]

The study revealed recent changes in federal and state policies and programs have recast the way that child wellbeing, early intervention and child protection works on the ground. The observations in relation to neoliberalism and changes to the social system were observed more broadly across all areas of social service delivery, such as housing and community safety. For example, much of what is happening in the child wellbeing and protection services is happening in housing services with accreditation and contractualism driving major changes in this area too. The experiences of Aboriginal people expressed below are also representative of the experiences of interviewees working in Aboriginal organisations more broadly, as too are the types of Aboriginal agency and resistance exampled below evident more generally.

III The Neoliberal Age and Child Wellbeing and Protection in Newcastle and NSW

In the neoliberal age, the NSW Department of Families and Community Services ('FaCS') is taking less of a role in out-of-home care, but more importantly, state polices have introduced new capacity building and accreditation initiatives for bringing Aboriginal organisations into the space of Aboriginal out-of-home care. While a positive move, this is not a significant shift at the local level in Newcastle because the Hunter Aboriginal Children's Service was providing out-of-home care services for Aboriginal children from 1984 to 2013. Awabakal Ltd (former Awabakal Newcastle Aboriginal Cooperative) and Wandiyali Aboriginal and Torres Strait Islander Corporation have also been providing Aboriginal child wellbeing and early intervention services in the Hunter, Newcastle and Lake Macquarie region since the mid-1990s. Today though, a multifaceted child wellbeing and protection social service sector now services the Hunter, Newcastle and Lake Macquarie area, delivering federal and state programs and services. There are now a number of mainstream non-government organisations delivering state and federal child wellbeing and early intervention programs (eg, Brighter Futures, Family Referral Service and Parenting programs) and state out-of-home care services to Aboriginal families, children and young persons in the Hunter, Lake Macquarie and Newcastle region, including, but not limited to the Benevolent Society, Catholic Care, Samaritans, Life Without Barriers, Interrelate, Premier Youth Works, and Allambi Youth Services. There have been some important changes in the area of Aboriginal out-of-home care in the last few years. The Hunter Aboriginal Children Services, which started in 1984 as a sub-project of the Aboriginal Legal Services, closed in 2013, due to the fact that they could not meet accreditation. There are mainstream non-government out-of-home care organisations that provide out-of-home

care for a small numbers of Aboriginal children and young people, such as Allambi Youth Services and Premier Youth Works. Wandiyali Aboriginal and Torres Strait Islander Corporation has taken on Aboriginal out-of-home care in the last two years, and, at the time of interview, was in the process of becoming accredited.

One interviewee commented on recent developments to build the capacity of 18 Aboriginal out-of-home care organisations in New South Wales, agreeing that: 'ensuring that Aboriginal out-of-home care is in the hands of Aboriginal organisations will have a huge impact on the child protection system in relation to Aboriginal children'.

> [I have worked in] mostly mainstream, government [services]. … They're very down the line. There's no grey areas, it's just black and white and it's not flexible. Yet here, life, everyone is different. ... Working in government, mainstream, it's not like that.
>
> [The difference between mainstream and Aboriginal services is] the way that it's provided. Also, we're part of the community—Aboriginal community members will just pop in here, or if they're a business close by or something like that they'll pop in for a chat or they'll see us and if they're new to the area they'll pop in they'll be like so what's this about. ...[33]

Importantly, the interviewee reminds us that Aboriginal organisations are part of Aboriginal communities and therefore situating Aboriginal out-of-home care in community-based Aboriginal organisations empowers the wider community. Throughout the interview, the interviewee highlights the key reasons why community-based Aboriginal organisations are better placed to do so, based on their own experience, including the fact that community-based Aboriginal organisations are able to situate the Aboriginal child's wellbeing and care in a community-like setting, creating a modified kinship environment, and using cultural resources, to respond to the needs of the Aboriginal child and young person. The community-based Aboriginal organisation is not only situated and centred within the Aboriginal community, situating the Aboriginal child's wellbeing and care in a community, and connecting the Aboriginal child to a community, whether it is their community or another Aboriginal community, but it is also able to replicate or reproduce some of the core cultural and kinship functions of the Aboriginal community and Aboriginal culture to respond to the needs of the Aboriginal child and young person, nurture the Aboriginal child and/or young person and assist the Aboriginal child and/or young person to heal.

Although reforms to the child wellbeing and protection system open up a space for community-based Aboriginal organisations in the area of out-of-home care—through capacity building projects, transferring out-of-home care to community-based Aboriginal organisations—the real authority for Aboriginal children and young people remains with the state.

On the ground though, the neoliberal mindset is evident in the way federal and state governments have reconfigured the child welfare system in Australia in the 21st century as a regulatory system, changing the system in a way that actually allows for greater government intervention in and regulation of the way that child wellbeing, early intervention and protection services are provided. In NSW, for example, Keep Them Safe has been accompanied by significant legislative and bureaucratic changes to the newly defined child wellbeing and protection system and endeavours 'to change organisational cultures of multiple agencies and professional disciplines'.[34] The courts, government agencies and the not-for-profit sector have all been engaged in this shift. While contractualised service delivery became the backbone of child and family welfare sector in NSW in the late 1990s,[35] further recent changes have operated as a form of regulatory coercion via mechanisms of monitoring and accreditation, which in turn has created a 'compliance culture' among the child wellbeing and protection service sector, reducing the space for autonomy and discretion.

This has been driven more broadly by the NSW government, for example, introducing the *Public Sector Employment and Management Amendment (Procurement of Goods and Services) Act 2012* (NSW), which has had a significant impact on the management of social services it funds. Its key aims are to: drive value for money, ensure delivery of quality government goods and services, and align procurement with business needs. Alongside this, FaCS introduced Contract Governance Guidelines ('CGG') in 2014, which sets out that 'the objectives of the Act mean that FaCS is expected to improve performance results in the services we fund through the better use of limited financial and other resources'. It concerns three core areas of service performance—corporate governance, financial management and service delivery —which are developed as performance

measures to both improve performance and manage risks to the delivery of services.[36] While its aim is to change the contract relationship from a vertical top-down relationship to a horizontal equal relationship, the various mechanisms within the contract framework—as described throughout the CGG—are counter-intuitive to this intent. Particularly, the annual Performance Measure Cycle places service providers in a precarious power relationship with FaCS through, for example, the annual compliance/funding cycle.[37] It works to incarcerate mainstream and Aboriginal non-government organisations in a culture of compliance.[38]

The state uses contracts not only as a regulatory mechanism for delivering programs it has designed,[39] but also as a mechanism for getting the best value for dollar. Contracts bundle services and prescribe quotas for vulnerable/ disadvantaged groups, such as Aboriginal peoples, encouraging the non-government sector to compete for funding to deliver, for example, early intervention programs and services across a range of vulnerable/disadvantaged socio-economic groups.

Like other social service areas, this new market is governed in accordance with the principles of competitive neoliberalism.[40] Increasingly, it is the large national mainstream non-government organisations with existing infrastructure, head offices and national policy departments that are better equipped to offer best value for money. They are winning contracts and pushing small non-government and community-based Aboriginal organisations either out of the market or aspects of it. This, and the rolling out of blanket early intervention programs and services to all vulnerable families and children, and quotas for vulnerable sub-populations, has resulted in mainstream non-government organisations moving further into the business of Aboriginal child wellbeing, and their push to partner with community-based Aboriginal organisations.

IV Challenges for Community-based Aboriginal Organisations in the Neoliberal Age

Aboriginal people interviewed raised concerns about such changes,[41] detailing how these changes constrain the capacity of community-based Aboriginal organisations to develop and/or deliver Aboriginal-specific programs.

> I think sometimes we will put in something that's absolutely Aboriginal-specific, a program that is just written for what

we know is a gap in here but the funding's not there to fill that gap… They should be coming out and going, what's needed? Where's the gap? Let's have a look at what funding's available and what you can tender for?

> I mean, I'm not saying just give it to an organisation because there are a number of us in this area… I wish they'd just ask us a little bit more what's needed instead of us having to fit in.[42]

Simultaneously, reforms enable the NSW government to use neoliberal technologies of governance, such as monitoring and accreditation, as well as targeting and training of 'accountable' community members for leadership and decision-making roles, to create a 'compliance culture' among community-based Aboriginal organisations. Arguably, this deeply invasive form of governance, which is not only policy based and embedded in contracts with the state, but also instituted into effect through the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) and the establishment of the Office of the Registrar of Indigenous Corporations, affects Aboriginal organisations the most. Aboriginal organisations not only have to meet the legislative requirements and policy and contractual standards of the state and non-Aboriginal system for access to the resources and funds on offer, but to participate in the business of their community. That is, for Aboriginal communities to be involved in the business of their community, community-based Aboriginal organisations need to work with the system and within the system, complying with the imposed managerial mentality, attending 'good governance' workshops, meeting the accountability and reporting demands of neoliberal governance. While invasive, those interviewed see it as part and parcel of working in the system, and reconciling the two domains.

> The massive pressure on organisations re accountability, administrative policy, procedural requirements, and so forth is just unbelievable. Unbelievable!

> We get audited really heavily on all our programs really but with out of home care it's every three months when you're first accredited. So we've only had the children's guardian up in the last two weeks. Yes, and that's the process that you go through. I mean, I would rather they come through the door and go, well, you've missed this or you need that because it's the kids that suffer in the long run. So we actually welcome it. It's more like an education thing.

We're doing fine at this point in time. Every service that we've got in this has to be audited. Every six months they have to report. It's very, very much come through and check where you are and what you're doing … there seems to be so much accreditation. There's so much paperwork. It hardly leaves you time to do the job that you need to do sometimes. …

We're very—this whole industry though, I think, is very closely monitored, and rightly so. I mean, we all know what happened with the other children's service. We're all aware of that. I think in some respects we're sort of paying for that in that we're a huge Aboriginal service. So we're being monitored and watched. I can see why.[43]

While the degree of intrusion is 'unbelievable', and Aboriginal organisations see themselves as paying for the mistakes of others—both Aboriginal and non-Aboriginal organisations within the system, as well as the mistakes of Aboriginal organisations more generally—the interviewee does not object to complying and understands the reasons for it.

Another interviewee comments likewise:

We've just ticked over our 12 months in a three-year accreditation, so it takes us three years to be accredited and at that it was like being audited every four months. They go through everything. …

I'm a little bit pedantic about files, and with the OCG it's all about files. I went through stages to work for Community Services years ago and that's when they just changed back to 80 per cent paperwork, maybe 20 per cent get to see kids, and that's all. That's all they work off. If it's not on a piece of paper it didn't happen. So we're a lot different, we we're like yes, we've got to keep all this documented and everything but we're always out there for the support. We see the kids all the time. …[44]

Although the interviewee notes how monitoring and reporting and accreditation get translated into a form of surveillance and control in the neoliberal age, the interviewee accommodates and works with the new compliance culture.

However, Aboriginal people tended to draw the line at capacity building, because it gets translated into prescriptive neoliberal models of 'good corporate governance' as forms of paternalism, rather than strengthening Aboriginal social and cultural capital and empowering Aboriginal organisations and communities to reinvigorate or develop their own governance structures.

[E]verybody in this office has gone to leadership and governance training, some of it Indigenous-run which has been absolutely great. Some of it's government stuff. You learn from your elders. There have been unreal Indigenous leadership programs where you have elders come in and talk to you about your leadership style is - and you get together in groups of up to 40. You work through the different things in your community. That's leadership. Going to a community service-funded leadership course where you've got a piece of paper and a pen that tells you to be a good leader you have to have these qualities. That, to me, is not leadership. I think we need governance. I think we do need leadership. … Not only is it not allowing that, it's also devaluing the skills, the knowledge and the people within an area. …

[L]ike I said, learning leadership by looking at a piece of paper isn't the same as going to your community. I keep harping on about it. I think a whole lot of things need to get back to the ground level, go into the communities, ask them what they need, have a look at what's needed in a particular community because everyone's going to be different. One size doesn't fit all![45]

The interviewee speaks back to attempts by governments to inscribe notions of 'good' governance and leadership on Aboriginal organisations, devaluing such attempts as simplistic—'you've got a piece of paper and a pen that tells you to be a good leader you have to have these qualities'. In doing so, the interviewee speaks back to the paternalistic side of neoliberalism, which assumes that Aboriginal people do not do leadership or governance well, reaffirming the long history of 'good' Indigenous governance and leadership through the valuing instead of the leadership and governance skills and knowledge of Elders and Indigenous-run governance and leadership training.

The above quotes evidence how the processes and practices of the state are not only reconceptualised and indigenised, but also interrogated continually for deeply colonising effects.[46] They evidence how community-based Aboriginal organisations negotiate this new 'compliance culture' by fulfilling their obligations or playing the game, but at the same time find ways of privileging their own practices, which are not antithetical to the objectives of neoliberalism, but a

different way of doing business, leadership and governance, complying with but moving beyond the parameters of neoliberalism. The two domains are not incompatible, but reconcilable. However, reconciliation is achieved because of the adeptness on the part of community-based Aboriginal organisations, rather than concessions on the part of the neoliberal state. For example, while successful in the eyes of the community for meeting the needs of Aboriginal children, families and communities, the support that they provide to Aboriginal children, young people and their families, placing Aboriginal children and young people with Aboriginal carers, and providing Aboriginal children and young people with the cultural resources that they need to assist them to heal, the state measures their success in terms of their capacity to comply with this managerial mentality, instil 'good' governance and leadership practices in their organisation and its employees, keep good records ('document everything'), and meet targets. Importantly, their capacity to achieve such ends is noteworthy given the demands of these two domains are epistemologically and ontologically distinct.

V Partnerships in the 'Third Sector': How Neoliberalism Intersects with Paternalism

What has particularly created disquiet among Aboriginal people and the various communities in the greater Newcastle region is the concern about faith-based and charitable non-government organisations moving more and more into the business of delivering services to vulnerable Aboriginal families and children. Many of these faith-based and charitable non-government organisations have a troubling past in relation to Aboriginal child protection and removal. Here interviewees drew parallels between the practices of the neoliberal intrusion and the history of white intrusion—from the state to faith-based organisations to social workers—in the lives of Aboriginal people, particularly in relation to the wellbeing and protection of the Aboriginal child, and how overrepresentation of Aboriginal children within the system itself arises from this historical intrusion. While the processes have changed, the child wellbeing and protection system remains embedded in an old incontestable paternalistic model, and this is seen as holding the system back in relation to the needs of Aboriginal children and young people, their families and communities.

Thus, interviewees reveal that while the terms and conditions of the system have changed, in that Aboriginal

organisations now have a place within it, and that the system is in some ways accountable to Aboriginal people, the system itself remains paternalistic—sometimes, it is mainstream non-government organisations who perpetuate the paternalism of the system in relation to Aboriginal people. The contradictory aspects of the intersecting of neoliberalism and paternalism operate at two levels. First, for the paternalistic neoliberal state, autonomy does not denote independence but rather something that community-based Aboriginal organisations work toward. Second, in requiring some community-based Aboriginal organisations to partner with large non-government organisations in order to become accredited, the technologies of neoliberal governance push community-based Aboriginal organisations into a paternalistic relationship.

> We actually shared an office with X [a mainstream organisation]. We found our staff were being patronised by these other staff who thought they knew more. They're two separate organisations but we found it just didn't work. It was just this preconceived idea, even though our guys got their jobs with the same ads that they had their jobs with, even though our teams were on equal footing, our team were always treated totally different by some people who felt that we maybe needed them to educate us. So it didn't work. We just tried to stay right out of it.

> Y have been another one who keeps ringing us and going, well, we'll do this and do that. They have a bad record of keeping Aboriginal staff. Staff can't work with them. … [Others have] got the religious content to that, which is totally out of whack with how we work. A lot of our people are mistrusting still of … and that due to the Stolen Generations they moved to missions. We've stayed completely on our own. For a recent tender I was getting phone calls from X … and people were like, oh, will you come into partnership with us? We say no. We just stay where we are and deal with our culture as we know it because, like I said, we shared an office once and that was just terrible.

> We have links with them. I mean, we get people in here who we can't offer a service to. There might be somebody who needs a service we don't have in this office, basically because they say there's too many other services around here. That's why we have these links with these organisations who have that service. However, working side by side just doesn't work for us, not with the varying policy.[47]

The interviewee demonstrates how so-called partnerships between mainstream and Aboriginal organisations can remain embedded in an old, undeniably paternalistic model in which the authoritarianism and racism of whiteness remain deeply entrenched. It is because of this authoritarianism and racism within a fundamentally white system that the interviewee refuses to engage with mainstream non-government organisations, who continue the paternalistic and colonising practices of white intrusion in the lives of Aboriginal people through their engagement with Aboriginal organisations in the field of Aboriginal child wellbeing and protection.

Its paternalistic take on the capacity of community-based Aboriginal organisations means that the neoliberal state misses the nuances of the real world and the success of many community-based Aboriginal organisations. Thus, disconnect exists between how the state and Aboriginal peoples frame autonomy and empowerment in the neoliberal age. For the neoliberal state, autonomy does not denote independence but rather something that the community-based Aboriginal organisation and community work toward, utilising the capacity building tools of the neoliberal state and empowering the community-based Aboriginal organisation at the end point of processes of accreditation. Accreditation and capacity building operate as a governmental strategy by way of this particular moral and cultural rationality, exercised on the community-based Aboriginal organisation in an attempt to cultivate a new neoliberal Aboriginal organisation who is incorporated into the child wellbeing and protection system in the neoliberal age.

VI   Neoliberal Intervention and Aboriginal Resistance as Refusal or Rejection

Aboriginal peoples' resistance as refusal to engage with, or rejection of, the paternal side of neoliberal governance extends to certain early intervention services. In relation to the Family Referral Service—a cold-call service that involves non-Aboriginal staff ringing Aboriginal parents who have been referred to them by the police—one interviewee notes that resistance is encountered in that 'most of the time they hang up on us'.[48] Among the many reasons Aboriginal people reject mainstream services is the way they are provided, which are not only alienating, often paternalistic, and interpreted as racist, but also so far removed from Aboriginal protocols and ways of doing business.

Importantly though, many non-government organisations understand the message resistance transmits, and Aboriginal resistance often brings about social change. It necessitates a change in the practices of mainstream early intervention and child wellbeing service providers—decolonising early intervention and child wellbeing service practices, turning these practices toward Indigenous ends.[49]

> This year we invited non-Aboriginal service providers to come along and listen to the voices of Aboriginal people. Because those not-for-profit organisations, like Mission Australia, Relationships Australia, Interrelate, Benevolent Society - all these organisations, they're picking up Aboriginal dollars. Nothing about that. But they're still not connecting, or knowing really how to connect in with Aboriginal people when they're at crisis.[50]

In the contested field of Aboriginal child wellbeing and protection, Aboriginal resistance becomes a powerful resource for placing greater demands on parts of the non-Indigenous world to compromise to an Indigenous world.

As the quote below indicates, Aboriginal resistance compels mainstream non-government organisations to adapt their practices, repair and rebuild relationships, and engage meaningfully with Aboriginal people and communities to achieve their targets.

> So we realised a couple of years ago—18 months or so ago—that we weren't engaging Aboriginal families. So what we did was actually entered into a partnership agreement with the local Aboriginal service, and we discussed how best to do it. Together we decided that there were a couple of local Aboriginal communities that we could perhaps try and engage. One was identified as West Lake Macquarie, the Toronto area.

> So an Aboriginal Community Consultation Engagement Officer was appointed to get the ball rolling. She scoped that very specific community. Out of that came some findings that then informed our engagement strategy. The findings were around inappropriate language that was being used in our promotional material. Some issues around negative perceptions of the organisation from past historical experiences. Being somewhat suspicious and sceptical about a white - big, white non-government organisation coming in, doing the over-promising, under-delivering stuff that sometimes occurs.

So she then developed some concrete ways for us to try and engage the community. At the initial stages, we engaged the Elders of that community over a period of several months, and we actually consulted with them over what they saw as their issues. So it was around consultation in the true sense of the word. It was actually slightly out of the scope of the Family Referral Service, in that in those early stages, we were trying to develop relationships and develop trust with the older community members, who may or may not have had children in their care at that point in time.[51]

Aboriginal peoples interrupt the practices and protocols of neoliberalism, exposing the social and cultural constraints of 'contracting out' early intervention and wellbeing programs for Aboriginal families, children and young people to mainstream non-government organisations. In resisting the practices of neoliberal whiteness, they compel mainstream service providers to engage widely with Aboriginal peoples and to operate in accordance with Aboriginal protocols. While Aboriginal resistance arises outside of the immediate neoliberal present, it situates the present moment in relation to the past,[52] evidencing a 'deeper reflexivity' and 'reflexive scepticism' among Aboriginal people and communities in relation to the child wellbeing and protection system and its neoliberal intent, particularly its problematic 'colonial presuppositions' and its potential for 'coercive assimilation' of Aboriginal people by the state.[53]

An interviewee from a different non-government organisation details their attempt to engage a local Aboriginal community as part of their organisation's contract requirements:

That was a lot of effort, that was actually meeting with Aboriginal people, I joined the local Aboriginal community, I used to go down there for the evening meetings and I was being really flexible with how we approached our work and I think if you haven't got that mindset then you're not going to be able to work in with community. You have to go along there and think okay, well I think we're here for this but maybe we're not, and sometimes you're not and other times other opportunities throw themselves forward.

[I]t's been probably a couple of years of really hard work and its consistent work.

[T]hen an Aboriginal Elder said there's this organisation, why don't you come down, we'll have a chat and look at what we can do. So we did do that, and we ended up running

my first - I had all these things in mind and we ended sitting at the kitchen table just chatting about everything but work, and I sat at the back going okay, I need to get this. …

So we ran I think a Y program with an Aboriginal facilitator from down that way and then after we were finishing that up I had got quite friendly with this Aboriginal Elder and I said to him X, what about you, what do you see for this community? He said I see boys who are disconnected and I have a juvenile justice background. So he'd said I go up to Kariong Detention Centre and I see all the lost boys who are just going to go to adult jail and he said I'd really like to teach them respect. He said the way to do that is if we get them a didge and we start to teach them the didge and they actually learn about their culture, they will learn and respect and it will just all flow from there. I said what's stopped us from doing this and he said oh, we never have any money to buy the didges. I mean my view is that's probably part of the barrier, but the barrier was greater than that, it was all the planning around it, around going okay, how do you do this, and what happens if it doesn't work.[54]

Aboriginal resistance challenges the monoculturalism of the neoliberal child wellbeing and protection system and its location in a specific field of neoliberal social practices, resulting in the reinvigoration of longstanding power relations endemic within the Aboriginal child wellbeing and protection system.[55] While unable to change the neoliberal system in itself, forms of resistance enact Aboriginal engagement, agency, and enable active constructive participation of Aboriginal people in service delivery, which empowers Aboriginal people, ensuring that, at least, cultural knowledge and practices are incorporated into the service delivery framework and services are more culturally appropriate and meaningful.[56]

The delivery of culturally appropriate services is no substitute for what community-based Aboriginal organisations can and are achieving in the area of Aboriginal child wellbeing, early intervention and protection. Their adeptness too to negotiate, and even in some respects harness the opportunities of neoliberal governance, as well as reconcile the two domains, warrants acknowledgement.

VII   Wandiyali: A Case Study of Success

Although not unique in its adept skill at reconciling the two domains, Wandiyali is an Aboriginal organisation which

has good governance skills; embraced its accountability and accreditation requirements; demonstrated its leadership capacity; and would qualify as fitting the precepts of a successful organisation in the neoliberal age. Wandiyali has evident expertise in the sub-sector of Aboriginal child wellbeing. Importantly, Wandiyali is not only an example of a successful organisation in the neoliberal age, but is an example of a successful Aboriginal organisation from an Aboriginal standpoint.

Wandiyali, for example, is a highly successful Aboriginal and Torres Strait Islander Corporation in operation since 1998, which describes itself as a community support and youth service centre. Wandiyali is not a participant in the Aboriginal child wellbeing and protection system, rather it has taken control of the many dimensions of Aboriginal child wellbeing to provide a holistic service. It is an agent for Aboriginal empowerment, social change and self-determination. Wandiyali also operates as an autonomous or safe 'Indigenous space', which is a restricted cultural and social space in the sense that it is restricted to Aboriginal and Torres Strait Islander peoples.[57] Wandiyali is deeply situated in and part of the local community, and adheres to Aboriginal protocols in the development of its organisational practices and programs: 'If there's anything that we need that is cultural, we don't just make decisions in here, our Elders are consulted and asked because they're the most important people in our community to us'.[58]

Wandiyali's operational principles—which could not be replicated in the mainstream because they are epistemologically and ontologically different—forefront Aboriginal culture and ways of doing business; the significance of Aboriginal people designing programs for Aboriginal children, young people, parents and families; and community accountability, collective responsibility and community involvement. Its programs and services forefront the role of Elders as teachers and healers and they are underpinned by a culture-based philosophy—Aboriginal knowledges, systems, and teachings incorporating, for example, Aboriginal stories and language. Aboriginal knowledges, systems, and practices of culture operate as a positive, active and empowering tool for change. Aboriginal children, young people and families are not only taught a culturally-based vision to empowerment, but they are also constantly exposed to positive Aboriginal identities and role models and constructive ways of coping with abusive relationships, as well as forming new positive relationships.

Wandiyali's programs primarily target early intervention as a lead Brighter Futures agency, and through homelessness, alleviating poverty, unemployment and social inequality initiatives. Its culturally supportive programs include: Indigenous Community Links; Out-of-Home Care Wraparound service; Hunter Koori Youth Service; Disability Support Service; Attendant Care support service and Housing management for AHO; Burri (baby program); Weeya for children (3–10yrs); Goorumul (10–16yrs); Doonga for young people and children (10–16yrs); Going Home Staying Home (16–24yrs); Murrung Respectful Relationships Program; Wunna Domestic Violence program for families; and, Murruma program for perpetrators. It runs an Aboriginal childcare program.

> We have Hunter Koori Youth Service, which looks after the homeless and at risk. Their job is to try and keep them in one place, and Indigenous Community Links, which absolutely does everything else. They're referral, liaison, they advocate. They take them wherever they need to go. Whether it's education, legal or medical, we will do a one-stop shop in here for our guys.
>
> We also bring programs in. These programs that you see in here now, like the Gurrumul Program and stuff like that, they're done within their own section in here. So they come to an Aboriginal service. They don't need to go anywhere. They can do one-on-one because a lot of our guys don't like groups either. We will cater to their needs...
>
> We look after out-of-home care. We've got a lot of young ones. We've inherited quite a few who haven't had leaving care plans and they're 16, 17, going on 18. We do a lot of work with them with moving into communities and living skills, that sort of stuff. So we try to cater for just about anything they need in here. We have a police liaison officer that works with us. If there are any problems, we have a solicitor that works with us.[59]

While Wandiyali has only recently transitioned into out-of-home care, within a very short time it has been successful in transitioning the majority of Aboriginal children and young people in its program from non-Aboriginal carers to Aboriginal carers. As one interviewee notes:

> Most of our carers now are Indigenous, some aren't, the ones that have come over from the Department because there's such a shortage in Indigenous carers. We do have a number

of non-indigenous carers looking after Indigenous kids but they are amazing carers and they are totally involved with the cultural side of things. We also run cultural programs through us for non-Indigenous carers and for Indigenous carers as well. In time we believe they will have all Aboriginal carers with these Aboriginal children. We're actually going through assessment processes now for 24 new carers, all Aboriginal families who will come on board to do respite and then be on the books to take children. So that's our aim. …

The General Manager of Wandiyali has developed a number of innovative, successful parenting programs, including Burri a parenting program for young homeless pregnant Aboriginal women. Many of its programs are locally specific, and Wandiyali has developed innovative successful programs for the needs of local Aboriginal families and children and young people, such as Respectful Relationships. In explaining this program the General Manager notes that

> We wrote Respectful Relationships to cover all things from what's a normal relationship, friendship to all the nasty topics like this is sexual abuse, this is bullying, and what to do if these things happen. For every subject we did, we included a dream story. …So we covered absolutely everything from domestic violence, family violence, respecting yourself, which was the most important thing, how to have pride in yourself, and then how to show respect to other people.[60]

Today though, as the General Manager of Wandiyali notes, it is difficult to find funding for its Burri, Respectful Relationships, and other innovative successful programs it has developed. In the neoliberal age, it is the tendency to look to 'one-size-fits-all' programs that is hindering the capacity of community-based Aboriginal organisations like Wandiyali.

This is the experience more generally of community-based Aboriginal organisations in the neoliberal age—they compete for the 'same bucket of funding' as mainstream non-government organisations and they compete to deliver generic programs and services through prescriptive, controlled approaches, which hinders their capacity to deliver innovative successful programs designed to meet the wellbeing needs of local Aboriginal people, including Aboriginal families, children and young people.

VIII Conclusion

White intrusion in the lives of Aboriginal people is one of the many reasons that Aboriginal people set up national, peak and community-based Aboriginal organisations from the 1970s. Through their own organisations, Aboriginal people found ways of adapting the white welfare system to their ends and creating small-scale versions of archetypal organisations and communities,[61] including in the area of Aboriginal child welfare. In the era of state recognition, Aboriginal organisations became important expressions of Aboriginal agency, empowerment, autonomy and self-determination. Their objectives have been complementary to the business of the state, but their intent is to do business their way and in accordance with the real needs of Aboriginal people at a local level, rather than in accordance with how their needs were or are perceived by the state, professional experts and faith-based organisations.

The neoliberal age is no different. While the child wellbeing and protection system in NSW opens up space for community-based Aboriginal organisations to participate in the system, particularly in relation to out-of-home care, particular technologies of power are exercised through these new regulatory practices and processes. In doing so, the regulatory technologies of neoliberal governance create new practices and processes, and even replicate in some ways old practices and processes, which weaken Aboriginal autonomy and reduce the capacity of community-based Aboriginal organisations to respond to the wellbeing and protection needs of Aboriginal children, young people and families on the ground.

Importantly though, the paper provides insights into how the regulatory technologies of neoliberal governance not only operate as technologies of power but are also encountered in empirical social contexts. Those interviewed problematise the processes and practices of neoliberal governance, expose its negative effects, and engage in a clear and incisive critique of the child wellbeing and protection system as a regulatory system in the neoliberal age. In doing so, this paper also describes and analyses how Aboriginal people and community-based Aboriginal organisations resist, negotiate, and even in some respects harness the opportunities of neoliberal governance.

Yet, the paper also reveals how neoliberal governance overlooks the empirical fact that real progress toward

Aboriginal empowerment and success can be achieved by transferring greater levels of authority to community-based Aboriginal organisations. For example, the case study of Wandiyali's success is not unique and it evidences the benefits and importance of transferring real authority to community-based Aboriginal organisations that show 'promising practices'. That is, 'promising practices' denotes a strengths-based approach, facilitates localised community-driven capacity-building agendas, and adopts an inside-out approach to empowerment and strength-building.[62] There are many community-based Aboriginal organisations who are best placed to provide universal, secondary and targeted and tertiary services to Aboriginal children, young people and their families aimed at minimising the risk of abuse and neglect, as well as supporting those Aboriginal children and young people who have been harmed, some of whom will have been removed from their families and placed in out-of-home care.

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16   Petray, above n 12.

17   Ibid.

18   Williams, Cloke and Thomas, above n 8.

19   Michel Foucault, 'Afterword: The Subject and Power' in Hubert Dreyfus and Paul Rabinow (eds) *Michel Foucault: Beyond Structuralism and Hermeneutics* (The Chicago University Press, 1982) 208.

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26   Foucault, above n 19.

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29   John Hartman, 'Power and Resistance in the Later Foucault' (Speech delivered at the 3rd Annual Meeting of the Foucault Circle, John Carrol University, 28 February–2 March, 2003) <http://mypage.siu.edu/hartmajr/pdf/jh_fouccirc_03.pdf>.

30   Bregham Dalgliesh, 'Foucault and Creative Resistance in Organisations' (2009) 4 *Society and Business Review* 45.

31   The paper is generated from research undertaken by the author as part of an Australian Research Council Early Career Research project titled 'Indigenous Societies, Governance and Wellbeing: A Study of Indigenous Community Success in Addressing Disadvantage and Promoting Wellbeing'.

32   The researcher wishes to acknowledge the time and contribution of Aboriginal people who contributed and engaged in the design of this research, including all seventy interviewees who gave up their time to contribute to this study. While the interviewees, mainstream non-government organisations, and community-based Aboriginal organisations that participated in this study have been de-identified and the interview data has been coded thematically in terms of looking for patterns and themes in the data, a case study of one of the fourteen successful community-based Aboriginal organisations has been provided at the end of the paper. This case study illustrates the significant contribution that community-based Aboriginal organisations make in regard to Aboriginal child wellbeing and protection. I wish to thank the General Manager and Board of Wandiyali for allowing me to use a detailed case study of Wandiyali at the end of the paper, as well as their comment and feedback on the paper, its argument, and its situating of the research data in this way. Furthermore, while based on comprehensive in-depth interviews with Aboriginal people who were generous and willing participants in this study, by way of respect to Kooris who participated in this study, the author would like to note that this report does not 'speak for' nor does it represent an Indigenous voice or claim an Indigenous authority. While Aboriginal interviewees have been given opportunities to comment on the findings of this study in the form of two discussion forums held in April 2014 and November 2015 and a first and second draft of a community report being circulated to Aboriginal interviewees in November 2015 and March 2016, the writing of this paper involves a non-Indigenous researcher imposing their theoretical and analytical understanding onto data that was collected from in-depth interviews with Kooris. See also Michael Christie, 'Digital Tools and the Management of Australian Desert Aboriginal Knowledge'

in Pamela Wilson and Michelle Stewart (eds), *Global Indigenous Media: Cultures, Practices and Politics (Duke University Press, 2008) 272.*

33   Interview with Interviewee 60, Aboriginal person from community-based Aboriginal organisation 2.

34   Rebecca Cassells et al, 'Keep Them Safe Outcomes Evaluation' (Final Report, NSW Department of Premier and Cabinet, June 2014).

35   Rhonda Stien, Robert Urquhart and Dianne Nixon, 'Learning Backwards, Thinking Forwards: An Attempt to Understand the Perspectives of Both Government and Non-Government Participants in a Service Contract Arrangement' (2001) 18 *Law in Context* 154.

36   Family and Community Services, 'Contract Governance Guidelines' (Guidelines, Family and Community Services, NSW Government, 2014) 18.

37   Ibid 22–25.

38   Gibson Burrell, 'Modernism, Post Modernism and Organisational Analysis 2: The Contribution of Michel Foucault' (1988) 9 *Organisation Studies* 221.

39   Woolford and Curran, above n 13, 49.

40   Ibid 52.

41   While contractualised service delivery became the backbone of child and family welfare sector in New South Wales in the late 1990s (see Foucault, above n 19, 154), under the auspice of Keep Them Safe significant changes came into effect in 2012.

42   Interview with Interviewee 56, Aboriginal person from community-based Aboriginal organisation 1.

43   Interview with Interviewee 55, Aboriginal person from community-based Aboriginal organisation 1.

44   Ibid.

45   Ibid.

46   Richard Howitt and Sandra Suchet-Pearson, 'Rethinking the Building Blocks: Ontological Pluralism and the Idea of "Management"' (2006) 88 *Geografisker Annaler: Series B, Human Geography* 328.

47   Interview with Interviewee 55, above n 43.

48   Interview with Interviewee 45, non-Aboriginal person from mainstream non-government organisation 2.

49   Woolford and Curran, above n 13.

50   Interview with Interviewee 8, Aboriginal person working for government department 1.

51   Interview with Interviewee 47, non-Aboriginal person from mainstream non-government organisation.

52   Alex Gillespie, 'Position Exchange: The Social Development of Agency' (2012) 30 *New Ideas in Psychology* 32.

53   Woolford and Curran, above n 13.

54   Interview with Interviewee 13, non-Aboriginal person from
      mainstream non-government organisation 1.

55   Damien Riggs, 'Challenging the Monoculturalism of Psychology:
      Towards a more Socially Accountable Pedagogy and Practice'
      (2004) 39 *Australian Psychologist* 118.

56   Terri Libesman, 'Child Welfare Approaches for Indigenous
      Communities: International Perspectives' (2004) 20 (Autumn)
      National Child Protection Clearinghouse Issues 1.

57   Petray, above n 12.

58   Interview with General Manager of Wandiyali.

59   Ibid.

60   Ibid.

61   Petray, above n 12.

62   Jayna McCalman, *A Grounded Theory of Program Transfer: How
      an Aboriginal Empowerment Initiative Became 'Bigger than a
      Program'* (PhD Thesis, James Cook University, 2012).